

REGULAR SESSION OF JULY 30, 2019

The City of Kings Mountain, North Carolina met in Regular Session at 6:00 p.m. on Tuesday, July 30, 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 Mayor Scott Neisler as a representative of First Presbyterian Church, Kings Mountain, NC.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Neisler.

AGENDA ADOPTION

Marilyn Sellers, City Manager asked that Jones v. the City of Kings Mountain be added to the Closed Session portion of the Agenda. Mayor Neisler asked that Item 9G and 9H be removed from the Consent Agenda and added to the Regular Meeting as Items 15 and 16, respectively. Upon Motion by Councilmember Rodney Gordon, seconded by Councilmember Jay Rhodes, it was unanimously voted to approve the Agenda, as amended.

SPECIAL PRESENTATION AND RECOGNITIONS

Mayor's Comments and Remarks

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

- | | | |
|---------------------|---------------------|----------|
| • Frank Burns | Fire Chief | 30 Years |
| • Darryl Dixon | Public Works | 20 Years |
| • Terry Cain | Energy Services/Gas | 15 Years |
| • Ricky Duncan | Water Department | 15 Years |
| • Lareina Carpenter | Human Resources | 5 Years |

Mayor Neisler read **Resolution 19-24** honoring the Patrol Officer Brent Herndon for obtaining his Intermediate Law Enforcement Certification from the State of North Carolina.

Mayor Neisler read **Resolution 19-25** honoring the Detective Josh Bryant for obtaining his Intermediate Law Enforcement Certification from the State of North Carolina.

Mayor Neisler read **Resolution 19-26** supporting the More Powerful North Carolina Campaign.

Mayor Neisler read a **Proclamation** in support of National Night Out, which will be held on Tuesday, August 6, 2019.

SPECIAL EVENTS UPDATE

Christy Conner, Special Events Director introduced Angela Padgett as the new Special Events Coordinator.

National Night Out will be held on Tuesday August 6, 2019 at 6:00 p.m. at Patriots Park. There will be a variety of free family fun, including hot dogs, drinks, and snow cones, while supplies last. There will also be inflatables, face painting and car seat safety checks. Walmart has stepped up to give away free bookbags to those in need.

Beach Blast will begin with a pre-party on Friday, August 23, 2019 from 6:00 p.m. until 10:00 p.m. with DJ Eric Bowman and Too Much Sylvia. This pre-party will kickoff our 20th anniversary of Beach Blast. Christy stated that there have been many calls from people near and far inquiring about our area hotels. She shared a phone conversation with an individual who's from West Virginia to inquire about places to stay for this event. This is a result of great advertising in our department, and it shows the impact that these events are having on travel and tourism. There will be a great line up of bands on Saturday, a fruit ninja performance, magic show, and of course lots of family fun and food available.

Mayor Neisler thanked Christy, as well Police and Fire for a great 4th of July event. It was a great event even though the fireworks had to start early due to weather.

CITIZEN RECOGNITION

Stevie Edwards, 408 West Gold Street, spoke regarding the problem of speeding on West Gold Street.

Dale A. Greene, 235 Landry Drive, expressed safety concerns at the City's July 4th activities. He asked that a copy of his comments be kept on file.

Robin Crisp, 409 West Gold Street, spoke regarding the issue of speeding on West Gold Street.

Heather Wilson and Chuck Wilson, 505 West Gold Street, spoke regarding the issue of speeding on West Gold Street and parking issues.

Kathleen Evans, 4100 Southstream, Charlotte, NC addressed Council regarding the AT&T Data Center.

Mayor Neisler recommended that the residents of West Gold Street look at the City's Traffic Calming Policy, and invited them to attend the meeting of the Kings Mountain Transportation Committee to express their concerns.

Police Chief Lisa Proctor addressed the residents of West Gold Street stating that there is currently a campaign to slow people down on West Gold Street, and that Ptl. Brent Herndon had already written 25 or more tickets as part of this effort.

CONSENT AGENDA

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

- A.** Minutes of the Regular Meeting of June 25, 2019.
- B.** Budget Amendments to Mauney Memorial Library and ElectriCities Economic Development Study/Strategic Planning Project.
 - Mauney Memorial Library – Amendment in the amount of \$110,000 to true up inception to date budget to reflect the total contributions received and accounted for in the Library Capital Fund. These funds can only be utilized for library capital purposes and will be transferred out to be spent as a qualifying need arises. (Increasing total budget in the fund.)
 - Mauney Memorial Library – Amendment in the amount of \$35,000 to be utilized for constructing a lift for those who may need this service. These funds, donated by the Scism family, can only be used for library capital purposes. (Increasing total budget in the fund.)
 - ElectriCities Economic Development Study/Strategic Planning Project – Amendment in the amount of \$50,000 to re-budget

unspent dollars from last years' budget related to the ElectriCities Economic Development Study/Strategic Plan. This process has

overlapped fiscal year end, thus unused budget needs to be carried forward. (Increasing total expenditures.)

- C.** Adopt an **Ordinance 19-13** amending the Code of Ordinance for the City of Kings Mountain § 72.25 (B) to change the speed limit on South Cansler Street from King Street to Meadowbrook Road from 35 MPH to 25 MPH.
- D.** Adopt an **Ordinance 19-14** amending the Code of Ordinance for the City of Kings Mountain § 73.04 (B) to amend the City Code of Ordinance: Parking Prohibited in Certain Places. This is a recommendation from the Kings Mountain Transportation Committee.
- E.** Authorize Police Chief Lisa Proctor to execute a Memorandum of Understanding regarding Law Enforcement-Based Victim Specialist Program between the Cleveland County Sheriff's Office and the Kings Mountain Police Department. This is a grant opportunity through the US Department of Justice.
- F.** Authorize the Mayor to execute a Moss Lake Use Agreement which would allow Wake the World to host an event on August 5, 2019. This event would be held from 10:00 AM to 3:00 PM and it would provide adaptive water sports for disabled children and adults. Moss Lake Property Owners Association (MLPOA) is providing support for this group.
- ~~**G.** Authorize the Mayor to execute a Moss Lake Use Agreement which would allow Float Fest to host an event on August 17, 2019. This 3rd Annual Float Fest event would be held from 1:00 PM to 5:00 PM and it will be raising funds to go to the Cleveland County Department of Social Services for the Foster Children Special Fund. (Removed from Consent Agenda and placed as number 15 on Regular Meeting for additional discussion.)~~
- ~~**H.** Approve the Downtown Kings Mountain Façade Grant application in the amount of \$5,000 for 133 W. Mountain Street, for Thoroughbred Partners, Ltd and John McGill, Managing Partner, for the purpose of façade repairs, rehabilitation, and renovations. (Removed from Consent Agenda and placed as number 16 on the Regular Meeting for additional discussion.)~~

- I. Adopt an **Ordinance 19-15** amending the closing time at Patriots Park from 9:00 PM to 10:00 PM.

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- J. Authorize the Mayor to execute a new (5) Year Fiber Lease Agreement with STI that will begin on October 1, 2019. There are three agreements to be approved. They are the STI Final Dark Fiber Use Agreement, the STI Final Rack Space Lease Agreement, and the Fiber & Rack Space Rates.

- K. Approve the following appointments to the following Boards and Commissions:

Moss Lake Commission:

- Reappoint Steve Marlow, term expiring 6/30/2020.
- Gene Henry (filling vacant seat), term expiring 6/30/2020.

Upon Motion by Councilmember Keith Miller, seconded by Councilmember Annie Thombs, it was unanimously voted to recess the Regular Meeting and enter into a Public Hearing at 7:01 p.m.

PUBLIC HEARING

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 – Stuart C. Gilbert, Economic Development and Planning Director.

Stuart Gilbert stated that a letter was submitted in the last forty-eight hours that states that the applicant is not going to purchase this property. Just before the meeting tonight, the representative for the owner requested that the public hearing be tabled for one month to allow time to work together to get some of the issues resolved. Mickey Corry stated that the opportunity for comments on this item should be given prior to continuation of the public hearing to the date that it is being requested.

Mr. Gilbert stated that this was a Conditional Use Rezoning which is a legislative action. All notices were provided. The owners of the property are Peggy R. Carter Living Trust and Dr. Elizabeth George. The address of the property is 923 Cleveland Avenue, and is currently vacant. The applicant, Mr. Huffstetler, had requested that the zoning be changed from RS-8 to Conditional Use GB for the specific purpose of a car lot. The Planning and Zoning Board recommended approval of this request; however, they also recommended additional conditions of the approval. As Mr. Huffstetler was performing due diligence, other issues were found that affected the sale of the property.

stated that this is correct. He stated that Mr. Huffstetler told him that he did not wish to move forward, and after several requests, he sent the letter that has been distributed to Council. The owner's agent, Mr. Philip Bunch, is the party who requested that the hearing be tabled instead of denying the request.

No one requested to speak for or against this request.

Consider 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 - Stuart C. Gilbert, Economic Development and Planning Director.

Stuart Gilbert stated that this is a public hearing to consider a draft zoning text amendment as to tattoo parlors, vape shops and body piercing shops. Planning and Zoning Board has reviewed this issue a couple of times, and their recommendations include adding special regulations to these establishments. The draft ordinance includes that none of these businesses be located within seven hundred (700) feet of a church, synagogue, or other regular place of worship, a public or private elementary school or secondary school, a public library, a park or play ground with the exception of a greenway or other public trail, a licensed child-care facility, a licensed group-home, or an entertainment business that is oriented primarily towards minors. Any existing establishment that may have operated prior to the effective date of this ordinance may remain as a non-conforming use. Tattoo parlors, body piercing, and vape shops or any combination of these may not be located or operated within three hundred (300) feet of residential zoning districts. These establishments may only be located in general business light or heavy manufacturing zoning districts. This relates to Special Regulation 38, should Council decide to approve. As to this particular ordinance, the numbers of 700 feet and 300 feet would be measured from the nearest portion of the building or structure on the premises where tattoo, body piercing, or vape establishments would conduct business, to the nearest property line of the premises of any use listed above. Mr. Gilbert stated that this relates to the Special Regulation side of this request, which is only one part of the proposal that Planning and Zoning recommends. All notices were properly given regarding the public hearing.

Mr. Gilbert stated that in relation to vape shops, there were a number of questions due to the specific regulations in N.C.G.S. that address vape shops. It appears that as long as we are looking at zoning issues and special conditions related to vape shops, that we are probably on decent ground. The statutory information is included in the material that is included in your package. The Planning and Zoning did not feel

comfortable without any further discussion going forward and making it a conditional

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use permit related process for vape shops. They talked about it at length, as this would give more regulations for the city to look at, specifically the hours.

This Ordinance would also prohibit these uses in the Kings Mountain Protection, Preservation and Enhancement Zoning District. It would allow these establishments in the general business, light and heavy industrial districts and would require the Special Regulation as identified at SR 38. Regulations for the overlay and thoroughfare districts were taken into consideration last month with the Ordinance that included language that combine the text for all thoroughfare overlay zoning districts into common language creating a singular thoroughfare zoning district.

Mr. Gilbert stated that an Ordinance was adopted at the special Public Hearing that was held on July 11, 2019, which placed a moratorium on these types of establishments; therefore, Council has until September 11, 2019 to make a final decision on this issue.

No one requested to speak for or against this request.

Receive citizen comments about the closeout of the Community Development Block Grant (CDBG) Project #15-E-2770 received by the City from the North Carolina Department of Commerce, Rural Development Division – Steve Austin.

Steve Austin spoke regarding the history of the CDBG, stating that this was a grant that was worth \$500,000 to renovate two dilapidated structures in the downtown area. These were 213 South Battleground and 133 West Mountain Street. The aim of the project was to bring these buildings back up to code. Both buildings have received a Certificate of Completion by the City, and all major building systems have been brought up to code. The purpose of the grant was to make the buildings marketable for commercial use. They are not entirely completed, but they can be marketed by the owners for use. The owners have contributed their share of the investment, and all requirements of the grant have been satisfied. Each property has a four-year Promissory Note and Deed of Trust, so if they sale the property within that four-year period a portion of the grant money will be paid back to the City. The owners are required to hold on to these buildings for this four-year period. This was not a State requirement. There were no guidelines regarding this given by the state for this program. Traditional community development and block grant guidelines were followed. This requirement is designed to not allow the owner to immediately turn the property for a profit; however, it doesn't bind them

forever since they have their own investment. There were no job requirements for this grant.

No one required to speak for or against this request.

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Upon Motion by Councilmember Keith Miller, seconded by Councilmember Jay Rhodes, it was unanimously voted to continue the Public Hearing as to Item 10-A, and close the Public Hearing as to Items 10-B and 10-C and re-enter into the Regular Meeting at 7:25 p.m.

REGULAR MEETING

Action on Item 10-A

Public Hearing is continued until the next regular meeting of Tuesday, August 27, 2019 at 6:00 p.m.

Action on Item 10-B

Councilmember David Allen made a Motion that was seconded by Councilmember Tommy Hawkins. Councilmember Allen stated that since we have another month before having to make a decision, that Council table this public hearing to allow staff to make any final recommendations. Before the vote was taken, Mayor Neisler stated that his intention is not to do away with tattoo parlors, body piercing, and vape shops all together. Having them in the general business, light and heavy industrial districts does suffice, but he feels that the special regulation would be more restrictive. There are only a few places to be allowable, and it would be a dim view to irradiate these establishments, as well as possibly against the law. He stated that we need to have a place for them, but we don't want to be so restrictive that people can't go into business to do this if they wish to do so.

Mickey Corry, City Attorney stated that while he did not know what the forum would be for additional discussion regarding this issue, his suggestion is a reconsideration of the Motion made to close the public hearing, and instead continue this item, Item 10-B until the next meeting.

Councilmember David Allen asked to retract his Motion.

Upon Motion by Councilmember Keith Miller, seconded by David Allen it was unanimously voted to reconsider the previous vote to close the public hearings.

Upon Motion by Councilmember Keith Miller, seconded by Councilmember Jay Rhodes, it was unanimously voted to continue the public hearing for Items 10-A and 10-B until the next regularly scheduled Council Meeting of Tuesday, August 27, 2019 at 6:00 p.m. and close the public hearing for Item 10-C and re-enter into the Regular Meeting.

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Action on Item 10-C

No action required by Council.

Item 15 – (Item 9-G on Consent)

Marilyn Sellers stated that staff has not received the required insurance coverage for this event, naming the City as additional insured. She stated that she is asking for Council to approve this request contingent upon receipt of proper insurance coverage. She stated that staff would monitor this, and be sure it is received before the event on August 17th.

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Tommy Hawkins it was unanimously voted to approve Item 9-G contingent upon the receipt of proper insurance coverage.

Item 16 – (Item 9-H on Consent)

Stuart Gilbert, stated that this is a façade grant for one of the buildings that was included in the CDBG public hearing. The following process is recommended:

1. City staff shall approve (through the Main Street Design Review Committee) the most current façade plan for the property, including revisions to the façade plan, prior to the façade plan being submitted to the Codes department for a building permit.
2. City of Kings Mountain Codes Department shall approve a building permit for building façade improvements located at 133 Mountain Street, and that the City of Kings Mountain Codes Department shall approve the “Final Inspection” prior to release of any City funds for a façade grant.
3. No City of Kings Mountain funds for a Façade grant for 133 Mountain Street shall not be paid until the Kings Mountain Main Street Coordinator approves and verifies the following:

- a. Written receipts of final expenditures for this façade grant; and
- b. This façade grant meets all City of Kings Mountain façade grant guidelines.

Mr. Gilbert stated that this process would allow Council to approve the façade grant with specific conditions that the owner would know they would have to meet.

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Upon Motion by Councilmember Keith Miller, seconded by Councilmember Jay Rhodes it was unanimously voted that the Council would approve that the façade grant process continue forward for approval by staff subject to the stipulations outlined by the Planning Director.

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Tommy Hawkins it was unanimously voted to close the Regular Meeting at 7:45 p.m. and enter into a Closed Session pursuant to N.C.G.S. § 143-318.11 (3) to discuss an Economic Development Agreement and Jones v. City of Kings Mountain.

CLOSED SESSION

Upon Motion by Councilmember Mike Butler, seconded by Councilmember David Allen, it was unanimously voted to close the Closed Session and re-enter the Regular Meeting at 8:13 p.m.

No action was taken in Closed Session.

ADJOURNMENT

Upon Motion by Councilmember Rodney Gordon, seconded by Councilmember Jay Rhodes, it was unanimously voted to adjourn at 8:13 p.m.

BY: _____
G. Scott Neisler, Mayor

ATTEST:

Karen A. Tucker, CMC