

**MINUTE BOOK 25, PAGE 507
CITY OF STATESVILLE COUNCIL MEETING – November 16, 2015
CITY HALL – 227 S. CENTER STREET, STATESVILLE, NC – 7:00 P.M.
STATESVILLE, NORTH CAROLINA**

Mayor Costi Kutteh presiding:

Council Present: J. Johnson, Schlesinger, Morgan, Williams, West, Watt, M. Johnson, Phifer
Council Absent: 0
Staff Present: Pressley, Fugett, Gaines, Davis, Currier, Harrell, Smyth, Barone, Hutchens, Ferguson, Shelton, Gregory, Prevette, Cornelius
Others: 29
Media Present: Jim McNally-Statesville Record & Landmark, Dave Veiser-Charlotte Observer

I Call to Order

Mayor Kutteh called the meeting to order.

II Invocation

The City Clerk gave the Invocation.

III Pledge of Allegiance

Girl Scout Troop 10558 led the Pledge of Allegiance.

Mayor Kutteh announced that Jim Prosser will give an update at the December 7th meeting on the progress at the Vance Hotel. He asked Council members to submit their comments on the Airport Study to staff.

Mayor Kutteh stated the City is beginning its process to hire a Police Chief and will hold two community input meetings; Monday, November 23rd at the Statesville Fitness & Activity Center from 6:00 p.m. to 7:30 p.m. and Tuesday, November 24th from 10:30 a.m. to 12:00 p.m. at the Bentley Center. Citizens will be able to express what qualities they feel the City Manager should consider when evaluating candidates for that position. During these meetings, Staff will be discussing items that are in a survey, which will also be available on the City's website for citizens to comment on, and Council members will also receive the same survey and will have input in those qualities that they would be looking for in a Police Chief. He encouraged members of the community to attend one of the meetings or fill out the survey on the website.

Mayor Kutteh said the 2nd reading of the Elmwood property annexation will be considered at the December 7th Council meeting.

IV Public Comment - During the second meeting of each month citizens are invited to speak about matters not on the current agenda.

Harry Myers, 321 Elmwood Road, spoke in opposition of the annexation and rezoning of the property at or around 1068 Elmwood Road. He asked Council to deny the annexation.

Dr. Mary Gochnauer, 950 Elmwood Road spoke in opposition of the annexation and rezoning of the property at or around 1068 Elmwood Road. She stated she is a large animal veterinarian and is concerned about the impact on the cattle and poultry farms in the area if the water supply is depleted or contaminated if the quarry on this property is re-opened, the impact of the egg and milk production due to the stress caused to the animals by the noise and heavy machinery if the quarry is re-opened. She asked Council members to consider these factors when making their decision.

Bertha Davidson, 162 Hezekiah Road, spoke in opposition of the annexation and rezoning of the property at or around 1068 Elmwood Road. She stated there is a lot of history in Elmwood and asked Council to consider that and not destroy the foundation of

Elmwood by approving the annexation and rezoning by approving the annexation and rezoning.

James Wix, 133 Barry Oak Road, spoke in opposition of the annexation and rezoning of the property at or around 1068 Elmwood Road. He stated he suffers from PTSD and had moved to Elmwood because it is peaceful and quiet. He said he will have to move again if the property is rezoned because of the blasting that will be done at the quarry. He asked Council to deny the annexation and the rezoning.

Mayor Kutteh announced that Representative Rena Turner is in attendance to make a presentation. Representative Turner recognized Statesville Community Impact Officer Joe Prevette on behalf of the NC House and presented him with a signed copy of House Bill 113 that Officer Prevette assisted with getting approved.

V Consent Agenda

Mayor Kutteh stated that all items below are considered to be routine by City Council and will be enacted by one motion. There will be no separate discussion on these items unless a Council member so requests, in which event, the item will be removed from the Consent Agenda and considered with the other items listed in the Regular Agenda.

- A. Consider approving the minutes of the November 02, 2015 Pre-Agenda meeting, and November 02, 2015 Council meeting.**
- B. Consider approval of a Resolution adopting the 2016 Statesville City Council Regular meeting schedule.**

Mayor Kutteh asked if there were any items on the Consent Agenda that Council wished to be moved to the Regular Agenda. There being none, he asked for a motion.

Council member Morgan made a motion to approve the Consent Agenda, seconded by Council member West. The motion carried unanimously.

REGULAR AGENDA

- VI Conduct a public hearing and consider approving first reading of TA15-06 filed by the City of Statesville to amend Article 3 - Zoning, Section 3.04 - Zoning District Regulation, Table 3-1: Use Matrix, Article 5 – Supplemental Regulation/Performance Standards for Specific Uses, Section 5.04 - Primary Uses and Structures, UU. Professional Residential Facilities, and Article 9 - Definitions, Section 9.02 - Definitions, Professional Residential Facility.**

David Currier stated the purpose of this text amendment is to replace the term "Professional Residential Facilities" with "Family Care Homes" in the Unified Development Ordinance to match the definition and regulations of State Statutes for these facilities. The Planning Board's recommendation was favorable as presented and the vote was unanimous. No one from the public spoke at the courtesy hearing. The changes to the Unified Development Code are as follows:

- **Delete "Professional Residential Facility" from Article 3 Zoning, Table 3-1: Use Matrix and add "Family Care Home" in alphabetical order;**
- **"Family Care Home" shall be permitted by Supplemental Regulations, designated "SR" in the following zones:**

R-A, R-20, R-15, R-15M, R-10, R-10M, R-8, R-8M, R-8MF, R-5, R-5M, R-5MF, O-1, O & I-2, B-1, B-2, CB, CBP/H-115
- **Delete UU. Professional Residential Facility from Section 5.04 as follows and replace with AA. Family Care Home as follows (This will require this section to be renumbered and referenced):**

~~UU. Professional Residential Facility~~ AA. Family Care Home

These may be permitted subjected to the following:

1. Requirements and standards of the North Carolina Department of Human Resources and Corrections Health and Human Services shall and continue to be met.
 2. Certification shall be made available to planning director or his designee prior to certificate of occupancy and on an annual basis certifying criteria has continued to be met.
 3. No such establishment shall be located within ~~two thousand (2,000) feet~~ a one-half mile radius of another ~~professional residential facility~~, congregate living facility, or family care home as measured in a straight line, from the closest property lines of the respective facilities.
 4. Facilities shall not be used ~~primarily for the treatment of contagious diseases, alcoholics, drug addicts or psychotics.~~ for the personal care and habilitation of mentally ill persons who are dangerous to others as defined by N.C.G.S. §122C-3(11)(b).
 5. Design and bulk of structure shall be compatible to surrounding neighborhood.
- **Delete “Professional Residential Facility” in its entirety from Section 9.02 Definitions, add “Family Care Home” and amend “Group Home” as follows:**

~~*Professional Residential Facility*—any residential establishment, other than a hospital or nursing home, providing to persons in need of a structured environment board, lodging, supervision, medication, counseling, or other diagnostic or therapeutic services and licensed by the North Carolina Department of Social Services.~~

Family Care Home - a residential home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities as it is set forth in N.C.G.S. §168-21. Persons with disabilities has been set forth in N.C.G.S. §168-21 as a person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in N.C.G.S. §122C-3(11)(b).

~~*Group Home* – See Congregate Living Facility or Professional Residential Facility Family Care Home.~~

Council member Morgan asked if this is to simply codify the language with the State Statute. Mr. Currier replied that is correct.

Mayor Kutteh declared the public hearing open and asked if there is anyone present who wished to speak in favor or in opposition of this item.

Kevin Ross, 415 Glen Eagles Road East, stated he has two children with developmental disabilities and was also Chairman of an Iredell County Healthy Carolinians sub-committee on mental health. He is concerned that this amendment will limit where these facilities can be located. Mr. Ross recommended that no further action be taken on this item until the mental health community is fully engaged and the proposed language is discussed with them. He added that we should not be putting any hindrances in place as to where these facilities can be located because they are needed.

Mayor Kutteh explained that that amendment will simply align the City ordinance to be consistent with State law.

Mr. Currier further explained that the amendment adopts the State's definition of a family care home verbatim and changes the minimum distance allowed between two facilities from 2,000 ft. to one-half mile radius.

There being no other speakers, Mayor Kutteh declared the public hearing closed.

Council member M. Johnson made a motion to approve first reading of TA15-06, seconded by Council member West. The motion carried unanimously.

VII Conduct a public hearing and consider approving first reading of ZC15-13 filed by Jerald Yang for the property located at 215 Eastside Drive; Tax Map 4744-97-1260; from B-4 (Highway Business) to R-10 (Urban Low Density Residential) District.

Mr. Currier stated that Jerald Yang is requesting to rezone this 0.34 acre parcel 4744-97-1260 located at 215 Eastside Drive from B-4 (Highway Business) District to R-10 (Urban Low Density Residential) District with the intention of getting the zoning of the property into compliance with the existing use. A single family residence sits on the property and is the primary use. The B-4 District does not allow for single family residences. The applicant is requesting to rezone this property to a residential zoning district with the intention of getting the zoning of the property into compliance with the existing use of the property. Single-family homes are an allowed use by right in the R-10 District.

The surrounding zoning districts and land uses are as follows:

<u>NORTH OF THE SITE:</u>	B-4, East Side Shoppes Shopping Center and First Citizens Bank
<u>EAST OF THE SITE:</u>	R-10, Single-family Homes
<u>SOUTH OF THE SITE:</u>	R-10, Single-family Homes
<u>WEST OF THE SITE:</u>	B-4, Broad Street Station Shopping Center

The 2005 Land Development Plan projects the property to be Medium Density Residential. Being that the current use is residential, and there are other residentially zoned properties in the surrounding area, staff's recommendation is favorable to the rezoning request. The Planning Board's recommendation was favorable as presented with a unanimous vote. No one spoke in favor or opposition to the request.

Mayor Kutteh declared the public hearing open and asked if there is anyone present who wished to speak in favor or in opposition of this item. There being no speakers Mayor Kutteh declared the public hearing closed.

Council member West made a motion to approve first reading of ZC15-13 filed by Jerald Yang for the property located at 215 Eastside Drive; Tax Map 4744-97-1260; from B-4 (Highway Business) to R-10 (Urban Low Density Residential) District, seconded by Council member J. Johnson. The motion carried unanimously.

VIII Conduct a public hearing and consider approving first reading of TA15-04 filed by the City of Statesville to Amend Article 5 Supplemental Regulations/Performance Standards for Specific Uses, Section 5.04 Primary Uses and Structures, P. Churches, Storefront in CB and CBP.

Mr. Currier stated the purpose of this text amendment is to allow storefront churches in the CB and CBP Districts as accessory uses to the principal use of the property. The Planning Board's recommendation was favorable as presented and the vote was unanimous. No one from the public spoke at the courtesy hearing.

Council member Schlesinger asked what times and days this would entail. Mr. Currier replied most likely it would be on Saturdays and/or Sundays when the principal use would not be operating such as law offices or retail establishments. Council member Schlesinger asked if the amendment sets forth time limitations. Mr. Currier replied it does not. The accessory use could operate anytime the principal use was not operating.

Council member West asked how this would be policed. Mr. Currier replied it would be complaint based. Council member West said he did not think that complaint based would be the appropriate way to handle it.

Mayor Kutteh clarified that if a church wanted to hold midnight services it would be allowed. Mr. Currier replied that was correct.

Mayor Kutteh declared the public hearing open and asked if there is anyone present who wished to speak in favor or in opposition of this item.

Pastor Paul Glen spoke in favor of the item. He stated he requested the item be brought to Council for consideration. He briefly described the reason for his request and asked that Council approve the amendment.

There being no other speakers Mayor Kutteh declared the public hearing closed.

Council member Schlesinger recommended changing the term “churches” to “Houses of Worship” to make it more inclusive. Council members agreed.

Council member Morgan made a motion to approve first reading of TA15-04 filed by the City of Statesville to Amend Article 5 Supplemental Regulations/Performance Standards for Specific Uses, Section 5.04 Primary Uses and Structures, P. Churches, Storefront in CB and CBP, contingent upon changing the term “Churches” to “Houses of Worship, seconded by Council member Watt. The motion carried unanimously.

IX Consider changes to the City policy regarding adjustments to water bills and annual testing requirements associated with backflow prevention devices.

Scott Harrell stated that it has come to the attention of City staff that there have been some unique problems as a result of installation of backflow prevention devices. For those not familiar, a backflow prevention device is a device used to prevent water from flowing back into the public water supply system once it has entered a facility or other connection to the system. North Carolina Administrative Code requires backflow devices on all connections where an actual or potential threat of contamination exists. State guidelines specify the type of backflow prevention device to be installed, based on whether the potential threat to the water supply is moderate or severe. Examples of moderate threats include:

- Most lawn irrigation systems
- Most commercial establishments
- Bakeries, beauty shops

Examples of severe threats include:

- Facilities with booster pumps or other sources of back pressure
- Buildings with five or more stories above ground
- Hospitals and other medical facilities
- Car washes
- Laundries
- Swimming pools

“Other medical facilities” is typically interpreted to include clinics, doctor’s offices, and dentist’s offices. A copy of the state guidelines is included for reference.

The Water/Sewer Maintenance Division currently monitors over 1,000 backflow prevention devices that are connected to the City’s water supply system; these are primarily associated with commercial/industrial customers, fire suppression systems, and irrigation systems. In order to protect the public water supply, these devices must be tested regularly to ensure they are functioning properly. The frequency of testing recommended by manufacturers and most jurisdictions is yearly, with semi-annual testing required in some situations. Statesville City Code currently requires annual testing of all backflow devices.

Problems that can be associated with backflow prevention devices include freezing and subsequent leaks, as above-ground installation is typically required for these devices. Since the City and our customers have no alternative to their installation, staff suggests allowing more discretion in the adjustment of water billing in the event of leaks associated with above-ground backflow prevention devices. In such situations, staff would consider whether the leak was reported and/or addressed in a timely manner, whether the backflow device was properly installed, and whether the device was in compliance with annual testing and maintenance requirements.

Regarding testing of the devices, Water & Sewer Maintenance personnel currently contact customers to remind them when their annual test is due. The test and any necessary repair work is performed at the customer’s cost. If Council desires, staff will consider assuming responsibility for the annual testing and repair of backflow devices connected to the City’s water supply system.

If administered by the City, annual testing could be performed either by contract or by City personnel, with the cost recovered by adding a monthly fee to the utility bill of affected customers. Staff recommends limiting City testing of backflow devices to

connections that are 2 inches in diameter or smaller (approximately 750 devices at present). The estimated monthly cost to provide this service is \$5.65 per customer.

Staff requests guidance on the following items:

1. Whether to modify City Policy to allow for water billing adjustments in the event of leaks associated with backflow prevention devices.
2. Whether to prepare a policy describing the process and associated customer fees for the Water & Sewer Maintenance Division to oversee the annual testing and maintenance of backflow devices connected to the City's water supply system.

Council member M. Johnson stated he feels the testing and inspections will be much more consistent with the City performing them. He said there should be reliance on the part of the subscriber who is in the program that the City is maintaining their backflow preventer, and therefore if there is an incident directly related to a non-negligible act, such as their landscaper comes out and drives over it with a tractor, then the City should have the responsibility of abating those excess charges. Mayor Kutteh stated he did not disagree with that, except that it should not be unlimited because some people may not rush to report it if they know that it will be abated. Mayor Kutteh stated he just wants to prevent as much water loss as possible. Council member M. Johnson pointed out that with the AMI program a leak will be able to be detected down to the minute.

Council member Schlesinger made a motion to direct staff to modify City Policy to allow for water billing adjustments in the event of leaks associated with backflow prevention devices and to prepare a policy describing the process and associated customer fees for the Water & Sewer Maintenance Division to oversee the annual testing and maintenance of backflow devices connected to the City's water supply system, seconded by Council member Williams. The motion carried unanimously.

There being no other business Council member West made a motion to adjourn, seconded by Council member Watt. The motion carried unanimously.

Attest:


Brenda Fugett, City Clerk




Constantine H. Kutteh, Mayor