

Minutes
Kinston City Council
City Hall · 207 East King Street
Monday, July 16, 2018
Work Session Canceled • Regular Meeting at 7:00 pm

REGULAR MEETING

Mayor Don Hardy called the City Council meeting to order at 7:02 pm.

Mayor Don Hardy led the prayer followed by the Pledge of Allegiance.

Those present: Councilmember Robert Swinson, Sammy Aiken, Joseph Tyson, Kristal Suggs and Mayor Don Hardy

Also present: Catherine Gwynn, Assistant City Manager and James Cauley, City Attorney

Those absent: Mayor Pro Tem Felicia Solomon
Tony Sears, City Manager

Adoption of the Agenda

Councilmember Suggs stated she would like to add a presentation by Kinston Teens, and Councilmember Swinson stated that Chief Jaynes would like to add a special events permit to the action agenda.

Councilmember Suggs made the motion, seconded by Councilmember Tyson and upon a unanimous vote [4-0] (Mayor Pro Tem Solomon was absent.) the agenda was adopted.

CITIZEN COMMENT

Patricia Thomas, stated she is speaking on behalf of unwanted feral cats. She asked that the City, Lenoir County and Animal Control work with Save-A-Cat, and combine efforts to find a way for the cats in three locations along Highway 70 to dwell in safety.

Carolyn Dawson stated a second community forum, Renewing the Mind, will be held at Fairfield Recreation Center on Thursday, July 19th at 6:30 pm. Police Chief Jaynes will be on the panel.

MINUTES

Consider approval of the minutes of the City Council meetings held Tuesday, June 12, 2018 and Monday, June 18, 2018.....Monique Hicks

Councilmember Swinson made the motion, seconded by Councilmember Tyson and upon a unanimous vote [4-0] (Mayor Pro Tem Solomon was absent.), the minutes were approved.

PRESENTATION

**1. Kinston Teens.....Chris Suggs
(THIS ITEM WAS ADDED TO THE AGENDA.)**

Christopher Suggs, Kinston Teens, stated this summer Kinston Teens has launched a community organizing program which is an internship program for high school and college students from Lenoir County. They will do a lot in civic engagement, attended City Council and County Commissioners meetings and different events in the community. They will get people registered to vote and ensure that voter registrations are up to date in preparation for the mid-term elections in November. They will meet one on one or as a group with members of local government. The interns introduced themselves. J. Williams, a junior at NCA&T University; C. McPhail, a senior at Winston-Salem State University; A. Harvey, sophomore at North Carolina Central University; J. Harrison, a senior at Kinston High School; E. Langley, Lenoir County Early College; and C. Williams, a sophomore at North Lenoir High School.

ACTION AGENDA

**1. Conduct a Public Hearing AND adopt a Resolution of Findings and Determinations for the financing of Grainger Stadium and a Resolution authorizing execution and delivery of the installment financing agreement and related documents
.....Catherine Gwynn**

Catherine Gwynn, Assistant City Manager, stated the City executed a lease with Rangers Kinston in July 2015 that called for a number of improvements to Grainger Stadium. Phase I was completed before the start of the 2017 season. In October 2017, the lease was amended to allow for the completion of Phase 2. The renovations are close to complete and should be finalized soon. The loan amount is \$2.5 million and the amount will be finalized prior to the closing date in August. This will restore the city’s cash flow which has been expended in the two year construction process. City Council committed to continue to fund the debt service which was to provide financing for improvements and any excess is to be set aside for future capital improvements. The repayment will be paid with existing revenues and from revenue from the Rangers’ lease. There will be no increase in taxes to fund the improvements. We secured

financial advice from Davenport and Company and Bond Counsel, Womble, Bond, Dixon, LLP, will work with our City Attorney to help us through this process. Davenport provided an RFQ for bids for financing the stadium. City staff has evaluated the proposals and recommends United Community Bank (UCB) with a fixed rate of 4.6% for 15 years with a maturity of August 2033 and offers prepayment with no penalty. The loan will coincide with the end of our lease with the next extension with the Rangers. We received full credit approval from UCB. The Bond Counsel prepared the attached Resolutions which will award the financing proposal to UCB, allow the City to make application with the Local Government Commission (LGC) for approval of the financing at their August meeting which is required because this is an improvement to real property, and the final resolution will allow the City to execute the financing agreement, deed of trust and other documents.

Mayor Hardy opened the public hearing, after no one spoke in favor of or in opposition, the public hearing was closed.

Councilmember Aiken asked if the City was receiving \$150,000 in profit from the Rangers and if it will go towards the debt payment. Mrs. Gwynn stated that would be revenue from the Rangers' lease payment that is provided for in the signed contract. Between the committed debt services and the revenue from the Rangers, there are no additional monies required by the City. That is why there is no tax increase required to fund the debt. It is self-sustaining. Any excess revenue will be set aside in a capital improvement fund and we hope at the end of the 15 years, we have \$500,000 to \$600,000 in reserve to cash fund any additional improvements.

Councilmember Swinson made the motion, seconded by Councilmember Suggs and upon a unanimous vote [4-0] (Mayor Pro Tem Solomon was absent.), the following Resolutions were adopted.

**RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS REGARDING THE
FINANCING OF RENOVATIONS AND IMPROVEMENTS TO GRAINGER STADIUM FOR
THE CITY OF KINSTON, NORTH CAROLINA PURSUANT TO AN INSTALLMENT
FINANCING AGREEMENT AND REQUESTING THE LOCAL GOVERNMENT
COMMISSION TO APPROVE THE FINANCING ARRANGEMENT**

BE IT RESOLVED by the City Council (the "City Council") of the City of Kinston, North Carolina (the "City") as follows:

Section 1. The City Council does hereby find and determine as follows:

(a) There exists in the City a need to provide financing for various renovations and improvements to the City's Grainger Stadium (the "Project").

(b) After a public hearing and due consideration, the City has determined to enter into an installment financing agreement (the "Agreement") in an aggregate principal amount not to exceed \$2,500,000 to provide funds, together with other available funds, to (i) pay the costs of the Project and (ii) pay certain financing costs relating thereto.

(c) The City will enter into the Agreement with United Community Bank (or one of its subsidiaries) (the "Lender"), pursuant to which the Lender will advance to the City amounts sufficient, together with any other

available funds, to pay or reimburse costs of the Project and related financing costs, and the City will repay the advancement in installments, with interest (the "Installment Payments").

(d) In order to secure its obligations under the Agreement, the City will execute and deliver a deed of trust (the "Deed of Trust"), granting a lien on all or a portion of the site of the Project, together with all improvements and fixtures located or to be located thereon.

(e) It is in the best interest of the City to enter into the Agreement and the Deed of Trust in that such transaction will result in the financing of the Project in an efficient and cost effective manner.

(f) Entering into the Agreement is preferable to a general obligation bond and revenue bond issue in that (i) the City does not have the constitutional authority to issue non-voted general obligation bonds pursuant to Article V, Section 4 of the North Carolina Constitution because the City has not retired a sufficient amount of debt in the preceding fiscal year to issue a sufficient amount of general obligation bonds for the financing of the Project without an election; (ii) the nature of the financing does not allow for the issuance of revenue bonds to finance the Project; (iii) the costs of the Project exceeds the amount to be prudently provided from currently available appropriations and unappropriated fund balances; (iv) the circumstances existing require that funds be available to commence the Project as soon as practicable and the time required for holding an election for the issuance of voted general obligation bonds pursuant to Article V, Section 4 of the North Carolina Constitution and the Local Government Bond Act will delay the commencement of the Project by several months; and (v) there can be no assurances that the Project would be approved by the voters and the necessity of the Project dictates that the Project be financed by a method that assures that the Project will be accomplished in an expedient manner.

(g) It has been determined by the City Council that the financing of the Project through the Agreement is reasonably comparable to the costs of issuing general obligation bonds or notes or other available methods of financing and is acceptable to the City Council.

(h) Counsel to the City will render an opinion to the effect that the proposed Agreement is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of the State of North Carolina.

(i) The debt management policies of the City have been carried out in strict compliance with law, and the City is not in default under any obligation for repayment of borrowed money.

(j) No tax rate increase is expected to be necessary to pay the Installment Payments under the Agreement.

Section 2. The proposal of the Lender to provide for financing of the Project is hereby accepted. The City Council hereby authorizes and approves the filing of an application with the Local Government Commission for approval of the Agreement and requests the Local Government Commission to approve the Agreement and the proposed financing in connection therewith. All actions heretofore taken by the City or its officers or employees in regard to the Agreement is hereby authorized, ratified and approved.

Section 3. This resolution shall take effect immediately upon its adoption.

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT
FINANCING AGREEMENT, A DEED OF TRUST AND RELATED DOCUMENTS IN
CONNECTION WITH THE FINANCING OF RENOVATIONS AND IMPROVEMENTS TO
GRAINGER STADIUM FOR THE CITY OF KINSTON, NORTH CAROLINA**

BE IT RESOLVED by the City Council (the "City Council") of the City of Kinston, North Carolina (the "City") as follows:

Section 1. The City Council does hereby find and determine as follows:

(a) There exists in the City a need to provide financing for the cost of various renovations and improvements to the City's Grainger Stadium (the "Project").

(b) After a public hearing and due consideration, the City Council has determined that the most efficient manner of financing the Project will be through entering into an Installment Financing Agreement, to be dated as of the date of delivery thereof (the "Agreement"), with United Community Bank (or one of its subsidiaries) (the "Lender") pursuant Section 160A-20 of the General Statutes of North Carolina, as amended. Pursuant to the Agreement, the Lender will advance moneys to the City in amounts sufficient, together with any other available funds, to pay or reimburse costs of the Project and related financing costs, and the City will repay the advancement in installments, with interest (the "Installment Payments").

(c) In order to secure its obligations under the Agreement, the City will execute and deliver a deed of trust (the "Deed of Trust") granting a lien on all or a portion of the site of the Project, together with all improvements and fixtures located or to be located thereon.

(d) There have been presented to the City Council at this meeting proposed forms of the Agreement and the Deed of Trust.

Section 2. In order to provide for the financing of the Project, the City is hereby authorized to enter into the Agreement and the Deed of Trust and receive an advancement pursuant to the Agreement in a principal amount not to exceed \$2,500,000. The City shall repay the advancement in the amounts and at the times set forth in the Agreement. The payments of the installment payments shall be designated as principal and interest as provided in the Agreement. The interest rate payable under the Agreement shall not exceed 4.60% per annum (subject to adjustment as provided in the Agreement) and the final maturity shall not exceed December 31, 2033.

Section 3. The City Council hereby approves the Agreement and the Deed of Trust in substantially the forms presented at this meeting. The Mayor, the Mayor Pro Tempore, the City Manager and the Finance Director of the City are each hereby authorized to execute and deliver on behalf of the City said documents in substantially the forms presented at this meeting, containing such insertions, deletions and filling in of blanks as the person executing such documents shall approve, such execution to be conclusive evidence of approval by the City Council of any such changes. The City Clerk or any Deputy or Assistant City Clerk of the City is hereby authorized and directed to affix the official seal of the City to said documents and to attest the same.

Section 4. No deficiency judgment may be rendered against the City in any action for breach of any contractual obligation authorized pursuant to this resolution and the taxing power of the City is not and may not be pledged directly or indirectly to secure any moneys due under any contract herein authorized.

Section 5. The Mayor, the City Manager, the Finance Director and the City Clerk of the City, and any other officers, agents and employees of the City, are hereby authorized and directed to execute and deliver such closing certificates, opinions, agreements and other items of evidence as shall be deemed necessary to consummate the transactions described above.

Section 6. This resolution shall take effect immediately upon its adoption.

2. Consider adoption of an Ordinance for the Ladder Fire Truck Capital Project (G9141)... Catherine Gwynn

Catherine Gwynn, Assistant City Manager, stated we have a need for a new ladder truck for the fire department. It is a federal requirement and the truck needs to be dead lined. The estimate that the committee provided is around \$1.4 million. There is a base price for the truck and then about \$60,000 has to be added for equipment for the truck. It will replace a 1987 E190 Aerial ladder truck. It is a capital project ordinance because we intend to borrow the money and we are required by the Local Government Commission to set up an ordinance and it is going to be at least an eight to twelve month project so it will span across the fiscal year. The project amount is \$1,409,624. It will be funded with an approximate amount of \$1,277,000 in loans and we have set aside \$132,200 in the capital project fund that we will be able to pay a portion in cash.

Councilmember Aiken made the motion, seconded by Councilmember Swinson and upon a unanimous vote [4-0] (Mayor Pro Tem Solomon was absent.) the following ordinance was adopted:

ORDINANCE FOR THE ESTABLISHMENT OF THE FY19 FIRE & RESCUE LADDER TRUCK CAPITAL PROJECT FUND (G9141)

WHEREAS, the City desires to promote public health and safety by providing fire and rescue services for its property owners and citizens,

WHEREAS, there is a need to establish a fund for the purchase and construction of a fire ladder truck and related equipment due to an aging fleet line and federal requirements that mandate the City maintain certain standards of equipment to protect the community in the event of a fire or other emergency, and

WHEREAS, the purchase of this unit will allow the City to continue to provide reliable fire and rescue services to the community when it is placed in service. This will be funded with installment loan proceeds and a transfer from the General Fund.

THEREFORE BE IT ORDAINED by the City Council of the City of Kinston, North Carolina that the following project budget ordinance is adopted:

2019 Fire & Rescue Ladder Truck Capital Project

	<u>Current Budget</u>
Revenues:	
Debt Issued	\$ 1,277,424.00
Transfer from General Fund	132,200.00
Total Revenues	<u>\$ 1,409,624.00</u>
Expenditures:	
Capital Outlay-Motor Vehicles	<u>\$ 1,409,624.00</u>
Total Expenditures	<u>\$ 1,409,624.00</u>

3. Consider approval of the FY 2018-2019 street resurfacing list and consider approval of a change order in the amount of \$180,000 to the current purchase order to Tripp & Sons to add the additional streets.....Rhonda Barwick

Rhonda Barwick, Public Services Director, stated the past year \$500,000 was appropriated for resurfacing and it is nearing completion. Last year we didn't use our typical survey, and we resurfaced some of the more heavily traveled streets. We had three streets we were hoping to get to, but we still have Haskett and East Streets from the contingency list that we will not be able to finish. This year \$180,000 was budgeted. Staff has seen a significant increase, about 25%, in the cost for asphalt. Tripp and Sons is willing to honor the asphalt prices from last year's bid award, and hopefully we can get more streets resurfaced. The list includes Haskett from JP Harrison to Fitzgerald, East Street from Summit to Vernon, Cavalier Circle from Bond to Jones, Pollock Street from Vernon to Warren, Jones Street from Herritage to Bond and Darby Avenue from West to Herritage. We are asking for two things, to approve this list of streets and a change order to the existing purchase order to Tripp and Sons.

Councilmember Suggs made the motion, seconded by Councilmember Tyson and upon a unanimous vote [4-0] (Mayor Pro Tem Solomon was absent.), the list of streets and the change order were approved.

4. Consider adoption of a Resolution to accept a loan from the Clean Water State Revolving Fund in the amount of \$1,332,700 for the construction of the Briery Run Phase V Sanitary Sewer Rehabilitation project.....Steve Miller

Steve Miller, Assistant Public Services Director, stated we applied in September 2016 and we were notified of the award Spring 2017, but it took until last month to receive the official letter authorizing us to move forward with the loan. The project goes through the swamps on the north side of town. They normally wait for us to obtain permits before they issue the letters. Because of the environment of the project it has taken a while for all of the agencies to look at the project, but they now have and they have approved the work to move forward. It is a 0% interest loan for 20 years. We will only need closing costs of \$26,654, and we will make a budget amendment in the future to pull those funds from the Sewer Fund fund balance.

Councilmember Swinson made the motion, seconded by Councilmember Tyson and upon a unanimous vote [4-0] (Mayor Pro Tem Solomon was absent.), the following resolution was adopted:

RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, and

WHEREAS, the North Carolina Department of Environmental Quality has offered a Clean Water State Revolving Loan in the amount of \$1,332,700 for the construction of the Kinston’s Briery Run Phase V Sanitary Sewer Rehabilitation Project, and

WHEREAS, the City of Kinston intends to construct said project in accordance with the approved plans and specifications,

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

That, the City of Kinston, does hereby accept the Clean Water State Revolving Loan offer of \$1,332,700.

That the City of Kinston does hereby give assurance to the North Carolina Department of Environmental Quality that all items specified in the grant offer, Section II – Assurances will be adhered to.

That Tony Sears, City Manager, 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 City of Kinston 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 pertaining thereto.

**5. Consider approval of a Special Events Permit for St. Mary’s Episcopal Church 7th Annual Neighborhood Block Party.....Alonzo Jaynes
(THIS ITEM WAS ADDED TO THE AGENDA.)**

Alonzo Jaynes, Police Chief, stated this event is scheduled for August 1st. They will have a pig pickin, pot luck, a band and a number of activities. This requires the closing of Rountree Street between Rhem and Bond.

Councilmember Aiken made the motion, seconded by Councilmember Tyson and upon a unanimous vote [4-0] (Mayor Pro Tem Solomon was absent.), the special events permit was approved.

INFORMATION AND UPDATES

1. Smartgrid Project.....Steve Miller

Steve Miller, Assistant Public Services Director, stated this will be a frequent topic over the next two years. Our advance metering system is gaining speed. A big part of this project is getting information out to the public. He showed a picture of the example of the brochure and door hanger which will be modified as the project moves forward. This project will help us serve our customers better by having more immediate information. It will help with load management during peak events. The meters will not be deployed until October, and it will take about 18 months to change all the water and electric meters for customers we serve.

Councilmember Tyson stated he has been asked if the new system will require new thermostats. Mr. Miller stated no, but there are thermostats that are compatible to the system. It would totally be customer choice.

2. Declaration of Intent to Reimburse FY 2019 Capital Outlay Expenditures.....Catherine Gwynn

Catherine Gwynn, Assistant City Manager, stated according to the reimbursement resolution adopted January 2, 1996, the City Manager or the Director of Finance must declare their intent to reimburse certain expenditures with proceeds of debt. In the annual budget, we have a half million approved for rolling stock and for the fire truck. This states we will pay cash and seek reimbursement through debt proceeds.

3. Planning Department Update.....Tatiana Height and Fatima Barrios

Tatiana Height, Planner, stated tomorrow [July 17, 2018] we have a public meeting. It is the second of a series of meetings regarding the NC Neighborhood grant that we will apply for in September. We had the public hearing in May and a public meeting in June and this will be the last public meeting to receive feedback before we start the application. The meeting last month was lightly attended and we ask that the public please come out and give their input on community development projects that they would like to see funded as a part of this grant. This would be projects for housing, recreation and blight removal. The meeting will be at Holloway Center from 6-8.

Ms. Height stated we are working on a historic district expansion. The State has asked when some façade updates took place downtown. We placed an advertisement asking citizens to submit photos from the 1950's and 1960's of downtown so that we can get a better idea of the changes that have taken place over time. We are collecting photos until the end of July.

Fatima Barrios, Rural Center Intern, stated during her time in Kinston she has been working in the community. She has had community engagement with the African American Heritage Commission and the Kinston Economic Empowerment Partnership (KEEP). We are working to organize the first job boot camp. This will cover all the skills that a person need for an interview such as how to apply for a job and resume writing. It will be Saturday, July 21st from 1:15 to 4:00 pm. She acknowledged community leaders she has been working with who were in attendance.

Councilmember Aiken stated he would like to thank Ms. Barrios for her assistance with the African American Heritage Commission for the interviews with senior citizens.

CITY MANAGER'S REPORT

There was no report.

CITY ATTORNEY'S REPORT

James Cauley, City Attorney, stated since the last City Council meeting, we did complete the closing of the community center [formerly Woodmen]. The transaction was closed on July 2, 2018, and it is now owned by the City.

MAYOR AND COUNCILMEMBER REPORTS

Councilmember Swinson stated with the ElectriCities annual conference in Asheville being on August 20th, there have been discussions about canceling the August 20th City Council meeting because most of us will be attending the conference.

Mayor Hardy stated that the meeting does need to be canceled.

Councilmember Suggs made the motion, seconded by Councilmember Swinson and upon a unanimous vote [4-0] (Mayor Pro Tem Solomon was absent.) the August 20, 2018 work session and regular City Council meeting were canceled.

Councilmember Aiken stated that he saw that the Sheriff department is implementing a search and rescue program and asked if the City is participating.

Don Crawford, Fire Chief, stated the Sheriff's Department implemented a search and rescue program and they requested a partnership with all local surrounding county fire departments.

The City will provide personnel who will take care of all the training and equipment. It is a collaborate effort throughout the County.

Councilmember Aiken encouraged those who feel like they may have been mistreated when trying to purchase a home to contact the state or local NAACP.

Councilmember Suggs stated that she has been active with KEEP to collect items of clothing for interviews. She would like to know how long they will continue to collect clothing.

Khayyam Shephard, KEEP, stated the collection of clothing will be ongoing. We prefer gently used men attire, any business attire is needed.

Councilmember Swinson asked if there have been any update on grants for Emma Webb pool.

Galen Treble, Interim Parks and Recreation Director, stated nothing conclusive. Ms. Height has been assisting us. We are still in the process and once we finish up with the summer, we will go full steam ahead. At a later date, we will give an update on the usage.

Alonzo Jaynes, Police Chief, stated Saturday August 4th, we will have our second annual Pizza and Police event at Pizza Hut from 11-2. Pizza is free for those 18 years and under. It is an opportunity to get to know your local police. Also, National Night Out is August 7th at Pearson Park.

Mayor Hardy thanked everyone in attendance. He thanked department heads and the city staff.

ADJOURNMENT

Councilmember Swinson made the motion, seconded by Councilmember Aiken and upon a unanimous vote [4-0] (Mayor Pro Tem Solomon was absent.), the City Council meeting adjourned at 7:49 pm.

Respectfully submitted,

Monique Hicks, City Clerk