

Minutes  
Kinston City Council  
Monday, April 16, 2018  
Work Session Canceled - Regular Meeting at 7:00 pm

REGULAR MEETING

Mayor Don Hardy called the Kinston City Council meeting to order at 7:00 pm.

Mayor Pro Tem Solomon led the prayer followed by the Pledge of Allegiance.

Those present: Councilmembers Robert Swinson, Sammy Aiken, Joseph Tyson, Kristal Suggs, Mayor Pro Tem Felicia Solomon and Mayor Don Hardy

Also present: Tony Sears, City Manager and James Cauley, City Attorney

**Adoption of the Agenda**

Councilmember Tyson made the motion, seconded by Councilmember Aiken and upon a unanimous vote (5-0) the agenda was adopted.

CITIZEN COMMENT

**Dr. Joseph Askew, 900 North Queen Street**, stated he is here to speak on behalf of the Askew family. He presented a Power of Attorney to speak on behalf of his son Joseph Askew Jr. to the City Attorney. He stated we have historical property located at 607 East Gordon Street and 110 Trianon Street. 607 East Gordon Street is a historical building, and we would like to preserve it, and we are renovating it. We would like for the property to be removed from the list [houses to be demolished]. He showed a copy of the building permit and documentation where water has been turned on for the property.

James Cauley, City Attorney stated the document appears to be a Power of Attorney from Joseph Askew Jr. This matter is pending with building inspections and should be allowed to run its course through the process. The building inspector can allow time and monitor progress to make sure the work gets done in a timely fashion.

Tony Sears, City Manager, stated Dr. Askew wrote a letter to Mr. Dempsey [Chief Building Inspector] and he is aware of the content of the letter.

Dr. Askew stated he is only asking for the same treatment that was given to Chris Jenkins [Hope Restoration] who is white for 1321 Railfence who did not have a hearing and as a Councilperson. Hearings are procedures and once you get into the 60 days, the property can be torn down. Every person who owns property has a right to a fair and impartial hearing, and we have not had that.

The rule of fairness is to apply the same rule for all. Mr. Jenkins received until January. I want the same treatment that the others received. In 60 days the house could be torn down, then a tax liens, attorney fees, and any other taxes or penalties are filed against you. Once the property is removed from the list, the City's inspector still has power and authority to oversee the operation. He wants the house to be removed from "first 50" [demolition] list. In the capacity of the NAACP which he is Chairman, he has made a full report and will make another report tomorrow night about this type of activity.

Mayor Hardy stated staff will speak to him further outside of the public comments, and confirmed that Dr. Askew has had a hearing and is still in the process.

Dr. Askew stated we have had the hearing, but we are in the process where we still could be in the critical 60 day period.

Mayor Hardy stated with since Dr. Askew is in the process, he has to allow the process to run its course.

Dr. Askew stated there is a ten day time to appeal after the hearing and the clock is already ticking on the ten days. And if he needs to continue to come before the City Council to appeal for the house to be removed from the list, he will do so.

Mayor Hardy asked for the City Attorney to advise the process. Mr. Cauley stated that Dr. Askew knows the process and how to appeal because he has done it before.

Mr. Sears stated that the City Council has two options, one is to grant his request to be removed the house [from the demolition list] which this City Council has done twice or it can remain as it is and Dr. Askew can continue through the process that has been set forth.

Councilmember Tyson asked when was the hearing held. Dr. Askew stated that he had the hearing last week and he received a building permit to proceed and he wants the same courtesy to have it removed off the list as others have done.

Don Crawford, Fire Chief, stated there was a hearing last week and the building permit was issued. There are life safety issues with the structure, including the roof caving in portions of the house. Dr. Askew was given a list of the items that need to be immediately addressed.

Mayor Hardy asked what time frame was given. Chief Crawford stated he does not know and does not have the documentation with him. Dr. Askew stated that since he had started construction, the time frame was set for 60 days for phase one.

Mayor Hardy asked when the time frame starts. Dr. Askew stated from the time of the hearing which was April 13<sup>th</sup>.

Mayor Hardy confirmed that he has been given 60 days to address the life safety issues.

Dr. Askew stated he was given 120 days to address phase 2. We have put rafters in those areas and we have assisted the joists, and we will continue until we finish.

Mayor Hardy confirmed that Dr. Askew has 120 days from last week, and added that we will come back in 120 days. He advised that if there needs to be further discussion that it can take place after the meeting.

**Geraldyn Barbour, 2749 Forest Drive**, stated she is representing the African American Heritage Commission of Kinston and Lenoir County, Incorporated. We thank everyone who has given support to their organization. We became a member of the Kinston-Lenoir County Chamber of Commerce in June 2017. In fall of 2017 we launched our oral history project known as “Speak Up, We Are Listening”, and in January we sponsored a bus trip to Raleigh to attend the 17<sup>th</sup> Annual African American Cultural Celebration at the North Carolina Museum of History. Our 3<sup>rd</sup> annual Heritage Festival will be held May 25<sup>th</sup> and 26<sup>th</sup> at the African American Music Park and at Lenoir Community College. There will be a tribute to Dr. Wiggins and other local musicians will be recognized. Tickets for Saturday are \$25 in advance and \$30 at the door.

**PRESENTATIONS AND RECOGNITIONS**

**1. Lineworker Appreciation Day Proclamation.....Rhonda Barwick**

Rhonda Barwick, Public Services Director, asked the electric crew to introduce themselves. David Stocks, Superintendent; Todd Rhodes, Electric Operations Supervisor; Bryan Marshburn, Journey Lineman; Jason Heath, Line Tech III; John Michael, Groundsman; Scott Hardison, Electric Line Tech I; and Derik Browning, Line Tech III.

Mrs. Barwick stated the National Lineman Day is Wednesday, April 18<sup>th</sup>. Our Electric Division recently won a Certificate of Excellence and Reliability from the American Public Power Association. This group has also won the Reliable Public Power every year which is quite an accomplishment.

Mayor Hardy read and presented the Lineworker Appreciation Day proclamation.

Councilmember Aiken stated during the ElectriCities conference in South Carolina last year, a documentary was shown and our electric staff was shown throughout the video. The video is also periodically shown on Channel 2 on Suddenlink.

**2. Spring Clean Up Update .....Terrell Lovick**  
*(This Item Was Added to the Agenda.)*

Terrell Lovick, Environmental Services Superintendent, stated we had a city wide spring clean at the former shirt factory site on Martin Luther King Boulevard on the corner. We had a large dumpster on site where people could bring items to help reduce illegal dumping because over the past two years we have had an increase in illegal dumping in the flood zones and on vacant properties. Landlords who aren't paying the environmental services fee sometimes place items

on the curb for it to become a City problem. We collected almost 2 tons of yard, construction, household debris and furniture. We did not accept chemicals and motor oil. We received feedback from citizens and they want to participate again next year.

Councilmember Swinson stated he received complaints from residents on Morningside Drive, former Carriage House Apartments about debris. Wednesday and Thursday City crews went and cleaned up the area. Friday afternoon there were items that had been dumped in the area again. We need citizens to be proactive and report those who are dumping.

Mr. Sears stated the apartments were damaged by Hurricane Matthew and the owner is not going to rehab them. The owner has applied for FEMA buyout and will ultimately be replaced.

### **3. Capital Improvement Projects.....Chris York and Andy Bailey**

Chris York, Eastern Carolina Rural Transportation Planning Organization (ECRTPO), stated they ensure that the transportation issues specific to eastern North Carolina are address. This process started over a year ago. There will be public workshops on May 7, 8 and 9, 2018 at the LaGrange Community Center, Woodmen Community Center and at the Livestock Arena. It will be an opportunity for public input. The plan has a 30 year horizon. He asked City Council to promote the workshops otherwise the project goes forth without public input. We will ask that the presentation be placed on the City's website.

Andy Bailey, North Carolina Department of Transportation's Planning Division, stated Lenoir County Commissioners along with the cities and towns within Lenoir County, appointed staff and stakeholders for this committee to help prioritize and understand the transportation needs within the County. The bypass project, I-42, goes from Raleigh to the port. US 258 from Tyree Road to the bypass will be widened to 4 lanes and is fully funded. Harvey Parkway to Greene County will be widened to four lane. The Carey Road extension is also fully funded. NC 11 will connect to 258 and an upgrade to a freeway from Harvey Parkway North to the Greenville southwest bypass is being proposed. NC 148/Harvey Parkway is imminent and the rights of way are being acquired and construction will begin in 2018. We will upgrade it to interstate standards to complete the Quad 4 Freeway system in the eastern part of the state. There will be operational improvements around Banks School Road near Bethel Christian Academy. The Cunningham Road extension will go from NC 58 to Airport Road. There will be minor widening projects on NC 55 near Wayne County, Hugo Road near Greene County and Pauls Path near Greene County. Other projects include an urban interchange at US 70/US 258, restriping of Summit Avenue to Highland, safety improvements on Airport Road, realignment of Highland Avenue at Herritage Street and a bridge over the Adkin branch connecting Secrest and Forrest. For rails, connecting CSX line to railroad system for the Global TransPark.

Councilmember Swinson asked if there is funding for the square loop overpass. Mr. Bailey stated there is not.

Mayor Hardy asked when the construction of Interstate 42 will continue. Mr. Bailey stated he believes the Kinston bypass construction will continue in 2024 and end by 2027. There is an

interchange near LaGrange which will take place later but it is not fully funded. The rest of the entire section is not funded at this time.

Mr. Bailey stated we want to make sure to connect major employment centers and places that would benefit from transportation services. For bikes we like to have big outside lanes. A few of the existing bike routes go through downtown Kinston and more laneage cannot be added. This plan will help with putting up more signs and warning stripping, etc. for bike routes throughout the county. All pedestrian recommendations are contained in other existing plans and no changes have been made. Beginning April 23<sup>rd</sup>, we will have our public comment period including three public workshops on May 7<sup>th</sup>, May 8<sup>th</sup> and May 9<sup>th</sup>. May 30<sup>th</sup> will be the final steering committee meeting. We hope to have the NC Board of Transportation adopts the plan in August.

MINUTES

**Consider the approval of the minutes for the City Council meeting held Monday, April 2, 2018 .....Monique Hicks**

Councilmember Aiken made the motion, seconded by Councilmember Tyson and upon a unanimous vote (5-0) the minutes were approved.

ACTION AGENDA

**1. Consider approval of a bid award to Lee Electrical Construction, Incorporated for the labor contract for the second Point of Delivery project in the amount of \$305,463 with a contingency of \$39,843 for a total cost of \$345,306.....Rhonda Barwick**

Rhonda Barwick, Public Services Director, stated the total project budget for the POD project is \$3.6 million. This is the third bid for the labor contract, and we separated the grading and awarded it separately and we received better bids on labor. Booth and Associates recommends the award and the contingency will not be used unless it is needed.

Mayor Pro Tem Solomon made the motion, seconded by Councilmember Tyson and upon a unanimous vote (5-0) the bid award was approved.

**2. Consider adoption of a Resolution to apply for State and Federal grants for the Greenmead subdivision water line replacement project.....Steve Miller**

Steve Miller, Assistant Public Services Director, stated one project identified that we would like to pursue funding for is to replacing 19,800 feet of waterlines in the Greenmead subdivision and all galvanized and cast iron water lines would be gone. \$1.3 million is the estimated cost and there is an opportunity for either receiving a grant or for principle forgiveness for up to \$500,000. We feel good about the opportunity and any funds we receive through the grant would be paid back in 20 years with 0% interest. The application dead is April 30<sup>th</sup>.

Councilmember Aiken asked if there are any health issues with the old pipes. Mr. Miller stated it does not cause direct health effects, but it doesn't taste very good and it does cause color issues. Project definitely needs to be done because we see a lot of leaks and corrosion.

Councilmember Swinson made the motion, seconded by Mayor Pro Tem Solomon and upon a unanimous vote (5-0) the following Resolution was adopted.

**RESOLUTION BY GOVERNING BODY OF APPLICANT**

WHEREAS, the Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of (state whether a wastewater treatment works, wastewater collection system, stream restoration, stormwater treatment, drinking water treatment works, and/or drinking water distribution system or other "green" project), and

WHEREAS, the City of Kinston has need for and intends to construct a water distribution system project described as the Greenmead Water Line Replacement Project, and

WHEREAS, the City of Kinston intends to request state grant/loan assistance for the project, in the amount of \$1,299,887.00

**NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF KINSTON:**

That, the City of Kinston, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State grant/loan award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the (unit of government) to make scheduled repayment of the loan, to withhold from the (unit of government) any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Tony Sears, City Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a grant/loan to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

**3. Consider adoption of the Water System Capital Improvement Plan Resolution**

.....**Steve Miller**

Steve Miller, Assistant Public Services Director, stated we have revised the Water Capital Improvement Plan (CIP). It was adopted in September and we have made minor changes. There are \$16.5 million in projects on the list. Historically, most projects are done in house, but for

major projects we need a contractor to do the work in a timely pace. We will be back next year with another revised plan.

Councilmember Aiken asked about line item 15 for Hillcrest Road. Mr. Miller stated it is Hillcrest Road. It is the City’s mains that are in the area.

Councilmember Swinson made the motion, seconded by Councilmember Suggs and upon a unanimous vote (5-0) the following Resolution was adopted.

**RESOLUTION BY CITY OF KINSTON CITY COUNCIL  
ADOPTING WATER SYSTEM CAPITAL IMPROVEMENT PLAN**

WHEREAS, the City of Kinston operates and maintains a potable water supply and distribution system under permits issued by the State of North Carolina, and

WHEREAS, the City of Kinston has developed a Water Capital Improvement Plan to identify needed capital improvements and their costs.

**NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF KINSTON:**

That, the City of Kinston City Council hereby adopts the Water Capital Improvement Plan as a guidance document for pursuing capital improvement funds to keep the potable water supply and distribution system in good operating order.

That city staff, under the direction of the City Manager, shall regularly review and update both the Water System Capital Improvement Plan to ensure compliance with all federal, state and local regulations.

**4. Consider adoption of a Resolution authorizing the sale of 613 East Washington Avenue .....James Cauley**

James Cauley, City Attorney, stated this property was approved to be advertised for upset bid, and no upset bids were received and this makes the sell final. The buyer is a non-profit, Kinston Teens. Councilmember Suggs serves on that board and she asked if she could abstain from voting, and I have advised her that the NC General Statutes do not allow her to abstain. There is a statutory requirement that she votes. The statute only excuses her if she has a financial interest. She has been advised that she has to vote or walk out of the room, and if she walks out of the room, then it is counted as an affirmative vote.

Mayor Pro Tem Solomon made the motion, seconded by Councilmember Swinson and upon a unanimous vote (5-0) the following resolution was adopted.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KINSTON  
AUTHORIZING SALE OF REAL PROPERTY**

WHEREAS, the City of Kinston is the owner of the hereinafter described real property in the City of Kinston, Lenoir County, North Carolina, bearing Lenoir County Tax Parcel no. 452515642870, and being the property located 613 East Washington Avenue, Kinston, North Carolina; and

**WHEREAS**, the City Council of the City of Kinston has no further need or use for said property, and it would be in the best interests of the citizens of the City of Kinston for said real property to be sold by the negotiated offer, advertisement and upset bid method; and

**WHEREAS**, a notice was published in the Kinston Free Press, setting forth the offer to purchase said real properties for a purchase price of Eight Hundred Seventy Five Dollars, (\$875.00); and

**WHEREAS**, the public notice invited other individuals and entities to increase the bid, and more than ten (10) days have lapsed since the notice was published in the Kinston Free Press and no one has increased the bid, and the City Council desires to confirm and approve the sale.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KINSTON THAT:**

1. The sale of the hereinbefore real property to Kinston Teens is hereby ratified and affirmed with the selling price being Eight Hundred Seventy Five Dollars, (\$875.00).
2. The City Attorney shall cause a deed to be prepared from the City of Kinston to Kinston Teens, or its assigns, and shall be authorized to tender the deed upon payment of the purchase price by the buyer.
3. That the Mayor and City Clerk shall execute said deed and such other documents as may be necessary on behalf of the City of Kinston to accomplish this transaction.

**5. Consider adoption of a resolution conveying the former Power Plant and the former Glen Raven Mills properties.....James Cauley**

*(This Item Was Added to the Agenda and discussed during the City Attorney Report.)*

James Cauley, City Attorney, stated the actions for the former power plant and the former cotton mill property have span several Councils and those transactions are coming to a point of closure. To make sure everybody is on the same page. The power plant property [distillery] was approved for sale in 2016, and it went under option. That option has been exercised and we will close on the property later this month. The adjacent property, former Glen Raven Mills was acquired by the City by gift from the Ward McConnell family in 2016. In 2017, the City Council entered a Letter of Intent (LOI) with the same buyer, and the property is about to go under option and both transactions will be done at the same time later this month. This information is summarized in a Resolution. Both properties are being conveyed to be used as industrial development projects.

Councilmember Swinson made the motion, seconded by Mayor Pro Tem Solomon and upon a unanimous vote (5-0)the following Resolution was adopted.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KINSTON  
AUTHORIZING AND RATIFYING CERTAIN REAL PROPERTY TRANSACTIONS**

**WHEREAS**, the City of Kinston is the owner of the hereinafter described real properties in the City of Kinston, Lenoir County, North Carolina, located on or near Atlantic Avenue, commonly known as the former electric power plant and the cotton mill properties and bearing Lenoir County Tax Parcel nos. 4515-94-8259, 4525-04-3645 and 4525-1304-7216; and

**WHEREAS**, the City Council of the City of Kinston has no further need or use for a portion of said properties, and it would be in the best interests of the citizens of the City of Kinston for said real properties to be conveyed for industrial development purposes; and

**WHEREAS**, the conveyance of said properties as set forth herein for industrial development purposes will increase employment and economic investment in the City; and

**WHEREAS**, the City Council has heretofore previously approved certain of the terms and conditions for the conveyance of a portion of the Power Plant property and has tentatively approved certain terms and conditions for the conveyance of the Cotton Mill property; and

**WHEREAS**, the buyer has been operating pursuant to a temporary occupancy agreement in the Power Plant property and has exercised its option to purchase a portion of said property and;

**WHEREAS**, the parties desire to formalize an option to purchase for the Cotton Mill property; and

**WHEREAS**, the City Council desires to confirm, approve and ratify these transactions.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KINSTON THAT:**

1. The sale of a portion of the Power Plant property to Social Beverage Company, LLC, or its assigns, is hereby ratified and affirmed in accordance with the option agreement entered between the parties dated June 9, 2016.
2. Pursuant to the terms of that Letter of Intent between the parties dated February 9, 2018, an option agreement with Social Beverage Company, LLC is approved for the purchase and sale of the Cotton Mill property subject to the terms set forth in the option agreement presented to City Council.
3. The City Attorney shall cause the necessary documents to be prepared on behalf of the City of Kinston and shall be authorized to tender the same upon payment thereof by the buyer in accordance with the terms of said documents.
4. That the Mayor and City Clerk shall execute such documents as may be necessary on behalf of the City of Kinston to accomplish these transactions.

#### CITY MANAGER'S REPORT

The City Manager had no report.

#### CITY ATTORNEY'S REPORT

James Cauley, City Attorney, referred back to Dr. Askew during Public Comments and stated the difference in the other properties is that they were not removed [from the demolition list] because they were owned by someone for decades and had done nothing with them, but they were removed because there were new owners who were committed to making the repairs.

#### MAYOR AND COUNCILMEMBER REPORTS

Councilmember Swinson stated last week he met a gentleman who works for Sanderson Farms and has been recruiting employees for Sanderson. They need 200 employees and they would like to hire local people in Lenoir County. Management has asked him to go to Wayne, Craven, Edgecombe and Pitt Counties. We want good paying jobs for our community, but if companies cannot find qualified individuals for the jobs, the companies will not come to Kinston. He urged residents to contact NC Works at Lenoir Community College. We need to get the jobs and keep the jobs here in Kinston and Lenoir County.

Mayor Hardy stated he has spoken to a recruiter from Sanderson Farms and he was told that Sanderson has been flying employees from Mississippi to fulfill some of their needs because they could not find qualified applicants.

Councilmember Swinson added that he was told that Sanderson's like to promote within. Employees can receive a pay increase after 90 days, 401k, dental and health insurance. Sanderson has been a good corporate citizen for the City of Kinston, along with West Pharmaceuticals and other companies in the industrial park.

Councilmember Aiken asked if the CR readiness test is required. Councilmember Swinson stated he would think so, and it would depend on the job.

Councilmember Aiken stated that originally Sanderson would accept people with misdemeanors and felonies. Councilmember Swinson stated he was told they would hire felons as long as they could pass the drug test.

Mayor Pro Tem Solomon stated during the last meeting, it was stated that it did not appear that the Lincoln City Reunion will take place, but she has spoken to Mr. Paul Simmons. His concern is the turn around on the approval and ensuring people who travel from out of town have time to plan to come and are able to make hotel arrangements.

Councilmember Swinson stated that he has spoken to Ms. Mumford who informed him that the original committee has stepped back and will allow Mr. Simmons to take the lead.

Councilmember Aiken expressed condolences to families in Eastern North Carolina who have loss family members on motorcycles. He asked Chief Jaynes for his opinion on traffic cameras. Chief Jaynes stated he is not a proponent and they usually increase motor vehicle accidents.

Councilmember Suggs stated there will be a ribbon cutting on Thursday, April 19<sup>th</sup> at 12:00 across from the Farmers Market for the new electric car charging stations.

Mayor Hardy thanked everyone in attendance. He encouraged citizens to come out to the meetings to be more informed. He stated, "We must not make excuses about the things that we can change, we must change them."

ADJOURNMENT
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Councilmember Swinson made the motion, seconded by Councilmember Tyson and upon a unanimous vote (5-0) the City Council meeting was adjourned at 8:11 pm.

Respectfully submitted,

Monique Hicks, City Clerk