

REGULAR SESSION OF JULY 26, 2022

The City of Kings Mountain, North Carolina met in Regular Session at 6:00 p.m. on Tuesday, July 26, 2022 in the Council Chambers of City Hall with Mayor Scott Neisler presiding.

ATTENDANCE

The following Councilmembers were present: Annie Thombs, Keith Miller, Mike Butler, Tommy Hawkins, Jimmy West, Jay Rhodes and David Allen.

Also, present: Mickey Corry, City Attorney, Marilyn Sellers, City Manager and Karen Tucker, City Clerk.

INVOCATION

The invocation was given by Reverend Jose Ariel Rodriguez, Nuevo Patco Wesleyan Church, Kings Mountain.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Scott Neisler.

AGENDA ADOPTION

Councilmember Keith Miller asked that appointments to the MPO be added to the agenda as an emergency item. Also, he asked to remove Item K from the Consent Agenda and place this on the Regular Meeting for discussion. Upon Motion by Councilmember Keith Miller, seconded by Councilmember Jay Rhodes, it was unanimously voted to adopt the agenda, with the aforementioned changes.

SPECIAL PRESENTATIONS AND RECOGNITIONS

Mayor Neisler recognized employees of the Water Department for their hard work and dedication.

Mayor Neisler read **Resolution 22-21** recognizing Kings Mountain Rescue Squad for their many years of service to the City of Kings Mountain.

Mayor Neisler also recognized the following employees for their years of service with the City of Kings Mountain:

- | | | |
|--------------------|---------------|----------|
| o Daniel Kale | Electric | 5 years |
| o Brandon Pressley | Fire | 5 years |
| o Carolyn Stalls | Senior Center | 10 years |
| o Donald Spencer | Water | 25 years |

CITIZEN RECOGNITION

John Heath, 308 Waco Road, addressed Council regarding speeding in his neighborhood.

Richard Cogdill, 226 Patterson Road, addressed Council regarding building and zoning issues as it relates to a project on his property.

Terry K. Haas, 233 Hoyles Road addressed Council regarding concerns over the annexation of property on Hoyles Road.

David Haas, 233 Hoyles Road addressed Council regarding concerns over the development of property by Rama Homes.

David Stone, 1220 N. Piedmont Avenue addressed Council regarding the Main Street Program and desired collaboration with the business owners and City management and Council.

Mark Hovis, 1860 Kendrick Road, Gastonia addressed Council regarding the retirement of key City leaders and the positive experience that he has had with these leaders. He expressed his concerns over the level of experience and leadership that the City is losing.

Nakisha Wenzel, 304 Wintergreen Court; addressed Council regarding the positive impact of the programs that are offered by the Kings Mountain Family YMCA and affirmed further investment in the YMCA.

Mike Hoyle, 201 Stoney Point Road addressed Council regarding his concerns over the Rama Homes development on Hoyles Road, as well as traffic issues that this development will bring to this area.

MAYOR, CITY COUNCILMEMBERS, AND CITY MANAGER'S REMARKS

Mayor Neisler stated the Council meeting is not a place to address the problems that are brought forward by the citizens during citizen recognition; however, City officials would encourage getting in touch with staff for assistance. He also addressed the process of the annexations listed on the Consent Agenda and the future opportunities to comment on the annexation process. As for Streetscape, he stated that there have been exhaustive meetings regarding the process and the time that it will take. He understands the frustration of the downtown businesses, explained the issues that have been found during the process and the redesign that has had to be done during the process. He emphasized that the project is still on schedule despite these redesign issues. Improvements will be dramatic and it will be a wonderful area with additional options for parking and safe foot travel for patrons coming to the businesses there. It will be well worth the wait.

Councilmember Keith Miller asked Mayor Neisler to speak regarding an initiative that several members of Council have asked staff to look at that could possibly mitigate the interruption costs to the businesses affected by the project and the closing of the street. Mayor Neisler stated that this plan is being formulated right now and will be discussed at the work session on August 11th.

Councilmember Jay Rhodes thanked Mark Hovis for his comments and stated that Council understands that they are in a transition and asked for prayer for the Council as they navigate this process. He stated that it is Council's intention to look for the very best City Manager and he has been very prayerful about the process that lies ahead. Councilmember David Allen stated that Marilyn has been very gracious to assist with this transition, above and beyond what is required. There will be change and it will be a challenge and very exciting, but it also comes with risks.

Councilmember Jimmy West addressed David Stone's comments stating that it has been a year since City officials met with the downtown businesses and it is time to sit down with them and formulate a solution for partnership to revitalize the buildings downtown to look as good as the Streetscape.

Councilmember Tommy Hawkins stated that he believes that all of Council want the very best for the City of Kings Mountain.

Councilmember Keith Miller thanked Mr. Hovis for his comments stating that he has dreaded the days that are ahead of Council for a long time and that he is leaning very heavily into the Lord so that he will bring us the next crop of great leadership. Additionally, he stated that the DDRAC ad hoc Committee has met twice and they are making progress. Regarding the public hearings that were scheduled for the next regular meeting, Councilmember Miller explained the importance of giving everyone their due process. Lastly, he mentioned a plan that is being look at regarding tax increment incentives to help downtown buildings.

Marilyn Sellers, City Manager asked Mr. Hendricks to give an update on energy costs. Mr. Hendricks gave an overview of the projected forecast for energy moving forward into the hotter months of the summer and what the natural gas looks like for the winter. He reviewed the cost of natural gas over the years stating that prices were flat for a long time then in 2021 the prices shot up and have not come down the way that was expected. This will result in increases but this is a pass-through increase that comes in to Kings Mountain but goes right out to the gas company. There is no profit margin for the City. The only time that the City increases a rate that runs a revenue increase is when the base rate is increased. A base rate increase is not anticipated at this time.

Mr. Hendricks also updated Council regarding electric prices. The national average increase to consumers is approximately twenty-five percent. There are municipalities that have raised their rates to match this and even more up to a thirty-two percent increase. He addressed Council regarding the flexibility that the contract with the new power plant and the benefits that the City has gained from this switch. As to costs per kWh, the national average of electric at this time is 14.7 cents per kWh and City residents are paying a little over nine cents per kWh. Mr. Hendricks stated that he will be requesting an increase for the purchase power adjustment this billing cycle, which will be bring it up to approximately ten cents per kWh, which is well under the national average. This will be looked at on a month-to-month basis and if the market drops, then this can be revisited to bring the rate down.

STREETSCAPE UPDATE – *Nick Hendricks, Asst. City Manager/Energy Services Director*

Nick Hendricks, Asst. City Manager/Energy Services Director updated Council regarding the Streetscape project and reviewed the work for the coming days ahead. The curbing and guttering are done, for the most part. The next step will be the stamped concrete on the sidewalks. He also addressed the alley way stating that he should receive the drawing of the alleyway in the next few days. The collaboration between the property owner and his architect and the consultant has been very good. He gave an overview potential timeframe for the next phases.

SPECIAL EVENTS UPDATE

Christy Conner, Special Events Director addressed Council regarding the events that took place in July, including the Red, White, and Boom and the Tell Me Lies – the Fleetwood Mac tribute band held later in July. All of the events were a huge success with over 20,000 in attendance, combined, for the events.

The Black and Gold scrimmage game will take place on Monday, August 8th at City Stadium. The parade will begin at 7:00 p.m. where the two teams will walk from Central School to the stadium then the game will begin at 7:30 p.m.

The NC Beach Music Festival will be held on Friday and Saturday, August 19-20 and will feature Blackwater and the East Coast Party Band on Friday, then on Saturday The Embers, Carolina Coast Band, the Catalinas, Gary Lowder & Smokin' Hot and last but not least, The Original Drifters.

Christy thanked her staff, Angela Padgett and new comer Gabriel Thomas for their part in bringing the events to life.

Presentation on YMCA Grant Project (Item 12 on the agenda)

Kevin Osborne, Director of the Kings Mountain Family YMCA presented a grant project that was started in June, 2021 with Speaker Moore. The grant received is in the amount of \$750,000.

Sandy Dee, YMCA Board Member addressed Council regarding how the funds would be appropriated and the need for additional funds. She stated that the funds would be allocated to the improvements to the swimming pool and athletic fields. A meeting was held with City leaders and by the end of the meeting it was realized as a win for the City, the YMCA, and the community.

Shane Ruffin, Operations Director of the KM YMCA addressed regarding the importance of safety at community pools, as well as the accessibility of the pool to everyone. The pool is the most inclusive program area serving everyone from new moms with infants to seniors who participate in water aerobics. Mr. Ruffin also introduced the improvements to the pool and the addition of the water slide that they would like to build with these grant funds.

Heath Walker, Sports and Aquatic Director updated Council on some of the lighting problems that currently exist at the athletic fields.

Justin Boheler, President of Beam Construction addressed Council on the improvements that are intended on the swimming pool and slide, as well as the lighting issues on the baseball fields and Davidson Park. Due to price increases, it was important to work with vendors and try to hold pricing. There were multiple vendors contacted and they are working with Nick Hendricks to be sure that he is onboard with the equipment that is being used since this is City property. The chosen vendor for the lighting project is Camp Electric out of Rutherfordton. He also highlighted the lighting upgrades that are being planned as follows:

- 10-year parts and labor warranty across the board
- LED lights which will be more efficient and result in lower power bills
- Davidson Park – taller poles and new lighting across the board that are designed for field specifics and will provide for more field use and multipurpose areas near the bathrooms
- Baseball fields are similar to soccer fields in that new lighting will be done across the board with remote lighting

Kevin Osborne concluded the presentation requesting \$200,000 to finish this project. He also shared slides of the proposed slide and splash pad that would take the place of the existing "kiddie pool," as well as photos of the existing power boxes at the athletic fields.

Councilmember Annie Thombs asked Mr. Osborne if the YMCA has reached out to any other sponsors or had they just asked the City. He stated that they have only reached out to the City.

There was additional discussion regarding the fact that the facilities are capital assets of the City. Any outside funds from fundraisers are spent for operating and scholarship programs. The City is relied upon heavily as a capital partner.

Marilyn Sellers, City Manager stated that this is not a reoccurring cost and the additional funds in the amount of \$200,000 will come from the General Fund Balance. Looking at the general fund ending FY 2021-22 the City is going to underspend that budget. There would need to be a budget amendment approval. Staff recommends approval of this request.

Nick Hendricks commented that the electric department would be responsible for the contribution of the poles that would be anywhere from \$70,000-100,000, and this would be in addition to the \$200,000. The cost of the poles, since it is City property would come from the electric fund.

Upon Motion by Councilmember David Allen, seconded by Councilmember Jay Rhodes it was voted 6-1 to provide the additional funds in the amount of \$200,000 to complete the capital project for the Kings Mountain YMCA. Councilmember Annie Thombs cast the dissenting vote.

CONSENT AGENDA

Upon motion by Councilmember Jay Rhodes, seconded by Councilmember Mike Butler, it was voted unanimously to adopt the following Consent Agenda, excluding Item K, which was moved to the Regular Meeting for further discussion:

- A. Minutes of the Special Meeting of June 14, 2022, Work Session of June 28, 2022, and the Regular Meeting of June 28, 2022.
- B. Award of contract to Wesco in the amount of \$422,381.38 for Kings Mountain Blvd. Distribution Line.
- C. Adopt **Resolution 22-22**, pursuant to N.C.G.S. § 160A-58.1, directing the City Clerk to investigate the sufficiency for a petition for a voluntary non-contiguous annexation from Rama Homes, LLC for property identified as Cleveland County parcel numbers 62675 and 62668, located on Hoyles Road and consisting of 23.311 acres, more or less – Case No. A-22-1(A).
- D. Adopt **Resolution 22-23**, pursuant to N.C.G.S. § 160A-58.1, directing the City Clerk to investigate the sufficiency for a petition for a voluntary non-contiguous annexation from Rama Homes, LLC for property identified as Cleveland County parcel number 10699, located on El Bethel Road and consisting of 37.377 acres, more or less – Case No. A-22-2.
- E. Adopt **Resolution 22-24**, pursuant to N.C.G.S. § 160A-31, directing the City Clerk to investigate the sufficiency for a petition for a voluntary contiguous annexation from Dee Properties, LLC and Phillips Dee and Sandra Dee, for property identified as Cleveland County Parcel Numbers 61845, 12130, 57010, 12133, and 52294, located along Patterson Road and Countryside Road and consisting of 66.1 acres, more or less – Case No. A-22-3.
- F. Schedule a Public Hearing for Tuesday, August 30, 2022 at 6:00 p.m. to consider a rezoning request from Taylor Morrison Homes (Aland Kerley), property owned by Dee Properties, LLC

and Phillips and Sandra Dee, located along Patterson Road and Countryside Road and consisting of approximately 66.07 acres, being further known as Cleveland County Parcel Numbers 61845, 12130, 57010, 12133 and 52294 from Suburban Residential (SR) to Semi-Urban Residential (SU) – Case Number Z-22-8.

- G. Schedule a Public Hearing for Tuesday, August 30, 2022 at 6:00 p.m. to consider a rezoning request from YG Homes, LLC, property owned by Brinkley Family Farms, LLC, located at Crocker Rd. and consisting of approximately 100.01 acres, being further known as Cleveland County Parcel No. 11074 from Suburban Residential (SR) to Semi-Urban Residential (SU) – Case Number Z-22-6.
- H. Schedule a Public Hearing for Tuesday, August 30, 2022 at 6:00 p.m. to consider a rezoning request from DR Horton, property owned by the James Patrick Falls heirs, located on Mountain Crest Drive and consisting of approximately 30.944 acres, being further known as Cleveland County Parcel Numbers 12687 and 12694 from Suburban Residential (SR) to Semi-Urban Residential (SU) – Case Number Z-22-2.
- I. Schedule a Public Hearing for Tuesday, August 30, 2022 at 6:00 p.m. to consider a rezoning request from Hampton Designs, Inc., applicant/owner, located at 112 Payne Rd. and consisting of .85 acres, being further known as Gaston County Parcel No. 153228 from Heavy Industrial (HI) to Auto-Urban Commercial (AU) – Case Number Z-22-7.
- J. Schedule a Public Hearing for Tuesday, August 30, 2022 at 6:00 p.m. to consider a rezoning request from Stonewright Properties, LLC, applicant/owner, located at 106 N. Battleground Avenue and consisting of approximately 1.04 acres, being further known as Cleveland County Parcel No. 6880 from Semi-Urban Residential (SU) to Suburban Commercial (SC) – Case Number Z-22-9.
- K. ~~Schedule a Public Hearing for Tuesday, August 30, 2022 at 6:00 p.m. to consider the revision of the Comprehensive Plan and Future Land Use Plan as recommended by the Planning and Zoning Board.~~ (Moved to allow further discussion to Item 18 on the Regular meeting)
- L. Motion to authorize the Mayor to execute on behalf of the City of Kings Mountain real estate purchase options with Bobby Bridges (a portion of Cleveland County Tax Parcel No. 42399); Connie Watson McFalls (Cleveland County Tax Parcel No. 10523); and Doris Oliver (Cleveland County Tax Parcel No. 40830).
- M. Schedule a Special Meeting for Thursday, August 11, 2022 at 5:30 p.m. in the Council Chambers at City Hall.
- N. Approve the following appointments and reappointments to the Boards and Commissions listed below:

Mauney Memorial Library Board of Trustees

- o Reappoint Tracy Bolin for a three-year term beginning 7/1/2022 and expiring 6/30/2025.

Kings Mountain TDA

- Reappoint representatives from the Holiday Inn Express and the Comfort Inn for a three-year term beginning 7/1/2022 and expiring 6/30/2025.

Upon Motion by Councilmember David Allen, seconded by Councilmember Mike Butler, it was unanimously voted to recess the Regular Meeting and enter into a Public Hearing at 8:00 p.m.

PUBLIC HEARING

Item 10A - Continuation of public hearing to consider a request from Morris Family Holdings, LLC to rezone property between David Baptist Church Road and Stony Point Road and consisting of 14.73 acres, 0.78 acres, and 0.97 acres, and being further identified as Cleveland County Tax Parcels 10869, 10867 and 48436 from Special Use Rural (SU-RU) and Suburban Residential (SR) to Auto-Urban Commercial (AU-C) – Case No. Z-21-2 – Stuart Gilbert, Economic Development and Planning Director.

Stuart Gilbert, Economic Development and Planning Director stated that on June 20, 2022, the owner of the property submitted a request to withdraw this request. The proper procedure is to go forward with the public hearing. In the future, the applicant can reapply if they wish with no time frame restrictions.

Terry Haas, 223 Hoyles Road, addressed Council expressing her concern regarding the additional growth in the area and the additional burden this would bring to Bethware School.

Mike Hoyle, 201 Stoney Point Road addressed Council stating that he is not against this development, but this will contribute to issues that the Rama Homes development on Hoyles Road would bring to this area. He would ask that in the future that would be considered.

Item 10B - Receive public input regarding an installment financing agreement pursuant to N.C.G.S. § 160A-20 in the principle amount not to exceed \$10,400,000 to pay for costs of an expansion of the City's Electric Infrastructure to create additional system capacity to serve the citizens of Kings Mountain – Chris Costner, Finance Director.

Item 10C - Receive public input regarding a Natural Gas Financing Agreement installment financing agreement pursuant to N.C.G.S. § 160A-20 in the principle amount not to exceed \$2,500,000 to pay for the costs of an expansion of the City's Natural Gas infrastructure to create additional system capacity to serve the citizens of Kings Mountain – Chris Costner, Finance Director.

Chris Costner, Finance Director addressed Council stating that this public hearing applies to both the delivery five project on Kings Mountain Blvd., as well as the natural gas expansion. Financing for these projects require LGC approval, and part of the process is to hold this hearing to receive public input regarding the fact that the City is seeking financing to expand our infrastructure. He stated that the Public Hearing reflects the total cost of the projects but that the financing that they are requesting at this time is approximately \$7 Million. This is for the combined projects for electric and natural gas. Once bids are received for the distribution and supply part of the electric funds, we will then have to go back to the LGC. They will not approve the financing based upon engineering estimates. There have to be firm bids in hand. The tentative plan is to be approved at the LGC's September meeting. If not, it will be heard in October.

In order to get the projects running, it was agreed to prefund about \$3.5 Million, but hopefully before any major bills start coming in the \$7 Million financing will be complete. The work session that is scheduled for

August 11th is to award bids and go forward to the LGC for their approval. Rates and terms for financing are to be determined at this time.

There was no public input received regarding the installment financing agreement for the expansion of the electric and natural gas infrastructure.

Item 10D - Continuation of public hearing to consider text amendments to the City of Kings Mountain Unified Development Ordinance - Stuart Gilbert, Economic Development and Planning Director.

Stuart Gilbert addressed Council regarding the Public Hearing concerning revisions to the Unified Development Ordinance. Although the UDO applies to zoning, it also applies to land development which includes other things like water and sewer, stormwater and erosion control. This month the request is to amend the UDO to add water and sewer standards, as well as a section on Animals, which was recently approved by the Planning and Zoning Board.

Mr. Gilbert went over the water and sewer standards and diagrams. The diagrams consist of older drawings and the newer diagrams that were prepared by Ricky Duncan, Water Resources Director. For the record, the Planning and Zoning Board recommended to take out standards 6.15 and 6.16, due to the fact that it dealt with streets and it was suggested that this be taken up with the Transportation Committee. Additionally, he reviewed a recommendation that falls under Section 156.70.03.C that was added regarding annual public infrastructure standards review and update. This would be a process that is clearly identified stating that the TRC (Technical Review Committee) would review public utility standards on an annual basis.

Regarding the section on animals, the proposed language gives the Zoning Administrator leeway to distinguish domesticated animals, such as household pets and agriculture/livestock.

Ricky Duncan stated that every municipality has a similar version of water and sewer standards, and that this is specific to Kings Mountain. It is used to help developers understand the standards for meters, valves, etc. This has nothing to do with water quality, just equipment standards for development.

David Stone asked about the context of language regarding ESA (emotional support animals). Mr. Gilbert stated that this is a federal law, so the City would not have any choice in honoring those requirements.

Mayor Neisler asked Mr. Gilbert if he would like to continue this Public Hearing until the next regular meeting and he stated that he would recommend doing so.

Councilmember Keith Miller stated that he didn't know that the Constitution of the United States authorizes the federal government, among the eighteen enumerated powers, that emotional support animals may not be included. We do have a choice; we just need to be prepared to spend \$2 Million over five years to get through the Supreme Court to run that track.

Upon Motion by Councilmember Keith Miller, seconded by Councilmember Jay Rhodes it was voted unanimously to close the Public Hearing as to Items A, B and C and continue the Public Hearing as to Item D until the next regular meeting of Tuesday, August 30, 2022 at 6:00 p.m. This action was taken at 8:26 p.m.

REGULAR MEETING

Item 13- Action on Item 10A

Upon Motion by Councilmember David Allen, seconded by Councilmember Annie Thombs it was voted unanimously to allow Morris Family Holdings, LLC to withdraw their rezoning request.

Item 14 - Action on Item 10B

No action taken.

Item 15 - Action on Item 10C

No action taken.

Item 16 - Action on Item 10D

Upon Motion by Councilmember Keith Miller, seconded by Councilmember Tommy Hawkins it was voted unanimously to adopt **Ordinance 22-24** to repeal and replace Chapter 156, the City of Kings Mountain Unified Development Ordinance, as to the items presented in the Public Hearing.

Item 17 - MPO Appointments

Upon Motion by Councilmember Keith Miller, seconded by Councilmember David Allen it was voted unanimously to reappoint Mayor Neisler as the voting member to the MPO and reappoint Councilmember Keith Miller as the alternate member.

Marilyn Sellers addressed Council regarding the Budget Amendment for the YMCA that was previously approved. She stated that she wished to clarify that her statement is when accounts payable is finalized for FY 2021-22, it is projected that the budget will be underspent but this does not include ARPA Funds, which will go into fund balance. There are no ARPA funds being utilized for this project.

Item 18 - Item K - Moved from Consent Agenda

Councilmember Keith Miller stated that this item relates to the other items that were scheduled for Public Hearings. Some of those requests do not comply with the Comprehensive Plan or Future Land Use Plan that was recently adopted. Over the next month, it will need to be determined how large the differences are and if this is something that Council would like to entertain or not, as the Comprehensive Plan has just been approved. One such difference is the fact that SU permits multifamily housing as a limited use. The applicants could come before Council with pictures of singles family homes, but they could decide to build apartments. It may be a little more complicated.

Councilmember David Allen stated that there is a need and desire for market rate apartments; however, it can be a vast difference between a housing development in a certain location and an apartment complex. He also stated his concern with a need for change in the Comp Plan so quickly.

Councilmember Annie Thombs asked if the City is required to accept an application that is not compliant with the Land Use Plan. Since we just passed this plan, if a developer comes in and applies for something that they know is against the Land Use Plan, are we required to take the application. Mr. Corry stated that he believes that this would be determined in the review. It is important to be mindful of due process.

There was discussion regarding the processes that applications have always gone through and the importance that it continues. Also discussed was a reminder that a decision cannot rely upon plans, drawings, and pictures that are presented unless it is part of a conditional use of some sort.

Upon Motion by Councilmember Keith Miller, seconded by Councilmember Tommy Hawkins it was voted unanimously to schedule a Public Hearing for Tuesday, August 30, 2022 at 6:00 p.m. to consider the revision of the Comprehensive Plan and Future Land Use Plan as recommended by the Planning and Zoning Board.

ADJOURNMENT

Upon Motion by Councilmember David Allen, seconded by Councilmember Tommy Hawkins, it was unanimously voted to adjourn at 8:41 p.m.

BY: G. Scott Neisler
G. Scott Neisler, Mayor

ATTEST:

Karen A. Tucker
Karen A. Tucker, City Clerk