

**IREDELL COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING MINUTES
NOVEMBER 8, 2004**

The Iredell County Board of Commissioners met with the Statesville City Council for a joint meeting on Monday, November 8, 2004, 5:00 p.m., at the Agricultural Resource Center located at 444 Bristol Drive, Statesville, NC.

Present were:

Chairman Steve D. Johnson
Vice Chairman Godfrey Williams
Doug Madison
Marvin Norman
Sara Haire Tice

County Staff Present: County Manager Joel Mashburn, Attorney Bill Pope, Planning & Enforcement Director Lynn Niblock, Planning Supervisor Ron Smith, and Planner Rebecca Harper

Statesville City Council Members
Present: Costi Kutteh, Mike Johnson, C.O. "Jap" Johnson, Pete Peterson, and Jim Lawton

Statesville Staff Present: City Manager Rob Hites, Attorney Eddie Gaines, and Planning Director David Currier

Others Present: Robb Collier

Media Present: Carrie Sidener, *Record & Landmark*

Speaker: Michael Lauer, Planning Works Inc.

Planning Works, Inc., Consultant Michael Lauer said the City of Statesville had concerns about growing in an efficient manner, and for this reason, the joint meeting was being held. He said long term, it was evident that Statesville would need the county to cede authority regarding development review to the city for certain areas. He said, "As we moved through the Urban Services Area (USA) plan, it became apparent the city should, in an effort to address growth that is coming its way, look at opportunities to expand the sewer service in the Third and Fourth Creek Basins. Along with that, the city is not in the position to run the sewer lines out there, but needs to plan them carefully. In order to do that, the growth must be timed in accordance with the provision of those services so the development is coordinated. The greatest obstacle to extending sewer service would be if low-density development on septic systems ends up consuming a lot of land, and it then becomes cost ineffective to provide those services. The plan's directives address this in terms of where to provide sewer service and by making sure that growth is timed in conjunction with the provision of services along with being sure that growth pays its proportional share. In order to accomplish this, we should apply urban or city improvement standards out in the area where the city is going to provide urban services. There are several purposes of the service area. One is to make sure that we have equitable decision making, and this gets back to the concern with ETJ -- regulation without representation. The USA allows us to get past that. It provides an acceptable alternative to the ETJ, which does cede authority. It coordinates land use and facility decisions to make sure our improvement standards are coordinated so there are no new developments that will create substandard improvements. It also makes it more cost effective to provide sewer service throughout the basins. It provides predictability for not only the development community, but also for rate payers, taxpayers, city decision makers, and county decision makers."

What is the City going to get out of this deal? Lauer said, "It will help the city provide services more efficiently long term. It will minimize land-use conflicts at the edge of the city. It will minimize potential costs associated with subdivisions with substandard facilities (such as inadequate fire flow or septic systems).

What does the County get out of the deal? Lauer said, “It will support the county’s land-use goals -- ultimately to reduce transportation costs for schools. It will facilitate city-county coordination. It will avoid delegating approval authority, and it will help increase the predictability for rural residents.”

What is in the agreement? Lauer said, “An outline for the agreement has been provided (based on the contract), and there have been discussions since that time. The agreement contains several different sections. For example: (1) it contains the findings and how everything will be authorized, (2) it advises of a Joint Planning Committee that will need to be established, (3) it sets up Development Procedures, Improvement Standards, and what Development Standards will be followed, (4) it establishes the boundaries and the fees, (5) it describes how the agreement will be amended, (5) it notes how to resolve disputes, and (6) it lists the term of the agreement.”

Lauer continued by saying, “The Joint Planning Committee is left somewhat vague intentionally. We initially thought about having three county commissioners and three city council members, but decided to leave that up to the legislative bodies in each case. Staggered terms of three years have been set up. The quorum (4) has been set and they will determine their own rules of order. Their responsibilities are as follows:

1. To hear and make recommendations to the participating public agencies on amendments to the USA boundaries.
2. To recommend changes to the agreement.
3. To hear and decide on appeals to city or county staff regarding a determination that a use is inconsistent with applicable zoning standards.
4. To hear and make recommendations regarding the consistency of any other proposed development application that the staff finds to be inconsistent with the comprehensive plan, development regulations, and/or the agreement.
5. To hear and recommend action on requested exceptions to the adopted public improvement standards.”

On development procedures, Lauer said, “Basically anything that comes through is going to get dual staff review. While the county will be asked to adopt many of these regulations, the county is really not in the urban development business. The city is more familiar with urban subdivisions that have centralized facilities. It will require the city’s expertise to look at this, since the city officials are more familiar with the city’s zoning standards.”

Lauer said, “The county staff will continue to approve all of the administrative permits they approve today. They ultimately will have the approval authority. The board of commissioners will continue to approve everything its members approve today plus any major subdivisions will be directed to the board of commissioners.”

Mr. Lauer said, “The city council will have only one area where its approval is mandatory, and this is if there is a deviation from an improvement standard. In other words, ‘If I come in with a development, and I say I would like to create a subdivision, but I don’t want to put in this size of a sewer line.’ Then, because the city is going to ultimately take over the improvements, the city should have the authority to say whether or not there may be a deviation in standards.”

Lauer continued by saying, “Improvement standards shall be designed to comply with the city’s adopted street improvement standards (including streets, curbs, gutters and sidewalks) stormwater management, water, and wastewater system improvements. The county will adopt and apply the city’s zoning districts for the USA and the subdivision standards. There is an exception on the subdivision process. If the city manager finds that city services can’t be provided within five years, the city can authorize the county to approve a development that is not on centralized services. The reason for this is because there is a large area in the USA. It represents an area where the city thinks it can reasonably provide services within twenty years. There may be some areas that someone wants to develop now, instead of waiting, and they can approve what is called interim development by following standards as follows:

1. The design of the subdivision does not create an obstacle to future extensions of centralized water or wastewater systems.
2. Necessary easements for future water and/or wastewater facilities are dedicated at the time of the subdivision.
3. The subdivision provides sufficient right-of-way for planned roadways identified in any plan adopted by the City, County or State.
4. Provisions (necessary easements and agreement to connect at the property owner's expense) are made for future connection to centralized wastewater systems for any lot that is smaller than one acre in size.
5. Provisions (necessary easements and agreement to connect at the property owner's expense) are made for the installation of centralized water lines that provide adequate water supplies for normal use and adopted fire flows."

Mr. Lauer then reviewed the proposed boundaries, and he said they were up to the county planning director for interpretation. He said, "Ultimately, they can be changed, and we do envision changing them with mutual agreement from the city and county. Changes that need to be made on the proposed map are as follows:

- A. City has annexed the Morrowcroft property north of the hospital and this should be added.
- B. The ETJ around the airport needs to be scaled back.

"Otherwise, the proposed map reflects the discussions of staff and council in past meetings regarding the USA.

"The city and county may establish reasonable fees for the processing of development applications, inspection of development, and capital facilities. Approval from the board of commissioners shall be required prior to the establishment of any fee that will be applicable to development in unincorporated areas.

"The agreement may be modified, at any time, subject to the review and comment by the Joint Planning Committee along with approval by the board of county commissioners and the city council.

"The dispute resolution section stipulates that the parties agree to enter into mediation before going to court.

"The terms of the agreement are for ten years, unless extended.

"Finally, the agreement envisions the adoption by the county of a number of city regulations: subdivision regulations to be adopted; building code has already been adopted; and the standards for public improvements need to be adopted."

Mr. Lauer advised that a few comments had been received regarding the draft, and he said one was on page 5; item B. Major Subdivisions #2. The last 2 lines should read: *The City may request review of the decision in accordance with Section 8.*

Mr. Lauer said he had earlier mentioned that the appeals of staff actions were to be sent to the board of commissioners. He asked if they should be sent to the BCA or not.

Chairman Steve Johnson clarified that this was the county's Zoning Board of Adjustment.

County Manager Mashburn said Mr. Lauer needed to know if the commissioners wanted to hear the appeals or if the Zoning Board of Adjustment should hear them.

Mr. Lauer explained it was his preference to have the appeals heard by the board of commissioners so the members would be aware of any disputes that might be occurring in relation to the agreement, especially in regards to any revisions that might be necessary.

County Manager Mashburn said that currently, appeals were heard by the board of adjustment. He said that if the USA appeals were heard by the commissioners, then part of the county would be appealing to the board of adjustment, and another part would be appealing to the board of commissioners. He said this would be confusing.

Chairman Steve Johnson agreed that he thought all appeals should be heard by the board of adjustment.

Mr. Lauer suggested that if the board of adjustment heard the appeals, then the board of commissioners should also be apprised of them (ETJ issues).

Statesville Councilman Mike Johnson said he had a problem with a quasi-judicial body being used that didn't really have the authority to make exceptions to the standards. He mentioned that someone might incorrectly install a curb. He said, "That can't be fined – it's a standard that has to be adhered to. We can't subject the City of Statesville to be bound by that decision when it is in direct contradiction to state permit or anything of that nature."

The consensus was for the appeals to go to the Board of Adjustment.

A discussion then occurred regarding major subdivision reviews and the difficulty for the board of commissioners to know if the city had adequate facilities in the area.

Councilman Kutteh said there might be situations where an industrial client wanted to be added to the sewer system and a residential community wanted to be added at the same time. He said that due to sewer capacity limits, the city could prefer the industrial client over the residential community.

Mr. Lauer asked if he should include a section for the city council's recommendation in the major subdivision review. He said this was putting the pressure on the city staff to know the capacity availability and if the city could render the service.

City Manager Hites said that when Statesville was in the Technical Review Committee (TRC), there would be the issue of whether or not water and sewer were available. He said that according to the city's code, any development outside the city limits required a separate motion to allow water and sewer connection and to certify availability. Hites said, "This process can't be short circuited unless the council changes the city code."

A consensus was reached allowing for a section to be included stipulating the city council would be allowed to make a recommendation pertaining to major subdivision review.

Chairman Steve Johnson asked for more explanation pertaining to interim development.

Mr. Lauer said, "Suppose we have a subdivision that the city says we can't serve today, but it is in a location that crosses a creek. That is a natural draw to locate a sewer line. If they develop, and they haven't dedicated adequate easements through that property for extending sewer service, then they could form an obstacle for the extension of those facilities. It would be encumbered upon the city to identify where the proper easements would be needed."

Mr. Lauer said the city was working on a capital improvement plan for scheduled improvements. He said, "The sewer line provides density that increases value significantly. If there is extensive development on septic systems, this makes it unfeasible for the city to run that sewer line and make the property more valuable."

Commissioner Doug Madison said, "Suppose someone has property at the very edge of this area and you say that you can get water and sewer out there in four and one-half years, then the land is basically condemned for that period." Mr. Madison suggested that the city allow the developers to extend their lines and to be reimbursed over a period of time as the people used the line.

Lauer said another issue that had been discussed was **driveway permits**. He said the county, at the present time, did not issue them. He said, "Ultimately, when the City is going to be looking at annexation in a particular area, there needs to be some sort of staff review for curb cuts on a state road. Currently all we have is site plan review."

County Planner Ron Smith said the stance on driveway permits was due to the county primarily dealing with state roads. He said it was only the State Department of Transportation that requested county approval of driveway permits. He said this was an unwritten county policy, but the staff had to sign off on the permits. Smith said that if there were conditions that needed to be tied to zoning, then the county made sure the State Department of Transportation knew the conditions needing to be met.

Lauer suggested changing the language to "review" of driveway permits, rather than "approval" of driveway permits. Ron Smith agreed.

It was also noted that the draft agreement referenced the International Building Code, and this needed to be changed to the North Carolina Building Code.

Another discussion about the agreement concerned consistency with a **comprehensive plan**. Lauer said one of the things the agreement needed to be more explicit about was to include a provision that the county adopted the same future land use map, which is a guidance tool for zoning. He said the city was comfortable with the idea about future amendments to the map, if they were outside the city. He said these would be reviewed by the city, but they would ultimately be a county decision. **This provision needs to be added to the agreement.**

Chairman Steve Johnson asked for discussion regarding sign permits.

Lauer said a paragraph stipulated the County Planning Director was in charge of issuing sign permits; however, they were supposed to be in accordance with city zoning standards. He said that as currently written, the agreement applied city zoning standards to the USA. **After some discussion, a consensus was reached to change this paragraph.**

A consensus was reached to approve changing the term limits to 2, 3 and 4 years.

Chairman Steve Johnson asked the difference between the county and city's subdivision ordinance.

Statesville Planning Director Currier said the city and county both had minor and major subdivisions. He said that if they were minor, they were reviewed and approved by staff at the TRC level. He said that if a major subdivision were being reviewed, it would be looked at by the TRC, the planning board, and the city council. Currier said the city and county had similar standard lot sizes, but the city had different cross sections on streets, curbs and sidewalks. (Totally different from what was seen on state-regulated roads.)

The discussion then centered on allowing developers to extend water/sewer lines and to make reimbursement payments over a certain period of years.

Lauer asked the pleasure of council/commissioners. He asked for direction on what was now expected of him.

A suggestion was made to have a small area plan done with presentation to both boards for approval.

An agreement amendment will be done pertaining to line extension recovery over a period of time. The city will agree to pay for the difference in the costs for over sizing a proposed line, if the city council members feel it is needed.

Lauer said he would incorporate the revisions into the agreement and provide a copy for each governmental body to review.

In addition, Lauer said he felt the City of Statesville needed to set a separate policy on how line extensions would be accepted along with the reimbursements, instead of making this a part of the agreement.

The meeting then adjourned at approximately 6:30 p.m.

Approved: _____

Clerk to the Board