

**MINUTE BOOK 26, PAGE 159
CITY OF STATESVILLE COUNCIL – October 17, 2016
CITY HALL – 227 S. CENTER STREET, STATESVILLE, NC – 7:00 P.M.
STATESVILLE, NORTH CAROLINA**

Mayor Costi Kutteh presiding:

Council Present: J. Johnson, Morgan, Williams, M. Johnson, West, Watt, Schlesinger, Phifer

Council Absent: 0

Staff Present: Pressley, Fugett, Gaines, Davis, Smyth, Cornelison, Harrell, Slocum, Barone, Styers, Maclaga

Media Present Amy Fuhrman-Statesville Free News

I Call to Order

Mayor Kutteh called the meeting to order.

II Invocation

The City Clerk gave the invocation.

III Pledge of Allegiance

Mayor Kutteh led the Pledge of Allegiance

IV Public Comment

Mayor Kutteh stated that during the second meeting of each month citizens are invited to speak about matters not on the current agenda.

John Stafford read a letter he had sent to Police Chief Barone praising Officer Kelly Hilton's actions at a recent call that involved a person with mental illness.

Matt Thompson, a City of Statesville Firefighter spoke against the recent pay study and the removal of the 5% college incentive pay increase not being given due to the implementation of the pay study. Mr. Thompson stated that it is not possible for any firefighter to reach the top of the pay scale the way it is currently constructed and that many firefighters use Statesville as a stepping stone to get better paying jobs with surrounding cities. Mr. Thompson said that many Statesville firefighters get special certifications and training on their own time and pay for them yet do not earn any more for having that training, such as Hazmat, etc. Mr. Thompson stated that all but two firefighters live within the city limits unlike other public safety departments. Instances such as this has been a big hit to employee morale and causes employees to leave and go to work in the private sector or other municipalities.

V Consent Agenda

Mayor Kutteh stated that items VII, IX, X, XII, XVII, and XVIII have been moved from the Regular Agenda to the Consent Agenda. Three items have been added to the agenda:

Consider granting approval for the Planning Department to apply for Golden Leaf Foundation Grant funds through Iredell County in the amount of \$750,000 for an Interchange Access Report for Jane Sowers Road or a utility extension.

Consider a request to close Sherwood Lane between Sullivan Road and Brookdale Drive to host the *Sherwood Lane Halloween Block Party* on Monday, October 31, 2016 from 5:00 p.m. until 8:00 p.m. hosted by the Sherwood Lane neighborhood. See attached map for requested closure area.

Consider approving the creation of an Industrial Excess Capacity Credit Rider and modification of the Industrial Economic Development Credit Rider associated with the Very Large Industrial Customer Incentive Rate ("VI Rate")

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.

Mayor Kutteh advised that Council member Roy West would be recused from voting on Item XVII due to a conflict of interest.

- A. **Consider approving the September 19, 2016 Pre-Agenda and City Council meeting minutes.**
- B. **Consider approving 2nd reading of an ordinance establishing a 25 mph speed limit on Mulberry Street between West Front Street and West End Avenue with appropriate signage to accompany the change.**
- C. **Consider approving 2nd reading of ZC16-08 filed by Larkin Golf Course Development, LLC for the property located adjacent to 2529 Amity Hill Road; Tax Map 4742-59-6862; from B-2 (Neighborhood Business) District to R-8MF (Medium Density Multi-Family Residential) District.**
- D. **Consider a request from Iredell County to approve the demolition of two structures located at 227 Harrell Street & 301 Davie Avenue.**
- E. **Consider approving a Resolution to donate a surplus awning frame to Iredell County from the Fire Department.**
- F. **Consider approving a request from the Fire Department to apply for the FEMA Assistance to Firefighters Grants (AFG).**
- VII **Administer the oath of office to Electric Utilities Director, John Maclaga, for his appointment by City Council as the First Alternate Commissioner to the North Carolina Municipal Power Agency Number 1.**
Council members agreed by consensus to move this item to the Consent Agenda.
- IX **Consider accepting a grant from the Carolina Thread Trail in the amount of \$150,000 to help with the construction of the section of greenway that will connect the Gregory Creek and Fourth Creek greenway sections and approve Budget Amendment #09.**
Council members agreed by consensus to move this item to the Consent Agenda.
- X **Consider funding the Greater Statesville Chamber of Commerce Commercial Marketing Program in the amount of \$160,000 on an annual basis.**
Council members agreed by consensus to move this item to the Consent Agenda.
- XII **Consider approving a request from McLelland's Family Shoes to park a promotional SAS (San Antonio Shoemakers) truck in front of their store Monday, November 7 - Tuesday, November 8, 2016.**
Council members agreed by consensus to move this item to the Consent Agenda.
- XVII **Consider sidewalk options at 151 Turnersburg Hwy (AT&T Retail Site).**
Council members agreed by consensus to move this item to the Consent Agenda.

Council member West was recused from voting on this item due to a conflict of interest.
- XVIII **Consider entering into Utility Relocation Agreement (URA) with the NCDOT for the Hwy 21/3rd Creek bridge waterline relocation.**
Council members agreed by consensus to move this item to the Consent Agenda.
- ADD **Consider granting approval for the Planning Department to apply for Golden Leaf Foundation Grant funds through Iredell County in the amount of \$750,000 for an Interchange Access Report for Jane Sowers Road or a utility extension.**

ADD Consider a request to close Sherwood Lane between Sullivan Road and Brookdale Drive to host the *Sherwood Lane Halloween Block Party* on Monday, October 31, 2016 from 5:00 p.m. until 8:00 p.m. hosted by the Sherwood Lane neighborhood. See attached map for requested closure area.

ADD Consider approving the creation of an Industrial Excess Capacity Credit Rider and modification of the Industrial Economic Development Credit Rider associated with the Very Large Industrial Customer Incentive Rate ("VI Rate")

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 Phifer. The motion carried unanimously.

REGULAR AGENDA

VI Receive an update from Michelle Rokes about the ABC system and our local board.

Michelle Rokes, Chairperson of the local ABC Board, stated that since 1973 the profits from the Statesville ABC Board have returned over \$11.4 million back into our community. These profits come back into the community through the Iredell Statesville school system, Mitchell Community College, Iredell Museums, the City of Statesville. Alcohol Education Grants were also given to the Boys & Girls Club, Appropriate Punishment Options, The Counseling Center, SCAN, and 5th Street Ministries. Over \$307,341 was distributed and stayed in our community just this fiscal year. Mrs. Rokes briefly described the state control system over off premise consumption liquor stating that the state of North Carolina differs slightly because local voters must vote to have an ABC sales and the profits (minus state taxes) must stay in the community. The system is completely self-funded and must maintain a balanced budget. No tax dollars go towards funding the Alcohol Beverage Commission.

At the request of Council member West, Ms. Rokes explained the alcohol education programs are offered and implemented by 5th Street Ministries and the Boys & Girls Club.

Council member Phifer asked how the ABC Board knows that the program at 5th Street Ministries is effective. Ms. Rokes replied that she did not have that data with her but would provide it at a later date to Mr. Phifer.

ADD Russ Rogerson will briefly report on his first two weeks as the new Executive Director of the Mooresville/South Iredell/Statesville Regional Development.

Grant Miller, Vice-Chairman of the Statesville Regional Development organization. He thanked City Council for their support of the organization and introduced Mr. Rogerson.

Mr. Rogerson stated he is in the process of making a plan to promote Statesville and Iredell County.

Mayor Kutteh added that Mr. Rogerson has already helped closed his first deal which is Project Nike, a \$38 million dollar project, the company will be a large electric user and a large tract of land will be annexed into the city.

VIII Recognition of recent promotions within the Fire Department.

Interim Fire Chief Gary Styers and Mayor Kutteh recognized both Kyle Bell and Glen Kurfees on their promotions from Lieutenant to Captain and Firefighters Rawdy Cox, Brandon Wiggins and Aaron Kennedy's for their promotions to the rank of Lieutenant. Chief Styers recognized recent new hires, Daniel Mitchell, Justin Yox, Jarred Corals, Colton Orrell, Landon Russ, and Cameron Witherspoon.

XI Review staff action regarding sewer charges at 902 W. Front Street.

Mr. John Stafford stated that in early 2015 his tenant vacated the downstairs unit of 902 W. Front Street. The upstairs had been vacant and as no one was living at the property he cut the water off to both units by way of shutoff valves in the basement. After several

zero usage billings he received a bill dated September 10, 2015 showing consumption of 1,200 ft.³ In fear that the copper had been stolen from the property he went and checked. All valves were still in the off position at the shutoff and there was no leak indicated on the leak indicator. The next month's bill dated October 11, 2015 showed 12,300 ft.³ of usage. Sure again that there had been a copper theft he went to the property. Again all valves were in the off position. He called Regina Hoke and Joe Moose from the water department and they came to the property and he, along with a contractor started doing an analysis of how this water could have been used. This analysis proved unfruitful. The only time water ran was after Joe Moose turned the meter on at the street and then when Mr. Stafford turned the valve on at the shutoff for the upstairs unit, water began running in the upstairs apartment at the kitchen sink.

The work order for a high consumption complaint was placed on October 15, 2015 and closed on November 3, 2015 from the water department. It could not be determined if the water went through the sewer system or not. Mr. Stafford stated that the property had been self-shown several times by potential tenants and any one of them could have easily turned the sink valve on and seeing that there was no water, left it in the on position. Mr. Stafford stated it is not possible for someone to access the cutoff in the basement without entering the lower unit, which was not being shown. It wasn't until after Joe and Regina left that he found that the outside faucet was connected to the water main and not affected by the cutting off of the cutoff valve. He and the contractor theorized that the neighborhood kids in the apartment were using the water to either create pools or ice ponds or just being malicious.

Mr. Stafford states that with the cutoff valves in the off positions it is not possible for water to run inside the structure and therefore not possible for water to enter the sewer system. He paid the water portion of the bill, but did not pay the sewer portion since he deemed no city water went into the city sewer system. He requested a deduction of sewer charges from Eva Mendez, the then Collections/Revenue Manager. Mr. Stafford stated that Eva stated that sewer charge deductions were not made for any water that went through a hose or faucet. He disputed that (i.e. pool filling) and so he did not pay the sewer portion of the bill.

Finance Director Ralph Staley stated that Mr. Stafford did have to pay the disputed portion when it was transferred to his personal residence on June 20, 2016. Mr. Stafford has discussed this with the Collections/Revenue Manager, the Assistant Finance Director, the Finance Director and the City Manager and is now appealing to City Council for a refund. Mr. Staley stated that the City policy says that a deduction will be given for a proven leak; however staff does not have the authority to remove a charge when proof has not been provided of a leak that did not go through the sewer system.

Mr. Staley reviewed the pertinent section of the City's Service Policy Manual below:

Leaks and Water Line Breaks-Sewer Adjustment

The City of Statesville will credit a customer on City sewer service for excess sewer charges incurred from a water leak in which it has been determined that the water did not go into the sewer system. After repair of such leak, the customer shall provide the City with a repair statement stating the nature of the leak, repairs made, and date work is completed. The sewer adjustment will be based on the customer's previous six months average monthly consumption as determined by the Collections/Revenue Manager. If an average cannot be established from previous billings, an average shall be established with as many future billings as may be deemed necessary but not exceeding six following the repair of the leak.

Pool Adjustments

Adjustments for filling pools may only be made for sewer charges. Only sewer consumption, not minimum charges, may be adjusted. Water charges may not be adjusted for filling pools. The customer must submit fill dates and/or meter readings. No more than two pool adjustments are allowed per calendar year. Adjustments may not be processed until consumption has been verified by actual readings.

After considerable discussion by City Council a motion was made.

Council member West made a motion to forgive the sewer charges, seconded by Council member M. Johnson subject first to the meter being tested.

Council member West amended his motion to state: Motion to forgive the sewer charges subject first to the meter being tested. Council member M. Johnson seconded the motion. The vote on the motion was as follows:

Ayes: West, M. Johnson, Morgan, Watt, Schlesinger

Nays: Phifer, J. Johnson, Williams

Motion carried 5-3

XIII Conduct a public hearing and consider approving a Resolution to Close, a 30' unopened right-of-way located at the end of Boyd Street running from 3rd Street to 5th Street.

David Currier stated that Mr. Bill Pope representing Ms. Tiny Thomas is petitioning to close the 30' unopened right-of-way at the end of Boyd Street running from 3rd Street to 5th Street. Tracy Stone and Martha Kale along with Ms. Thomas are the adjoining property owners along this section. Staff understands that Ms. Thomas would like to clear out and clean up the area due to illegal dumping. Currently, there is a city sewer line and storm drains within this right-of-way. Therefore a 30' utility easement would need to be reserved as shown on the attached map and described in the resolution. On September 19, 2016 the City Council passed the Resolution of Intent to schedule the public hearing for this 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 none, he asked for a motion on the matter.

Council member J. Johnson made a motion to approve a Resolution to Close, a 30' unopened right-of-way located at the end of Boyd Street running from 3rd Street to 5th Street, seconded by Council member West. The motion carried unanimously.

XIV Conduct a public hearing and consider approving site plan (Quasi-Judicial) P16-18 for Zaxby's located at 169 Turnersburg Highway; Tax Maps 4745-35-7620.

Mayor Kutteh swore in those that wished to speak regarding this item.

Mr. Currier stated that the site is located at 169 Turnersburg Highway. The property is zoned B-4 and the total acreage of the site is approximately 1.51 acres. Carter Engineering Consultants is proposing to construct a 3,847 square foot Commercial structure for the rebuilding of the Zaxby's Restaurant that was damaged by fire. The primary material for the exterior will be brick and EFIS. Therefore the design standards for nonresidential development have been met. The site will have 67 parking spaces (26 required) and access will be provided from an easement accessed from Turnersburg Highway that is shared by the subject property and the Cook Out location just to the north. A combination of existing landscaping and new planting will meet the requirements of the UDC. Sewer, water and electric will be provided by the City of Statesville and sidewalk is fee in lieu of. The Technical Review Committee reviewed the site plan on August 17, 2016 and approved it on September 7, 2016 after some required revisions. Therefore, staff recommends approval as presented. Planning Board and Council are required to review site plans for all new development in the B-4 District. Therefore, staff recommends approval as presented. The Planning Board reviewed this site plan at the September 27th meeting and unanimously gave the plan a favorable recommendation.

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 none, he asked for a motion on the matter.

Council member West made a motion to approve Site Plan P16-18 for Zaxby's located at 169 Turnersburg Highway citing that it is compatible to the area and will not adversely affect neighboring properties, seconded by Council member J. Johnson. The motion carried unanimously.

XV Determine an appropriate zoning district(s) designation for autoclaving of medical waste.

David Currier stated that Secure Waste has requested to use the building located at 1966 Hilton Drive for autoclaving medical waste on a commercial scale. The property is zoned Light Industrial (LI). The use is not specifically listed in the use matrix of the UDC. As directed in section 3.03(F) of the UDC, the City Council shall determine the appropriate district or districts where such use shall be allowed based on a comparison of other uses which most closely resemble the unlisted use using a quasi-judicial process.

Mr. Currier stated the closest use listed in the matrix is a processing plant which is allowed in LI and HI with supplemental regulations. Hazardous waste is allowed in HI with a Special Use Permit.

Mayor Kutteh swore in Victor Ward with Secure Waste Disposals and Planning Director David Currier.

At the request of Council member Schlesinger, Mr. Ward explained the autoclaving process used by Secure Waste. Council member Schlesinger asked if chemotherapeutic drugs or pathological tissue is a waste that is processed. Mr. Ward replied they are not.

Mayor Kutteh asked how many employees there will be. Mr. Ward replied there will be six employees to start and will grow to 15-20.

Council members directed staff to find out how this use is zoned in other municipalities and what kind of state permits are required for this type of waste and hazardous medical waste.

Council member Schlesinger made a motion to postpone this item in order to obtain further information, seconded by Council member West. The motion carried unanimously.

XVI Consider modifications to the City's residential street detail.

Scott Harrell stated that the Public Works and Planning Department staff has received requests to modify various aspects of the City's standard street section detail. After reviewing these requests, staff recommends the following modifications:

1. Moving the required street yard plantings inside the right-of-way. Street trees are currently required outside the right-of-way, in an area that conflicts with utility installation. To accommodate the plantings, the width of the grass strip will increase from five feet to six feet.
2. Increasing the required right-of-way for a Sub Collector street from 50 feet to 55 feet (due to the wider planting strip).
3. Adding Notes 7 & 8 to provide guidance for locating electric transformers.
4. Allowing valley curb on residential streets, subject to approval by the City Engineer. Eligible streets will have less than 100 dwellings, and the valley curb will be required to convey stormwater runoff without overtopping.

If approved, Planning Department staff will draft corresponding modifications to the UDO. Staff recommends approval of the modifications to the street detail.

Council member J. Johnson stated he is in favor of Items 1-3 but not valley curb on residential streets stating that it is easier to run off the road onto a sidewalk with that type of curb and potentially hit a pedestrian and that valley curb is not allowed by the state.

Council member Schlesinger said he understands the developer's point of view but the safety factor as well and safety should trump everything else.

Council member M. Johnson stated that valley curb is allowed by the NCDOT and that using valley curb will allow for street trees which will provide safety for pedestrians.

Council member M. Johnson made a motion to approve, seconded by Council member Morgan. The vote was as follows:

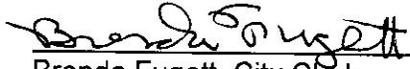
Ayes: M. Johnson, Morgan, West, Watt, Williams

Nays: J. Johnson, Phifer, Schlesinger

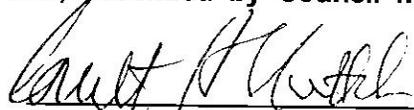
Motion carried 5-3

Council member West made a motion to adjourn, seconded by Council member Phifer. The motion carried unanimously.

Attest:


Brenda Fugett, City Clerk




Constantine H. Kutteh, Mayor