

REGULAR SESSION OF JUNE 25, 2019

The City of Kings Mountain, North Carolina met in Regular Session at 6:00 p.m. on Tuesday, June 25, 2019 in the Council Chambers of City Hall with Mayor Scott Neisler presiding.

ATTENDANCE

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

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

INVOCATION

The invocation was given by Rev. Rob Patrick, Boyce Memorial A.R.P. Church, Kings Mountain, NC.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Neisler.

AGENDA ADOPTION

Mayor Neisler stated that the City has received a Certificate of Completion on the two CDBG Block Grants for 213 Battleground and 133 West Mountain and he asked that Item 10H be added to the Consent Agenda to read "Request to schedule a Public Hearing on July 30, 2019 at 6:00 p.m. to close out the Kings Mountain Downtown Redevelopment CDBG Program – CDBG 15-E-2770, consisting of the \$300,000 grant for 213 Battleground Avenue and the \$200,000 grant for 133 West Mountain Street." Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Mike Butler, it was unanimously voted to approve the Agenda, as amended.

City Councilmember's Comments and Remarks

Councilmember Keith Miller stated that filing for re-election begins on July 5th. He stated that he would not be in town to register on that day, however he does plan to register for re-election the following week.

SPECIAL PRESENTATION AND RECOGNITIONS

Mayor's Comments and Remarks

Mayor Neisler recognized the following City employees for their years of service:

- Joshua Bryant Police 5 years
- Tammy Scruggs Codes 5 years

Reece Lovelace, Gary Beason, and Joshua Bowen were to be recognized for their years of service; however, they were unable to attend.

Mayor Neisler read **Resolution 19-23** honoring the Kings Mountain Police Department for being recognized as the 20th Safest City in North Carolina.

Mayor Neisler read a **Proclamation** honoring the Electric Department for receiving a national commendation, and also presented a Resolution from the Town of Dallas for their assistance during a major outage last month.

Mayor Neisler read a **Proclamation** honoring the Cleveland County Arts Council for celebrating their 20th Anniversary.

Mayor Neisler read **Resolution 19-20** honoring Isaac Proctor for his participation in the NCAMES Lineman's Rodeo.

Mayor Neisler read **Resolution 19-21** honoring Kevin Holbrooks for his participation in the NCAMES Lineman's Rodeo.

Mayor Neisler read **Resolution 19-22** honoring Caleb Pasour for his participation in the NCAMES Lineman's Rodeo.

Marilyn Sellers, City Manager stated that regarding the Police Departments recognition, the department was under a new reporting system, making it more difficult to place. She stated that this makes her even more proud that they were ranked 20th Safest City in the State.

SPECIAL EVENTS UPDATE

Christy Conner, Special Events Coordinator addressed Council regarding the Revolutionary 4th Celebration that will be held on Thursday, July 4th beginning at 6:00 at Walking Track Park.

She also stated that Liberty Mountain will begin on Friday, June 28, 2019 and invited Council to a block party that will be held along Railroad Avenue. All events in the garden are free to the public.

PRESENTATION BY LIBERTY MOUNTAIN

Jim Champion, Kings Mountain Little Theater presented Council and Kings Mountain

TDA with a framed picture of the Liberty Mountain poster. He thanked all of Kings Mountain for their support of the play, stating that they are about to open their sixth season.

Mayor Neisler thanked Mr. Champion, stating that the Kings Mountain Little Theater and Joy Performance Center is a vital part of downtown.

CITIZEN RECOGNITION

Keith Ramey, 109 Bessie Drive addressed Council concerning an issue that he has with the City regarding a lake lot that he owns. He stated that a year ago a neighbor did some illegal grading and made a mess in the cove. The problem was reported to City officials at that time, and nothing has been done to resolve the issue. He stated that he also attended a Moss Lake Commission where he thought the problem would be resolved, but it has not been as of this date. This has prevented the sale of the lot, and he requested that the City attorney present a plan for a solution.

Nick Hendricks, Assistant City Manager addressed Mr. Ramey's concerns stating that the City understands Mr. Ramey's frustrations. He stated when he got involved, he did say that June 30th would be a deadline to have this problem resolved. Unfortunately, the process is not going to meet this timeline. It took some time to locate the neighbor to speak with him. He dumped the dirt with no permit, so he is responsible for removing it. He now has to go through NCDNR and the permitting process. He stated that first and foremost the lake is the source of our drinking water. The property owner was given 30-45 days to resolve the problem, and he is about at the fifteenth day. If there is no action by the property owner, the City will consult with Mr. Corry, NCDNR and the Department of Water Resources to see what action we can take and do so with proper permitting. He stated that Mr. Ramey has every right to consult with an attorney but asked that he wait until the time that the City has allowed the property owner has passed. Mr. Hendricks stated that we also have to wait until NCDNR allows us to act. Mr. Hendricks stated that he would definitely keep Mr. Ramey in the loop but he could not guarantee a timeline.

Councilmember Rodney Gordon asked Mr. Ramey if he was satisfied with the response from staff, and he stated that he is satisfied however he does want action taken soon and for the mess that the property owner made to be cleaned up. He reiterated that he has lost money on the property and is frustrated with the process. He said he was willing to give the City 45 days from today.

Henry Hartleb, 119 Castlerock Road, thanked Mayor Neisler, City Council, Christy Conner, and Peggy Henderson for their assistance and support with his purchase of Gateway Brew. He stated that he has been blessed since his relocation to Kings Mountain in 2012.

CONSENT AGENDA

Upon motion by Councilmember Jay Rhodes, seconded by Councilmember Annie Thombs, it was unanimously voted to adopt the following Consent Agenda:

- A.** Minutes of the Budget Work Session of May 7 & 9, 2019 and Regular Meeting of May 28, 2019.

- B.** Budget Amendments for year-end adjustments to Fire (General Fund), Workers Comp Self Insurance Fund, Stormwater Fund, Gas Fund, Health Insurance Fund, and Patriots Park.
 - Fire – Amendment in the amount of \$26,000 to increase revenues and a corresponding expenditure line item for insurance proceeds received to repairs related to damage to a City vehicle. (Note: Increasing total General Fund budget.)

 - Workers Comp Self-Insurance – Amendment in the amount of \$25,000 to appropriate Worker’s Comp fund balance to cover potential claims or year-end accruals. This is not a request for transfer from any other fund. (Note: Increasing total budget.)

 - Stormwater Fund – Amendment in the amount of \$25,000 to cover year-end salary accruals and overtime experienced during the year and to provide for additional unexpected expenditures through year-end. This is not a request for transfer from any other fund. (Note: Increasing total budget for the fund.)

 - Gas Fund – Amendment in the amount of \$150,000 to budget additional revenues projected and increase purchased gas costs. (Note: Increasing total budget for the fund.)

 - Health Insurance Fund – Amendment in the amount of \$250,000 to increase budget to cover medical claims and potential accruals that must be made at year-end for claims that have been incurred but not yet processed or paid.

 - Patriots Park Completion – Amendment in the amount of

\$75,000 to budget additional resources to complete the amphitheater at Patriots Park. Funds are coming from savings in an existing general fund line item. (Note: This project should be completed on or before 06/30/2019 and no funds are budgeted for FY 2019-2020.)

C. Authorize the City Manager to sign any additional Budget Amendments relating to end of the year closeout of the 2018-2019 budget in order to ensure statutory compliance for the FY ending on June 30, 2019. (Copies of Budget Amendments will be available for your review.)

D. Approve the following appointments to the following Boards and Commissions:

Moss Lake Reservoir Commission:

- Shaun Murphy, term expiring 6/30/2022, Carol Gordon, term expiring 6/30/2022, Albert Petty, term expiring 6/30/2021, Russell Wingfield (MLPOA), term expiring 6/30/2022 and Jim Burk (MLPOA), term expiring 6/30/2021.

Historic Landmark Commission:

- Jim Champion (filling Sarah Lynch's term), term expiring 12/30/2020.

Board of Adjustment:

- Bill McMurray, term expiring 12/31/2020, Ronnie Franks, term expiring 12/31/2021 and Bobby Elliott (Gaston Co. ETJ), term expiring 12/31/2021.

Planning and Zoning Board:

- Bobby Elliott (Gaston Co. ETJ), term expiring 12/31/2021 and Todd Wilson (filling Bill McMurray's unexpired term), term expiring 12/31/2019.

TDA Board:

- Holiday Inn Express & Suites will appoint designee, term expiring 6/30/2022 and Quality Inn will appoint designee, term expiring 6/30/2022.

Current Board Vacancies: (Information for Council Only)

- Mauney Memorial Library 1
- Main Street-Under Review

- Moss Lake Reservoir Commission 2
 - Planning and Zoning Board 1 (Cleveland County ETJ)
 - TDA 1 City Seat
- E.** Schedule a Public Hearing for Tuesday, July 30, 2019 at 6:00 p.m. to consider a Rezoning Request with a Conditional Use Permit for property located on 923 Cleveland Avenue from RS-8 to Conditional Use – General Business – Case No. CUR-1-3-19.
- F.** Schedule a Public Hearing for Tuesday, July 30, 2019 at 6:00 p.m. for a Draft Zoning Text Amendment to the permitted uses listed on the Kings Mountain Zoning Ordinance with special conditions added in the general business, and light and heavy manufacturing districts, to include tattoo parlors, vape shops and body piercing shops – Case No. Z-1-5-19.
- G.** Schedule a special called meeting and Public Hearing on July 11, 2019 (or any other date the City Council deems) at 6:00 p.m. to determine if the City Council should establish a 60-day or less moratorium on new tattoo parlors, vape shops, and body piercing establishments – N.C.G.S. 160-A-381(e) - Moratoria.
- H.** Schedule a Public Hearing for Tuesday, July 30, 2019 at 6:00 PM to close out the Kings Mountain Downtown Redevelopment CDBG Program – CDBG 15-E-2770, consisting of \$300,000 grant for 213 Battleground Avenue and the \$200,000 grant for 133 West Mountain Street. – *Added Item*

**There was some confusion regarding deletions in Item 10-D on the Consent Agenda that was given to Council just prior to the meeting. This copy was given for the sole purpose of giving page numbers for action items for ease of use of the tablets. The paper copy of the Agenda was given in error, and it was confirmed that the correct agenda was provided as public notice, and in the original agenda package.

Councilmember Rodney Gordon asked for clarification regarding TDA since Kemp Mauney’s term will expire prior to the next meeting. He stated that he has a difficult time having a quorum and the seat needs to be filled as soon as possible. Marilyn Sellers, City Manager stated that we could make a recommendation to fill this seat at the Public Hearing that will be held on July 11, 2019.

Upon Motion by Councilmember Keith Miller, seconded by Councilmember Jay Rhodes, it was unanimously voted to recess the Regular Meeting and enter into a Public Hearing at 7:12 p.m.

PUBLIC HEARING

Consider a modification to the City of Kings Mountain Zoning Ordinance “Section 6.16 – Overlay Districts” to combine the text for all thoroughfare overlay zoning districts into common language creating a singular thoroughfare zoning district, identified only as a different overlay district simply due to geography of location - Case No. Z-1-3-19 -Stuart C. Gilbert, Planning and Economic Development Director.

Stuart Gilbert, Planning and Economic Development Director stated that the Planning and Zoning Board reviewed this item a couple of times. The purpose behind this public hearing to take all of the Thoroughfare Protection Overlay Districts, which include the Kings Mountain Boulevard, 74 Business/Shelby Road, 74 Business/King Street, NC 161 York-Cleveland, York Road, and Waco Road Thoroughfare zoning districts and compress them into one detailed Section where all requirements will apply to all Thoroughfare Protection Overlay Districts. The primary objective was to make it simpler for people to look at the one Ordinance instead of looking at small changes here and there.

There are a few points that are unique that need to be highlighted during the public hearing. Mr. Gilbert stated that there is additional language that is recommended under “Section F – Permitted Uses” to add vape shops and body piercing to the same line as tattoo establishments, which in effect place these three uses as unpermitted uses in the thoroughfare overlay districts. This Ordinance does not have a timeframe for eliminating these uses. The second recommendation comes under “Section Q – Parking and Driveways” clarifying language to identify that all new development in the thoroughfare overlay districts would need dust free surfaces such as concrete or asphalt. This is not one hundred percent necessary, however it clarifies what the City has required for the last several years. The third recommendation is regarding trees to be used in these thoroughfare districts. The Planning and Zoning Board is recommending that the trees should not be so large that we would be concerned about busting up sidewalks or growing so tall as to interfere with utility lines. At this time, the City Manager is recommending that the Liberty Elm be the replacement tree for the Willow Oak, which is a large majestic tree tree that over time may cause damage.

Marilyn Sellers stated that maybe we need to have some choices according to where they will be placed. She stated that she has talked to staff about an Autumn Blaze Red Maple for the larger tree and the White Flowering Kousa Dogwood for the smaller tree. Although the Liberty Elm is a fitting name for the City, it may be too large as far as the roots and height. Mr. Gilbert stated that we could replace the Liberty Elm with those two trees after the public hearing.

Mr. Gilbert stated that public notice was given on May 29, 2019 and that the Planning and Zoning Board also held a public hearing.

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Councilmember Mike Butler stated that he was confused about the trees on King Street. Marilyn Sellers stated that she felt that the Liberty Elm that is currently in the Ordinance would be too large. Mr. Butler stated that there is a list of trees, and now we are changing that. Mr. Gilbert stated that that was in the right of way.

Mayor Neisler stated that he felt that we could do the Ordinance tonight, then come back later with a list of four or five that could be put in the right way after we talked to staff. Mr. Gilbert stated that the purpose of this was that whatever thoroughfare was used to enter the City, you would see a certain species of tree, specifically a flowering tree.

Councilmember David Allen stated that he recalls that this would be a “dwarf flowering tree that you could possibly build a festival around.” Mr. Gilbert stated that this is one of the things that they had talked about.

Councilmember Jay Rhodes commented that if you look at Walmart, the oak trees there are already up to the power lines. He stated that he objects to any tree that interferes with the power lines.

Mayor Neisler stated that this would be the same regulations that prohibit pawn shops as that of the Kings Mountain Boulevard thoroughfare district. Are we going to do that and grandfather the ones that we have now? We have two good businesses and we need to make sure that we do this right. He stated that he can understand that in the district where the entertainment complex will be located; however, it should be allowed in the downtown district and the one on Cleveland Avenue should also be allowed. Mr. Gilbert stated that this applies to the thoroughfare districts and not the downtown overlay district. He stated that any pawn shop that currently exists, no matter where it is located is permitted. If you want to establish a new one within the thoroughfare district that would not be permissible.

Upon Motion by Councilmember Mike Butler, seconded by Councilmember Rodney Gordon, it was unanimously voted to close the Public Hearing and re-enter into the Special Session at 7:26 p.m.

REGULAR MEETING

Councilmember David Allen stated that the type of tree is yet to be determined and asked whether Cleveland Music was in one of these districts. Mr. Gilbert stated that this particular one would be in the 74 Business/King Street thoroughfare district. Mickey Corry, City Attorney clarified that a change in ownership would be irrelevant as long as the use is the same.

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Mike Butler it was unanimously voted to adopt a Consistency Statement No. 2 **“In Favor”** of a modification to the City of Kings Mountain Zoning Ordinance, (however striking through the language regarding what type of tree will be required under item “k”) “Section 6.16 – Overlay Districts” to combine the text for all thoroughfare overlay zoning districts into common language creating a singular thoroughfare zoning district, identified only as a different overlay district simply due to geography of location, which reads as follows:

The proposed amendment to the Kings Mountain Official Zoning Map is considered to be an amendment to the Comprehensive Plan, to which the Kings Mountain City Council shall require no additional requests or applications for amendment to the Comprehensive Plan; and

As part of the considered proposed amendment, the Kings Mountain City Council took into account the following changes in conditions in order to meet the development needs of the community.

- a) The Comprehensive Plan boundaries were established in 1995 when the Plan was developed and adopted by City Council.
- b) The Plan boundaries were limited to the areas which at the time were located within the then Kings Mountain municipal boundaries.
- c) Lacking specific Comprehensive Plan future land use recommendations, the text amendment is in conformation with the Comprehensive Plan.

Councilmember Miller stated that he would like to recommend that Council take action on most of this modification with the exception of making the change that we not designate a particular tree or group of trees and wait for confirmation from staff. Marilyn Sellers, City Manager stated that she believes that the aforementioned two trees will be recommended, but that she would like to speak to a landscape professional before that is finalized.

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Keith Miller, it was unanimously voted to adopt **Ordinance 19-11** modifying the City of Kings Mountain Zoning Ordinance “Section 6.16 – Overlay Districts” to combine the text for all thoroughfare overlay zoning districts into common language creating a singular thoroughfare zoning district, identified only as a different overlay district simply due to geography of location, however striking through the language regarding what type of tree will be required under item “k.”

ADJOURNMENT

Upon Motion by Councilmember Rodney Gordon, seconded by Councilmember Annie Thombs, it was unanimously voted to adjourn at 7:34 p.m.

BY: _____
G. Scott Neisler, Mayor

ATTEST:

Karen A. Tucker, CMC