

Minutes
Kinston City Council
Monday, August 21, 2017
Work Session at 5:30 pm · Regular Meeting at 7:00 pm

Mayor BJ Murphy called the City Council work session to order at 5:34 pm.

Those present: Councilmembers Sammy Aiken, Wynn Whittington, Felicia Solomon, Joseph Tyson, Mayor Pro Tem Robert Swinson and Mayor BJ Murphy

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

Adoption of the Agenda

Mayor Pro Tem Swinson made the motion, seconded by Councilmember Tyson and upon a unanimous vote the agenda was adopted.

| |
|-----------------------------|
| ITEMS FOR DISCUSSION |
|-----------------------------|

1. Interim Financial Update.....Donna Goodson

Donna Goodson, Finance Director, stated for informational purposes only, an interim financial report has been included for March 31st and a draft for June 30th for City Council’s review.

Mayor Murphy asked if there was a sales tax rate increase between 2014 and 2017. Catherine Gwynn, Budget Administrator, confirmed that there was not a sales tax increase.

Mayor Murphy confirmed sales taxes are also used to balance the budget each year and asked if the City has been on target. Mrs. Gwynn stated we budget conservatively and we are around 95-100% .

Tony Sears, City Manager, stated he wants to highlight the debt setoff where the City has collected \$385,000 since 2012 through the State. \$40,000 was collected last fiscal year. Mrs. Goodson confirmed as of June 2017 the total was \$409,000.

Mayor Murphy noted that the sales tax shows approximately 5% increase over the past four years. It is comforting to know we are trending in the right direction and even with a loss in population, people are spending more. That is a good sign for our economy.

Mayor Pro Tem Swinson stated a local business owner has reported a scam of receiving a telephone call stating that their electric bill is due and threatening to disconnect services if it is not paid immediately. He advised the business owner to call Public Services and the Police Department. Rhonda Barwick, Public Services Director, stated this has happened from time to time. The City will not call customers to tell them their bill is past due. Our staff uses the orange notices.

2. Annual Settlement of Property Taxes.....Donna Goodson

Donna Goodson, Finance Director, stated the annual settlement of property taxes has been received from the County. The collection rate for 2016-2017 is approximately 96.64% which is a slight decrease from prior years; however it is still a very healthy collection rate and we are at 99% of what was budgeted for last year. We also have a report from the Tax Collector for the insolvents and annual settlements.

Councilmember Whittington asked about surplus sales of \$91,000 when \$311,000 was budgeted. Tony Sears, City Manager, stated we have not surplused everything that we anticipated. The gap is larger than what we would like because we do use it as a real budget number.

3. Special Event Permit for Community Fellowship.....Alonzo Jaynes

Alonzo Jaynes, Police Chief, stated this is for the Community Fellowship that is scheduled for September 23rd from 10 to 1. This event will require street closures, but law enforcement officers are not needed. The event will include entertainment, music, free food, health screenings, etc.

4. Special Event Permit for Back to School Bash.....Alonzo Jaynes

Alonzo Jaynes, Police Chief, stated this is scheduled for August 26th from 9 am to 9 pm. It will require street closures, but law enforcement officers are not needed. The event will include free school supplies for kids, free food and a number of giveaways.

5. Doctors Drive Extension.....Steve Miller

Steve Miller, Assistant Public Services Director, stated this project is coming together. We met with the developer and they have secured their tax credits and are ready to move forward with the next apartment complex. They have provided a letter that we need to submit with our Golden Leaf grant application. The City has completed surveys for the route of the road. We have issued an RFQ for engineering services for the road design, the firm has been selected and we expect to receive proposals soon. Golden Leaf has a deadline of September 1st for submission. It is for \$599,720 and the agreement locks us into the grant amount as well as the terms and conditions of the grant. We have to submit a project management plan and confirm that we have funds available for the cash match. The project is \$833,000. We have included a \$160,000 cash component and \$74,000 for in-kind services. We need a letter from the City Manager acknowledging we have the funds for the \$169,000 match and have him sign the project agreement. During the Conditional Use Permit approval process, we had cost sharing with the developer for the proposed gravel road, and now since we are doing a paved road, we will have the developer contribute their cost towards this project and that will help us meet our cash requirement. There is work in this project that the City will do that the developer would have had to do to serve their new development by extending the water and sewer lines to reach their property, so we have asked the developer for consideration on that as well. We will amend their Conditional Use Permit to reflect the new conditions. We should have an agreement within the next 30 days.

Councilmember Aiken asked about the width of the road. Mr. Miller stated it will be the same configuration that we have today which is wide enough for three lanes for a center turn lane if we had a lot of development on both sides. We need permission for the Manager to sign the letter and the Golden Leaf agreement.

6. Water and Sewer Funding Cycle.....Steve Miller

Steve Miller, Assistant Public Services Director, stated on August 8th the State funding agencies conducted an informational meeting. This is the last cycle that has any of the stimulus funding. There are four programs in the State’s cycles, the Drinking Water State Reserves, The Clean Water State Revolving Fund, the Connect NC Bonds, and the State Reserve Program. We issued an RFP for a consultant to do an application for Water Asset Management at no cost to the City up front. If we receive the grant, they will be the firm to do the work as part of the grant. We received two proposals and we selected Municipal Engineering Services. The only other project is the Lawrence Heights neighborhood water and sewer projects, and once it has been completed we would resurface the streets. There are approximately 300 homes in the subdivision. We have been trying to secure surveys for CDBG funds for this project. We are eligible, but the problem is getting responses to the surveys. We have gone door to door, partnered with Kinston Teens to canvas the neighborhood, we have held a public meeting at the Star of Bethlehem Church and as of today we have only received 25 completed surveys.

Mr. Sears stated we will still work door to door. We are open to any ideas. We need 70% or we cannot get the grant so we would not be able to replace the infrastructure.

Mr. Miller stated we only need approximately 150 responses because the vacant properties don’t count against us.

Mr. Sears stated we will have to spend money to get participation to get the surveys done.

Mr. Miller stated the project in this neighborhood is eligible for Clean Water SRF, Drinking Water SRF and CDBG could be the deciding grant. The deadline for all the funding cycles is the end of September. They all have annual programs which are based on appropriations. There will likely be another funding cycle next September. We will have to hold a public hearing by the end of the September.

Councilmember Solomon asked how many questions are on the survey. Mr. Miller stated there are 8 questions, and we will be glad to sit down to help fill out the surveys. We need 125 more.

Bill Ellis, Parks and Recreation Director, stated we could ask the Martin C. Freeman football team, cheerleaders and basketball team to assist with contacting neighbors.

Councilmember Solomon added that Rochelle Middle School is having open house this upcoming Thursday and we could ask parents to complete the survey at that time. If that does not work she will be willing to go out to canvas the neighborhood.

Councilmember Aiken asked if Jack Rountree apartments are included. Mr. Miller stated Jack Rountree is just outside of the area.

7. Environmental Services Trucks Proposed Art Images.....Rhonda Barwick
THIS ITEM WAS ADDED TO THE WORK SESSION.

Rhonda Barwick, Public Services Director, stated last year Environmental Services purchased 3 side arm loaders. When we receive them they are completely white and are like driving billboards. We have been talking to Ms. Vicky Scurry of Sightworks about ways we could integrate art into infrastructure and other projects that we have. Mr. Sears asked Ms. Scurry to work on some designs and themes for our garbage trucks. Tony Sears, City Manager, showed examples of the images for the truck. We want the trucks to be more colorful and have a better look and appearance. Mrs. Barwick stated on the back of each truck there will be a message supporting our green efforts. Mr. Sears stated if City Council wants to move forward, staff will take suggestions.

Mayor Murphy stated he likes the message on the back, but not the globe and suggested possibly adding sports themes, Mayor Pro Tem Swinson stated he would like to see a photo of the Farmers Market when it is busy or a photo of downtown from the top of the O’Neill, Councilmember Whittington suggested a photo of the Neuse Gunboat, Councilmember Tyson suggested a photo of the waterpark, Councilmember Aiken suggested a raw food theme.

Mr. Sears stated we would like to have common themes. Staff wants to make sure City Council wants to move forward.

Councilmember Solomon asked the cost. Mr. Sears stated approximately \$7,000 for all three trucks.

8. Public Services Projects Update.....Rhonda Barwick
THIS ITEM WAS ADDED TO THE WORK SESSION.

Rhonda Barwick, Public Services Director, stated the LED street lights project was completed in late April. We started the project in 2011 with a transportation grant from the State Energy office in the amount of \$500,000 and we were able to replace 811 street lights . In 2017, the Electric Fund allocated almost \$600,000 to replace the remaining 1,240 street lights. The LED lights have reduced the cost of consumption by approximately 40-50% and they have reduced maintenance costs.

Mrs. Barwick stated the City received a grant from Duke Energy in the amount of \$25,000 to install five electric charging stations at Woodmen Community Center, Lenoir Community College, the parking lot at Caswell and Herritage, the City Hall parking lot and North Queen Street near the O’Neill. The one near the O’Neill will be installed after the Queen Street project has been completed. The other four should be installed by January.

Councilmember Aiken asked the time for recharging a vehicle. Mrs. Barwick stated she is not sure but they are not as quick as the ones you would purchase for your home.

Mrs. Barwick stated we have a team working on the SmartGrid project and it is moving forward. We have spent a lot of time working out issues with the prepaid system. We have ordered the EcoNet and maps to include all the electric and water meters and the substations. Some water meters can be retrofitted, but others will have to be replaced. It will be a slow and methodical process. We expect the project’s completion to be December 2018. The system will send alerts or messages regarding usage to the customer.

Councilmember Aiken asked if any of the Electricities are looking at getting out of the electric business. Mr. Sears stated he does not see any of the 32 cities looking to opt out of Electricities or NCEMPA. All have had rate reductions, and the imbalance is going to flip back to where rates were competitive with Duke as they were prior to 2000.

9. Ribbon Cutting for Nature Center Reopening.....Bill Ellis
THIS ITEM WAS ADDED TO THE WORK SESSION.

Bill Ellis, Parks and Recreation Director stated there will be a ribbon cutting for the Nature Center Grand reopening on September 11th at 2:00 pm. It appears that Governor Cooper will be present.

CLOSED SESSION

Mayor Pro Tem Swinson made the motion, seconded by Councilmember Tyson and upon a unanimous vote the City Council entered into closed session pursuant to NCGS 143-318.11 (a) (3); Consultation with the Attorney, at 6:34 pm.

Mayor Pro Tem Swinson made the motion, seconded by Councilmember Tyson and upon a unanimous vote the City Council return to open session at 7:00 pm.

RECESS

Mayor Murphy called for a five minute recess at 7:00 pm.

REGULAR MEETING

Mayor BJ Murphy called the regular City Council meeting to order at 7:08 pm.

Councilmember Felicia Solomon led the prayer followed by the Pledge of Allegiance.

CITIZEN COMMENT

CONSENT AGENDA
Items listed below were discussed during the Work Session and will be enacted by a single vote. There will be no additional discussion on these items unless the Mayor or Councilmember so requests, in which case the item will be moved to Action Agenda.

Mayor Pro Tem Swinson introduced the following Consent Agenda:

1. Consider adoption of a Resolution for the annual settlement of property taxes collected Fiscal Year 2016-2017.....Donna Goodson
2. Consider approval of a special event permit for Community Fellowship.....Alonzo Jaynes
3. Consider approval of a special event permit for a Back to School Bash.....Alonzo Jaynes
4. Consider approval of the agreement for the Doctors Drive Extension..... Steve Miller
5. Consider approval of the minutes of the City Council meeting held on Monday, August 7, 2017.....Monique Hicks

Councilmember Solomon made the motion, seconded by Councilmember Aiken and upon a unanimous roll call vote the Consent Agenda was approved.

ACTION AGENDA

- 1. Conduct a Public Hearing AND consider approval of a Conditional Use Permit for a bar at 1225 West New Bern Road.....Adam Short**

Adam Short, Planning Director, stated Rodney Landers has submitted a request to operate a bar at 1225 West New Bern Road. The property is zoned B-1 (General Business), is in the 100 year flood plain and was deemed not to have been substantially damaged during Hurricane Matthew. The zoning and land use for the adjacent properties are I-B, B-1 Commercial, and vacant properties. The only supplemental regulation is Section 7.1.3 regarding separation and the application meets the ordinance.

Mayor Murphy declared the public hearing open and the applicant and his father were sworn in.

Rodney Landers, Sr. , 674 West Fourth Ave, Tallahassee, Florida, stated he lived in Kinston and operated a business for about ten years. They would like to put an entertainment center at this location. He thanked Mr. Short for all of his assistance.

Rodney Walter Landers, II, 2017 Christian Lane, stated he returned to the area about a year ago and saw a need for the area to have some form of entertainment. The business will be an entertainment venue during the day and a bar at night.

Councilmember Solomon asked if he has established a business in previous years. Mr. Landers, II, stated he has been a manager for 14 years and he has real estate in Kinston. He has never had this type of business.

Councilmember Solomon asked him to clarify entertainment in the day time. Mr. Landers, II stated it would be for receptions, business events, small family and social gatherings. The building is approximately 3,000 square feet, so there will not be any large gatherings.

Councilmember Aiken asked the age limit at night and the type of security. Mr. Landers, II, stated the age limit will be 25 and up. He has spoken to Sheriff Ingram in depth, and he sees a need to have the Sheriff Department and private security.

Mr. Landers Sr., added that as a part of obtaining license to sell alcohol it is required that local law enforcement approve the business owner and the property and that has been done with the Sheriff's Department. They will continue to receive advice and comments on how to provide and ensure security.

Councilmember Solomon confirmed that Mr. Landers, II, resides in the City.

Councilmember Aiken asked the name of the establishment. Mr. Landers, II stated 816. Mr. Landers Sr. stated 816 was selected because that was their former address when they lived in Kinston.

Councilmember Tyson confirmed that the structure is in the flood plain and asked how much damage did the building received and has it been repaired. Mr. Landers, II, stated he cannot say the damage that the building received. He can only say that the owner of the building at the time of the flood did not fully restore the building. The bottom portion two and a half feet of the drywall was damaged, but the structure itself is a block building. Due to the previous flood, all the electric had been moved up to a four and half foot height, so none of the key components were damaged.

Councilmember Solomon confirmed that it is not a club, but a bar. Mr. Landers, II stated that is correct. The building is only 3,000 square feet and he has to put in bathrooms and a seating area, so it does not have the square footage for a night club. The occupancy is around 90 people.

Councilmember Aiken asked when it will open. Mr. Landers, II stated that will depend on a lot of things. The biggest hurdles are with permits, but contingent upon this permit, hopefully it will open within the next 30 days.

After no further comments, the public hearing was closed and Mayor Murphy shared the quasi-judicial process.

Councilmember Aiken introduced the following Order to be approved:

**ORDER GRANTING A CONDITIONAL USE PERMIT
FOR A BAR AT 1225 WEST NEW BERN ROAD**

WHEREAS, following due advertisement announcing a public hearing as provided by law, the City Council for the City of Kinston, North Carolina held said public hearing August 21, 2017 to consider an application for a Conditional Use Permit for a Bar located at 1225 West New Bern Road, which can be identified by NC PIN 451503419966.

The City Council, having heard all of the evidence and arguments presented and reports from City Officials pertaining to said application, makes the following:

FINDINGS OF FACT

1. That the proposed bar would be allowable in the B-1 (General Business) zoning district with the approval of a Conditional Use Permit in accordance with the City of Kinston Unified Development Ordinance;
2. A Public Hearing before the City Council was held on August 21, 2017 to consider the issuance of a Conditional Use Permit;
3. The Planning Board recommended approval of the request at their specially scheduled meeting held on August 16, 2017 by unanimous vote;
4. No evidence has been presented indicating that the project, if completed as proposed, will endanger public health or safety;
5. No evidence has been presented indicating the project will reduce or injure the values of adjoining or abutting properties;
6. No evidence has been presented to indicate that the project, if completed as proposed, will not be in harmony with other development and uses within the area;
7. No evidence has been presented indicating proposed use is not in general conformity with the city's land use plan and other plans officially adopted;

Based upon the foregoing FINDINGS OF FACT, the City Council makes the CONCLUSION that the proposed use does satisfy the general conditions imposed on the Council in its deliberations by the Unified Development Ordinance for issuing a Conditional Use Permit. In support of this action the Council makes the following additional CONCLUSIONS:

1. All of the general and specific conditions pursuant to the issuance of a Conditional Use Permit have been satisfied.
2. The Applicant can fully comply with all the specific requirements stated in the Unified Development Ordinance for the proposed use.
3. The development will not endanger the public health or safety.
4. The development will not injure the value of adjoining or abutting property.
5. The development will be in harmony with the existing development and uses within the area in which it is to be located.
6. The proposed use is in general conformity with the city's land use plan and other plans officially adopted.

THEREFORE, because the City Council concludes that all of the general and specific conditions precedent to the issuance of a Conditional Use Permit have been satisfied, IT IS ORDERED that the application dated July 27, 2017 by Rodney Landers for the issuance of a Conditional Use Permit BE GRANTED, subject to technical corrections by city staff.

Councilmember Whittington made the motion, seconded by Councilmember Tyson and upon a unanimous roll call vote the Conditional Use Permit Order was approved.

Mayor Murphy asked for clarity in the title of the Ordinance 7.1(3) on what the word “similar” means. He would like options on how to better clarify the term within the ordinance.

Mayor Pro Tem Swinson made the motion, seconded by Councilmember Whittington and upon a unanimous vote the City Council asked for clarification on “similar” to be bought back to City Council at a future date.

2. Conduct a Public Hearing AND consider approval of the 2017 Byrne Justice Assistance Grant.....Alonzo Jaynes

Alonzo Jaynes, Police Chief, stated the City and County have been awarded the Justice Assistance Grant (JAG) for the past few years, and like previous years City Council approval is needed to apply for this grant. This year if approved Lenoir County will be allocated \$30,372 and once awarded we will share the funds with the Sheriff’s office. On our end the funds will go towards the purchase of police equipment and Major Jenee Spencer will be our grant manager. The public has been notified about the grant and this meeting via social media and the Free Press to give citizens an opportunity to comment on the grant.

Mayor Murphy asked the City Attorney if the General Assembly took any action on public notice requirements. James Cauley, City Attorney, stated he thinks the only action applied to Greensboro and he thinks that it was vetoed. He does not think there are any changes applicable in the General Statute.

Mayor Murphy declared the public hearing open and after no one wished to comment, the public hearing was closed.

Councilmember Aiken confirmed that in the past the City has purchased vests with this grant and the life expectancy of a vest is three to four years. He also confirmed that the City is sharing a drone with Lenoir County.

Chief Jaynes stated we have a line item in the budget for vests and the Police department has other equipment needs. We have allocated funds for crime prevention and intervention, but we need other equipment to keep our officers safe, and that is where the grant funds will be used.

Councilmember Tyson made the motion, seconded by Councilmember Aiken and upon a unanimous vote City Council granted approval to submit the application.

CITY MANAGER’S REPORT

Tony Sears, City Manager, stated **Emma Webb Pool** was closed early this year due to mechanical issues. A full evaluation is being done by outside experts, and we will bring back the results and recommendation before next season.

Mr. Sears stated that **Bill Ellis, Parks and Recreation Director, announced his retirement.** He and Gloria Blake, Human Resources Director, met with the Parks and Recreation Commission to discuss the recruitment process. **Galen Treble will be appointed as the Interim Parks and Recreation Director.** He is not seeking the position and will not be eligible to apply.

Galen Treble stated he will never replace Bill Ellis. His goal is to be the interim director and help the next director make a smooth transition. He hopes the next director will be looking to stay ten to twenty years. We have so many facilities and opportunities. He may stay a few more years, but he wants to make this a smooth transition for the new director, staff and mainly the patrons of Kinston.

Councilmember Solomon stated it will be very difficult to replace Mr. Ellis. The selection committee will have a very hard decision to make, and she is glad to hear what it looks like to reach out to the community. Mr. Ellis has definitely reached out to every area in Lenoir County. She would like for the community to be able to give some input. It is very important and valuable to hear what the community is looking for in the next Parks and Recreation Director.

Mr. Sears stated we have discussed putting out a survey about the quality and programs they want. We want the community's input. We don't have a timetable for the recruitment process.

CITY ATTORNEY'S REPORT

MAYOR AND CITY COUNCILMEMBERS' REPORT

Councilmember Aiken mentioned the surveys sent out to residents of the Lawrence Heights area. Many residents who live there didn't realize that was the name of the area. We are trying to apply for water and sewer replacement grants. Mr. Ellis stated he will work with the sports teams and cheerleaders to go door to door. The City has already gone door to door and put hangers on doors. Citizens complain about roads and after the water and sewer work is done, the roads will be resurfaced in that area. Citizens have to help us to help themselves. If residents complete the survey which has 8 questions, we can get the grant money needed. Over 250 surveys were sent out, and we only received 25.

Mr. Sears clarified that without the grant funding, the project will not happen.

Councilmember Aiken asked when is the deadline.

Rhonda Barwick, Public Services Director, stated she does not have the exact submission deadline, but it needs to be wrapped up within the next 30 days to put the package together. We need to know if we will be able to submit for this project or if we need to look for another one. There are not enough funds to do the water and sewer projects without this grant, and the road resurfacing would be an added benefit.

| |
|--------------------|
| ADJOURNMENT |
|--------------------|

Councilmember Whittington made the motion, seconded by Councilmember Tyson and upon a unanimous vote the City Council meeting was recessed until Friday, August 25, 2017 at 4:30 pm at 7:34 pm.

NOTE: On Wednesday, August 23, 2017, the Friday, August 25, 2017 4:30 meeting was canceled.

Respectfully submitted:

Monique Hicks, City Clerk