

## **REGULAR SESSION OF MAY 28, 2019**

The City of Kings Mountain, North Carolina met in Regular Session at 6:00 p.m. on Tuesday, May 28, 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 Pastor Jeff Wilson, First Church of the Nazarene, Kings Mountain, NC.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Neisler.

### **AGENDA ADOPTION**

Mayor Neisler asked that Item 9H be removed from the Consent Agenda and placed as Item 15 on the Regular Meeting for discussion. Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember David Allen, 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:

- Matthew Moss                      Fire Department                      5 years
- Claudia Vaughn                      Senior Center                      5 years

Mayor Neisler read a **Proclamation** honoring the Kings Mountain Fire Department Junior Firefighters for their participation in the MDA "Fill the Boot" campaign.

Mayor Neisler read a **Resolution** honoring Jailah Pettis, Miss Taste of Charlotte Festival 2019.

Mayor Neisler read the following Resolutions honoring the following teams for winning the Big South 3A Conference Championship:

- **Resolution 19-13** honoring the Kings Mountain High School Women’s Tennis Team
- **Resolution 19-14** honoring the Kings Mountain High School Men’s Basketball Team
- **Resolution 19-15** honoring the Kings Mountain High School Women’s Basketball Team
- **Resolution 19-16** honoring the Kings Mountain High School Wrestling Team
- **Resolution 19-17** honoring the Kings Mountain High School Volleyball Team
- **Resolution 19-18** honoring the Kings Mountain High School Women’s Soccer Team

**SPECIAL EVENTS UPDATE**

Christy Conner, Special Events Coordinator expressed her thanks to Council that came out for the Memorial Day Observance. She updated Council on the Revolutionary 4<sup>th</sup> celebration stating that the band that would perform this year is “Bounce” who plays Top 40 style music along with the Loche Norman Pipe Band, and a re-enactment by Liberty Mountain. She stated that she had a gentleman from Atlanta, GA that called who is an 8<sup>th</sup> generation of Col. Frederick Hambright. He is looking to bring his family for a visit to Kings Mountain to attend Revolutionary 4<sup>th</sup>, Liberty Mountain, and all of the other great historical offerings that the City has here.

**CITIZEN RECOGNITION**

Alton Beal, Evangelist and President of Ambassador Baptist College, 104-1 North Lee Street, Lattimore, NC, spoke against the casino. He presented Council with a copy of a petition which is signed by 1200 people in opposition to the casino. This petition was published in the Shelby Star on May 5, 2019.

**CONSENT AGENDA**

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

- A. Minutes of the Regular Meeting of April 30, 2019.

- B.** Budget Amendment in the amount of \$250,000 to transfer fund balance from the General Fund to the Health Insurance to be used for medical claims if necessary.
- C.** Budget Amendment in the amount of \$100,000 to appropriate additional revenues received among the General Fund (Public Works) departments to cover current operating needs and or potential budget shortfalls for the remainder of the year resulting from year end accruals. Note: These funds are being placed in contingency accounts and can only be utilized with manager/finance officer approval.
- D.** Budget Amendment in the amount of \$150,000 to appropriate funds from the Electric Fund to the General Fund for capital activity. Note: This is simply a transfer of existing budget from one fund/department to another. No additional funds are being appropriated or requested.
- E.** Authorize Mayor to execute an Asset Management Agreement Amendment with TEXLA.
- F.** Approve the following appointments to the following Boards and Commissions:
  - Mauney Memorial Library Board of Trustees:
    - Debbie Mauney, term expiring 06/30/2022, Hilda Kiser, term expiring 06/30/2021, Lindsey Bridges, term expiring 06/30/2021, and Andrew Atchley, term expiring 06/30/2020
  - Patrick Senior Center Advisory Board:
    - Class of 2022 – Lee Ann Long, Al Tate, Evelyn Pressley, Pat Blanton, Sharon Proctor, and Charles Stephens, all with terms expiring 06/30/2022
- G.** Schedule a Public Hearing for Tuesday, June 25, 2019 at 6:00 pm to modify 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.

**H.** ~~Schedule a Public Hearing for Tuesday, June 25, 2019 at 6:00 pm to add tattoo parlors, body piercing and vape shops in the table of uses, as permitted uses only in the light manufacturing and heavy-~~  
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~~manufacturing zoning district, subject to new special regulations that will be included in the new text amendment – Case No. Z-1-5-19. (Removed from Consent Agenda and placed as Item 15 on the Regular Meeting for additional discussion.)~~

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Rodney Gordon, it was unanimously voted to recess the Regular Meeting and enter into a Public Hearing to discuss the proposed budget for FY 2019-2020 at 6:52 p.m.

**PUBLIC HEARING**

Consider the proposed budget for FY 2019-2020.

Marilyn Sellers, City Manager stated that the proposed budget being presented is a balanced budget as required by N.C.G.S. 159, the Local Government Fiscal Control Act. This budget was assembled insuring that the budgeted funds are spent for the public purpose, in accordance with the North Carolina Constitution Article 5, Section 2 Paragraph 1. This budget focuses on strategic goals that support you as Council and the priorities that were set during the course of work sessions and strategic planning. These priorities include economic development and public safety. Revenues have been set aside for economic development. Additional personnel, along with salary increases, have been planned to meet public safety priorities. Staff has set a goal to have a completed strategic plan by fall of this year. Council will continue to be involved in this process. She stated that “all of the hard work of staff and Council has brought the City out of the past and has prepared us for the future. Through many tough times, we always tried to be sure that we met the requirements, but now we are able to expand and meet some of the needs to enhance the services that we provide. We were able to look at some of the projects that enhance our quality of life for our citizens. We are utility driven, and through the water rehab, expansion of our electric and gas infrastructure, and the NTE project we have set the stage to generate more revenue - increasing our tax base along with creating additional savings. Expansion and growth of our industries along with the interest in housing projects and economic development inquiries that we receive every week from Gaston and Cleveland Counties, is a great indication that our economy is picking up. We are not only prepared with top notch infrastructure and up to date technology, we also offer very competitive rates along with services that most cities don’t offer. Our tax rate and utility rates are comparable to the region. We are very unique because we offer a library, senior center, and Moss Lake for recreation. We are one of eight cities in North Carolina that offer all four utilities, and we are one of two that offer a fifth, being fiber.

Working together, we have positioned the City to have the caliber of budget that we see tonight.”

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She stated that the Budget Ordinance before Council presents a balanced budget of \$46,027,665. This is an increase of about \$1.2 Million, about a 2.7% increase, from the current fiscal year. This is barely above the rate of inflation. This budget operates

eight separate funds. This number includes all grants, incentives, loan payments, including interest fee loans, capital outlay, purchase of gas and electricity and these can fluctuate. Although this is a balanced budget, as emergencies occur, budget amendments will be presented throughout the year, even for additional revenues that are received. The total capital outlay for this budget is \$3,136,500. Out of this there \$2,565,650 is being paid from recurring revenue, and \$570,850 is being financed. Our FY 2019-2020 short term debt for all departments is \$2.7 Million, while long term debt beyond this fiscal year is approximately \$27 Million. All proceeds of the water infrastructure loan have been drawn.

She stated that in her budget message she bullet-points about three pages of accomplishments that the City has made, and this is a reminder of the good things that are happening in Kings Mountain. Major budget highlights are as follows:

- No property tax increase, tax rate remains at .43 per \$100 valuation
- No electric rate base increase. We had an electric rate decrease which averages 10.8% reflected on the March, 2019 bills.
- No natural gas, water, wastewater, or stormwater rate increase
- 5% sanitation increase due to increases at the landfill and charges from Republic for recycling
- 2.5% COLA for all employees
- Increase in City contributions to employee retirement, per state mandate
- No increase in health insurance premiums for employees
- 9 new full-time employees (2 telecommunicators, 2 K-9 officers and 2 new K-9's, 1 Communications/Marketing Director, 1 Special Events Coordinator, and 3 Firefighters)

Mrs. Sellers stated that the goal of staff is to operate and provide services to create an environment that is operated safely, effectively, and efficiently. She thanked Chris Costner, her management team, and staff for their work on this year's budget, stating that there is a passion to serve and protect our community. If approved, this budget will be effective as of July 1, 2019.

Chris Costner, Finance Director stated that he was very proud of this year's budget. He stated that we are beginning to get our fund balance up to where our peers are. Overall, we have a fiscally responsible budget.

No one else requested to speak.

Mayor Neisler stated that this staff is exemplary in what they do, and all of the hard work that was behind NTE helped balance the budget in the last two years. Also, there

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has been work on public safety. We are very lucky to have such talented people working for the City.

Councilmember Rodney Gordon thanked staff for being prepared to hold the public hearing tonight and not have a separate meeting, and also for the work sessions which were great. He thanked Marilyn for her work, and stated that he is grateful for the fact that she knows how to find good people.

Councilmember Annie Thombs stated that this was her first budget session and thanked Council and Administration for helping her through the budget process. She stated that she feels that she has a good picture of the process thanks to the assistance of her peers.

Upon Motion by Councilmember David Allen, seconded by Councilmember Keith Miller, it was unanimously voted to close the Public Hearing and re-enter into the Special Session at 7:09 p.m.

### **REGULAR MEETING**

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Rodney Gordon, it was unanimously voted to adopt **Ordinance 19-08** Appropriating Funds and Operating and Capital Expenses for the City of Kings Mountain, North Carolina for FY 2019-2020.

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Mike Butler, it was unanimously voted to adopt **Ordinance 19-09** Establishing an Internal Service Fund for the Health Insurance Financial Plan 2019-2020.

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Mike Butler, it was unanimously voted to adopt **Ordinance 19-10** Establishing an Internal Service Fund for the Workers Compensation Financial Plan 2019-2020.

### **Item 13 - Hall Crossing Subdivision, Phase V**

Stuart Gilbert, Planning and Economic Development Director stated that the technical review committee reviewed the preliminary construction plans related to

the plat. The plan, which we received May 6, 2019 of Hall Crossing provides future access to what would have formerly been an approximate 12-acre landlocked parcel. Staff recommends approval of the preliminary plat subject to the receipt of all public infrastructure plans. He stated that Mr. Hall could have subdivided many more lots according to the specifications. The property is zoned R-10 and is located within the city limits of Kings Mountain. The minimum required lot width is 75 feet and the setbacks are 40 feet front, 10 feet sides, 22 feet from any side street, and 30 feet rear yard. The two parcels combined equal 9.89 acres and this is subdivided into seven lots. His objective is to have a large lot with a fairly large house.

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The Planning and Zoning Board recommended approval of the preliminary plat of the Hall Crossing Subdivision, Phase V unanimously (those who were not excused for cause) at their regularly scheduled meeting of May 14, 2019.

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Tommy Hawkins it was unanimously voted to adopt **Resolution 19-19** approving the preliminary plat of the Hall Crossing Subdivision, Phase V.

**Item 14 – Discussion regarding special regulations related to tattoo shops, body piercing, and vape shops**

Stuart Gilbert, Planning and Economic Development Director stated that earlier in the year there was some discussion regarding these particular establishments. The Planning and Zoning Board have met twice just for the purpose of input, and staff has met with the City Attorney in order to form a process that would be defensible, in addition to supporting the policies that the Planning and Zoning Board would like to recommend to Council. Mr. Gilbert presented a draft zoning text amendment with the objective being to go to a public hearing at the next monthly meeting. Planning and Zoning will also have a public hearing. Typically, this is not discussed prior to a public hearing; however, there was some discussion in Planning and Zoning Board to actually limit the establishments that already exist. At this point, the draft amendment shows “Special Regulations” which would limit tattoo parlors, vape shops and body piercing establishments to the conditions of the special regulations and also allowed in the light industrial, heavy industrial, and general business district. Under a different piece of legislation that is proposed, all the overlay districts, which are our main thoroughfares into Kings Mountain, and the Kings Mountain Historic Preservation District (i.e. the “downtown district”) these establishments would be considered permitted uses that are not allowed. All overlay districts and the downtown overlay districts would not permit these establishments; however, this amendment would allow the establishments under the special regulations in heavy industrial, light industrial, and general business, specifically not in an overlay thoroughfare district.

Mr. Gilbert stated that the Planning and Zoning Board would like to take this to a public hearing but would like the input of Council.

Councilmember Keith Miller stated when Steve Killian addressed a similar issue, there was data that supported the fact that the presence of tattoo parlors or similar establishments were detrimental to the flow of business to other family-oriented business. Apparently, some businesses lost customers because of the presence of these establishments. He stated that this type of data would be helpful at the time of the public hearings. Mr. Gilbert stated that he did have data to this effect.

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Councilmember Miller stated that “with the respect to whether or not we should seek to take a business that is currently permitted, but if all of these things ultimately pass as described, then it may not be permitted, what’s the vision? I think one option is that they would just be non-conforming. There are many of those around the City.” Mr. Gilbert stated that this would be a less intrusive option. It would be a non-

conforming, legal use. Councilmember Miller asked “What is the process if Staff or Council decides that they want to seek to take a non-conforming use and make it conforming. My understanding is that you can do so and you have to allow a reasonable amount of time for those with vested rights to capture their investments, whether it’s the landlord or the business owner. Is that essentially how the process would work if Council chose to seek to make non-conforming uses conforming?” Mr. Gilbert stated likewise to make a non-conforming use non-allowable.

Mayor Neisler asked Mickey Corry, City Attorney to comment on Councilmember Miller’s question. Mr. Corry stated that the City has used this process before for internet sweepstakes and what we did was an amortization schedule expecting that there was “x” amount of investment for over a certain amount of time, those types of businesses would cease to exist.

Councilmember Miller asked “if we choose to go down such a path on a particular type of business, do we have to do it on all the businesses of that type? I assume we couldn’t pick one but not the other.” Mr. Corry stated that he would think not.

Mayor Neisler asked if “Ditto wanted a vape shop in their current shop, would that be allowable?” Mr. Corry stated that “there has to be some definition of the business to state that “x” percentage of its business comes under the definition of a vape shop or is it some small portion within another business. “

Mayor Neisler stated that the reason that he took Item H off, is that he felt that it would be impossible for a tattoo parlor to go into light manufacturing or heavy industrial. He stated that in his opinion it would be deemed that they were being eliminated from the City of Kings Mountain. He stated that he liked the idea of adding “general business.” This is more palatable because we cannot eliminate it from the town. The amortization process was not allowable when the City

attempted to close the mobile home park, but it was in the case of the internet sweepstakes. Mayor Neisler asked Mr. Corry if there was a difference. Mr. Corry stated that in the mobile home situation, the mobile homes that were manufactured after a certain year, became allowed because they had undergone certain inspections, and the ones that preceded a certain date were taken out. The City accomplished getting rid of the much older mobile homes.

Councilmember David Allen, stated that in regards to the thoroughfare overlays, it is exactly that, a thoroughfare. People are driving by, at speed. In support of downtown business, it seems like it's a competition between who's going to be served by the

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downtown businesses. He stated that he has input from some of the downtown constituents regarding what they would like the downtown area to look like, and this may be a conflict.

Mayor Neisler stated that he is for setting the public hearing, but in what form? Mr. Corry stated that if it starts to appear that this item is slowing down too much, a moratorium may be possible. Councilmember Allen stated that we don't want to circumvent the process and take it away from Planning and Zoning. They are doing their work and they will bring a good recommendation back to Council. He stated that he liked Mr. Corry's suggestion to allow the time that this matter needs.

Councilmember Miller stated that he would like additional data on where general business districts might be before he could form an opinion on that part of it, but generally he supports the process that is being recommended.

Mayor Neisler stated that another reason he is on the fence is because tattoo parlors are a very common thing among younger people.

Councilmember Tommy Hawkins stated that in his opinion these establishments are not needed downtown and that the ones that are there currently should be eliminated.

**Item 15 - (Item 9H on Consent)**

Upon Motion by Councilmember David Allen, seconded by Councilmember Annie Thombs it was unanimously voted to schedule a Public Hearing on Tuesday, June 25, 2019 at 6:00 p.m. to add tattoo parlors, body piercing, and vape shops in the Table of Uses as permitted only in light manufacturing, heavy manufacturing, and general business zoning districts subject to the new special regulations that will be included in the new text amendment - Case No. Z-1-5-19.

Upon Motion by Councilmember Rodney Gordon, seconded by Councilmember Jay Rhodes it was unanimously voted to close the Regular Meeting at 7:36 p.m. and

enter into a Closed Session pursuant to N.C.G.S. § 143-318.11 (3) to discuss an Economic Development Agreement.

**CLOSED SESSION**

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Annie Thombs, it was unanimously voted to close the Closed Session and re-enter the Regular Meeting at 8:15 p.m.

No action was taken in Closed Session.

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**ADJOURNMENT**

Upon Motion by Councilmember Tommy Hawkins, seconded by Councilmember Annie Thombs, it was unanimously voted to adjourn at 8:20 p.m.

BY: \_\_\_\_\_

G. Scott Neisler, Mayor

ATTEST:

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Karen A. Tucker, CMC