

Minutes
Kinston City Council
Monday, September 18, 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 5:32 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 motion, seconded by Councilmember Tyson and upon a unanimous vote the City Council agenda was adopted.

ITEMS FOR DISCUSSION

1. Various Budget Ordinance Amendments.....Catherine Gwynn
(This item is from the September 5, 2017 agenda.)

Catherine Gwynn, Budget Administrator, stated the capital project is for the Vernon Avenue 3.4 mile distribution circuit rebuild. This is being prompted by pole replacements, and the electric circuits will be built along the way. The project is \$1.5 million and was part of the Electric Fund budget. For Grainger Stadium we are moving approximate \$91,000 to finish the second phase of the project and we are also removing the Debt Service since the Wells Fargo debt will be paid off in November. There is an amendment to the Stormwater project fund in the amount of \$60,000 for work on Tiffany Street and also cleanup for the Oriental Avenue project which will be completed in FY 2018. The total project is \$130,000. There is an amendment for the Queen Street water line replacement project for \$40,000 and this represents the last phase of the project. The total cost was \$976,000 and it has been budgeted in the Water Fund for this fiscal year. For the General Fund there is a purchase order rollover that was inadvertently put in the wrong place for \$19,950 for crack sealer. For Parks and Recreation there are additional funds for ABC stones needed for filler underneath the beds, and the total was \$18,245. In Organizational Support for the contract with the SPCA that City Council approved [August 7, 2017] and the appropriation is being increased by \$41,800 for a total of \$76,800. We will settle up with the SPCA in June if we owe them any additional funds for animals over 800. The other amendments for the Water, Wastewater and Stormwater Funds are all amendments based on the capital project funds. For the Electric Fund there is a re-appropriation for the SCADA system and the total amount is \$114,000.

Mayor Murphy confirmed the date for the SPCA is 2018, and clarified that most of the numbers have already been budgeted and approved.

2. Declaration of Intent to Reimburse Expenditures.....Catherine Gwynn

Catherine Gwynn, Budget Administrator, stated every year we intend to borrow and this year it will be less. We need to document that we are going to request for reimbursement. We will front money for vehicles and equipment and at a point we will reimburse ourselves by borrowing money. Out of the total approved capital expenditures, we are asking that \$426,000 be provided through proceeds from debt. This is for information only to be included in the minutes that we have asked for a reimbursement resolution. We will bring back an RFP to go out to the banks to secure the most reasonable and lowest financing. We have a list of what we plan to finance.

3. Bid Award for a Dump Truck.....Rhonda Barwick
(This item is from the September 5, 2017 agenda.)

Rhonda Barwick, Public Services Director, stated in this year’s Water Fund we have \$160,000 to purchase a dump truck to replace a 2000 Chevrolet dump truck that is in poor condition. The North Carolina Sheriff’s Association offers contract pricing similar to state contract. The amount is \$117,421.02.

4. Wastewater CIP and Asset Management Plan.....Steve Miller

Steve Miller, Assistant Public Services Director, stated we have always had a Capital Improvements Plan (CIP) as part of the requirements for funding programs. Funding programs require that the CIP includes ten years of projects and has been adopted within the past two years in order to be eligible for the points that are awarded for funding. This CIP has 12 years of projects, and the total for all of the projects is \$24.3 million for Wastewater. That is the total cost, external funds and city funds. The external funding shows where we have identified opportunities for a grant or for principle forgiveness under the State’s Revolving Fund requirements. \$7 million could be funds that we would not have to repay. There are several new projects (2, 3, 5, 7 & 12) that were not on the previous list. The second one is an issue that we ran into after Hurricane Matthew and this past week when we had a failure at one of the lift stations where a pipe came apart and it flooded in areas that are not supposed to flood. This is something that we think is eligible for Disaster Relief Funding. This does not reflect the efforts for the assessment for the Sanitary Sewer Fund. That work is on-going and afterwards we could have a different list of projects based on those findings.

Councilmember Tyson stated we have been discussing projects 6, 8 and 9 [Briery Run Outfall] for years, and asked what will it take to finish the project. Mr. Miller stated it will take the total dollar amount. We have taken the project and broken it into sections to make the best use of the potential grant funds that are available. There is a limit on how much grant funds you can receive regardless of the project cost. Up to 50% of the grant, up to half a million dollars, so if we split it up we have a better chance of receiving more grant funds.

Councilmember Tyson asked if completing projects 6 and 7 will complete the project. Mr. Miller stated the phases will finish the rehab for that line. The projects that we did first are now 12 years old, and by the time we finish we will be close to having to start over again.

Mr. Miller stated the Asset Management Plan gives information on our assets, our trucks, backhoes, pipes, lift stations, contact information and the CIP. The only change from 2016 is the update of our contact list and the new CIP once it has been updated.

Mayor Murphy asked if there is a mandate to update the Asset Management Plan. Mr. Miller stated we receive points for our application by having it and it being correct. It is also a valuable tool for staff because it also includes procedures.

Mayor Murphy asked Adam Short, Planning Director, if we also have something similar for the pedestrian or greenway projects. Mr. Short stated we updated it every four to five years, but we have not updated it recently because we are piggybacking on the Lenoir County plan, and most of the priorities are transferred over. Mayor Murphy stated he thinks we need to revisit where we were with the pedestrian plan and look at new funding, especially with the changing in the administration.

Mayor Murphy asked which projects are new projects on the list. Mr. Miller stated #2 and #3 are heavy cleaning of the lower Neuse River Outfall, #5 is the Oliver Glass force main replacement, #7 is the Herritage Street sewer replacement and #12 is tree harvesting at the wastewater treatment plant.

Mayor Murphy asked about the external funding column. Mr. Miller stated it is money we would not have to pay back.

Councilmember Aiken noted that Doctors Drive had flooding during Hurricane Matthew and Wayne Malone mentioned that it was a NCDOT stormwater drainage problem. Will the new apartments on Doctors Drive make it worse? Mr. Miller stated any runoff along the Adkin in that area will increase the flooding. If the other developments aren't doing anything to retain water, then they would add to it. Our current stormwater requirements require detention so they don't increase the amount of runoff. We are in good shape because we have those requirements. Mr. Sears added the City Council requested that the developer have a larger retention pond as part of the approval of the first complex.

Councilmember Aiken again asked about the NCDOT drainage pipes. Mr. Sears stated he has spoken to Preston Hunter and John Rouse after David Brody, owner of Herritage Courts, contacted him with concerns, especially with the earlier forecasted hurricanes. I have shared that concern with NCDOT so that it can be addressed. Also Public Services sent out the Stormwater crew to clean up drains to get maximum flow.

Councilmember Tyson asked why #6 on the CIP could not be moved to #3 since they are new projects, and we could finally finish the Briery Run project. Mr. Miller stated we can, yet we have found that #3 is between King Street and the Forrest Street lift station which is where the former Peachtree Wastewater Treatment plant was located. We had several overflows this past

spring in the area of Spring Hill and Herritage Street partly due to sediment and buildup in the pipe, and it is going to need to be cleaned out to get the capacity back. We moved that project up to make sure we don't have future overflows.

Mr. Sears stated if you look outside of Lawrence Heights, it has to fit within our current rate structure and our funding sources need to go to Lawrence Heights, and if we are going to do a secondary large project, then we will have to look at our rates. It is about getting debt off and then taking debt on in this process.

5. Water Capital Improvement Plan.....Steve Miller

Steve Miller, Assistant Public Services Director, stated this is a very similar set up and process. Our water projects are around \$15 million, and they are typically not as expensive. They are not as deep and don't have to be on grade like gravity sewer. In the Water CIP there is nothing for external funding because there is not much available in the form of funding for water projects. We don't qualify for the Connect Bond grant funds which are based on community need, debt and the status of the fund. Our Water Fund does not have a lot of debt; however, when it comes to grants, that doesn't help us qualify. Some of the items have been requested in the budget.

Councilmember Tyson referred to tree harvesting and planting for a previous project on Shackleford property near Hodges Road. James Cauley, City Attorney, stated there were general restrictions on the removal of trees in the city limits. He will research to see where that stands.

Councilmember Tyson asks the specific area where trees will be planted. Mr. Miller stated they will be on the Becton Farms property near the wastewater treatment plant. We planted tree crops on the fields with the intent of harvesting the trees once they mature at 20 years of age. The intent is to use the revenue from the trees to pay for the project and the replanting of trees.

Councilmember Tyson asked if there is an ordinance pertaining to harvesting trees in the city. Mr. Sears stated he does not think so. We do not have any tree protection.

Mayor Murphy asked about the qualifying requirements for grants. Mr. Miller stated based on the requirements and the amount of points, our projects won't score high enough because they want to see that rates are high and your income levels, but a lot of it is based on the specific fund itself and the debt ratios. We have a lot of debt in the Sewer Fund and we qualify well, but in the Water Fund, we haven't done many loans for water projects. Mayor Murphy asked why is that the case. Mr. Miller stated a number of the projects in the Water Fund are done internally and there has not really been any need for Debt Services. We have not had the need for water infrastructure. Mayor Murphy asked if we have calculated the loss of water from leaks. Mr. Miller stated we monitor our water loss every year and fortunately, our water loss is very low, less than 10%. Mayor Murphy asked if there is threshold. Mr. Miller stated if you are over 10%, then you to have a water loss study and take extra steps to get the losses below 10%. And the same thing for funding, if you have higher losses, you have more points for funding.

Councilmember Aiken asked about changes for flushing hydrants. Mr. Miller stated we do a lot of flushing especially if we get customer complaints. Now we try to be proactive and flush

ahead of time. The main problem with our system is the age of the old cast iron and galvanized pipes and they can cause a lot of issues.

Mayor Murphy asked if water pressure issues have been addressed. Mr. Miller stated we found that we are not seeing a lot of low pressure issues. We had issues in the west part of our system near Falling Creek, but after we put the well back on line and made some changes, we have not had that issue.

6. Lawrence Heights Grants and Loans.....Steve Miller

Steve Miller, Assistant Public Services Director, stated we have been working on this for several years, and we have had a lot of people helping us. The neighborhood is bordered by Old Snow Hill Road and Highland Avenue and includes Dixon, Williams, Charlotte and George Avenue. There are about 8,000 linear feet of water lines and about 12,000 feet of sewer lines. When we complete the work, we propose to resurface the entire neighborhood. We will apply to several funding programs. The total cost for sewer work is \$3.3 million and \$620,000 for the water, so combined it is almost \$4.3 million and the resurfacing is included. We will pursue CDBG funds for the sewer project. We need responses from 70% of the occupied homes which is about 160 properties. As of last Thursday, we have 120 and they will be out this week and we hope to get the remaining surveys by the end of the week to make the funding deadline. We sent information to the newspaper and television media, put signs up in the neighborhood on every street, and sent information via CodeRed. The survey team has been working in a group.

Mayor Murphy asked who is included in the survey team. Mr. Miller stated the survey team was volunteers from Star of Bethlehem Church and led by Willie Williams and Pastor Matthew Streeter. Mayor Murphy stated he wants to bring them to a future meeting.

Councilmember Whittington asked about the number of homes that are rental properties. Mr. Miller stated well over half are rentals. There are 300 homes in the neighborhood, but based on our utility records, only 220 are occupied. The empty homes do not count against us. We have to have 70% of those that are occupied, so we need around 160.

Mayor Murphy asked about the cost benefit. Is this one of our top high priority projects? Mr. Miller stated it definitely is. On the water side, it was identified based on the amount of flushing that we have had to do in that neighborhood. There are some long dead end streets in the neighborhood and that usually makes it hard to keep the water quality good. We have had a number of repairs and cave-ins with sewer. We have put cameras in the lines and it shows that they are not in great shape. They are at the point of needing something done. All the patches in the asphalt will show all the work and repairs that we have had to make in the past 10-12 years.

Mayor Murphy asked if there could be a consolidated effort between Public Services, Police and Planning to figure out some improvements for the neighborhood. If we are going to spend this much money and we have had such an organized grassroots effort, we should take a more whole list view of what we are going to do with this neighborhood. Let's make a real impact to invigorate development and make a longer lasting impact than just water and sewer.

Mr. Miller stated we are trying to get \$2 million from CDBG, we will apply to the Clean Water SRF for the remaining project funds. We are eligible for up to \$500,000 in forgiveness under the SRF program; however the SRF program only has \$1.5 million total, so we will have to be in the top three projects. For projected funding there are reserve funds for drinking water and wastewater. For the wastewater program they have \$36 million in loans from the Bond Funds and \$6 million in grants. For drinking water they have \$38 million in loans and \$18 million for grants. The way they structured the reserve funds is that the disbursement of the grant funds is completely at the direction of the Authority, no set qualifying criteria, so there is no way for us to know if we will receive any reserve funding. If we are successful in receiving the CDBG funds and the forgiveness for the sewer, our out-of-pocket costs would be \$800,000. Our annual repayment on an SRF loan would be \$40,000. For drinking water, we would not expect to receive any funding and our annual repayment would be \$46,000. If we cannot get the CDBG or any forgiveness for sewer, our cost could go up to \$165,000 annually. Applications are due September 29th and we won't hear anything until January. We have Resolutions for application for each of the funding agencies on the agenda and we will conduct a public hearing as required by the CDBG program.

7. Water System Asset Management Plan.....Steve Miller

Steve Miller, Assistant Public Services Director, stated in 2015 we received \$150,000 to do a condition assessment of our sewer system. We are eligible to get the same amount of money to do the same type of work for our water system. The maximum is \$150,000 over a three year period. Other municipalities have hired an engineering agency to put the application together, and if they are successful, then the engineering firm would be involved in doing the assessment. We put out an RFQ and selected Municipal Engineering Services out of Cary, NC. There is a 5% cash match required and 2% loan fee, so it's 3% cash match.

8. Unified Development Ordinance (UDO) Clarification OptionsAdam Short
Due to time available, this item was moved up from the Action Agenda.

Adam Short, Planning Director, stated at a past meeting we discussed how to clarify the separation requirements between bars and other particular uses. Option One is to separate the individual uses that are listed in the UDO and the separation must be between another identical use which means a bar must be separated 300 feet from another bar, but a bar could be closer to a bingo parlor. A bingo parlor would have to be 300 feet from another bingo parlor, but it could be within 50 feet of a dance hall. Option Two would look at similar uses and a bar could not be within 300 feet of any of the listed uses in the UDO such as a bar, bingo parlor, pool hall, night club, dance hall, social club, etc. Option Three would group the businesses into similar types of uses such as bars and a night clubs would be grouped together, dance halls and social clubs would be grouped together and game rooms, billiards and bingo would be grouped together. We can explore other options, but we need direction from City Council to clarify the UDO because it is ambiguous and we would like to clean it up for future applications.

Mayor Murphy stated he tends to favor Option Two, and asked the difference between a bar and a restaurant. Mr. Short stated the State's definition is greater than 30% of the gross receipts have

to be from food for a restaurant. He recommends to applicant if they are going to be close to a bar, they should apply for a bar.

Mayor Murphy asked if a tap room is considered a bar. Mr. Short stated that a tap room is a unique entity. There are specific allowances for tap rooms and tasting rooms. By State statues a business is allowed to have a tasting room as part of your facility so they are not considered as bars because they typically don't sell anything outside of what they make on site. For the most part it is 95% of what is made on site.

Councilmember Aiken asked if it is illegal to have a red light district where all of these businesses are combined. James Cauley, City Attorney, stated City Council can direct by zoning where businesses can go. This is for businesses within B-1 or B-2 zoning areas. Mayor Murphy stated he is not in favor of concentrating bars, bingo parlor and pool halls. Councilmember Whittington stated a bingo parlor next to a bar is not an issue because you don't have a concentration of establishments that serve alcohol. Problems tend to arise from establishments that serve alcohol. Mr. Sears stated the groupings can be changed.

Councilmember Whittington asked if alcohol needs to be part of the language to address a business that has an ABC permit. Mr. Cauley stated that has been discussed. If pool halls, bingo parlors and game rooms serve alcohol then they may be associated more with the separation requirements between bars and night clubs. That also includes dance halls and social clubs.

Councilmember Solomon stated she likes Option Two.

Mr. Short stated this will be bought back to City Council in ordinance format.

9. Bids for 1000 McCaskill Drive and 924 Herbert Drive properties.....Adam Short
Due to time available, this item was moved up from the Action Agenda.

Adam Short, Planning Director, stated this was a bid for city owned property. The City Attorney's office has advised that the upset bid process time has expired and no upset bids have been received for 924 Herbert Drive and 1000 McCaskill Drive. We are asking that you accept or reject the final price of \$1,200 per parcel for a total of \$2,400.

Mayor Murphy announced that this item will be approved on the Consent Agenda as item 7.

10. Demolition Update.....Adam Short
This item was added to the Work Session Agenda.

Adam Short, Planning Director, thanked City Council for the increased funding to help improve the appearance of neighborhoods through demolition of condemned and blighted properties. We are trying to improve the neighborhoods and how people feel about their neighborhoods. We hope this opens up opportunities for more in-fill development. We found over 150 properties that could theoretically be demolished without any problems. We narrowed the list to 50 properties.

Tony Sears, City Manager, read the list of criteria which included dilapidated or burned structures, residential, vacant, unoccupied, proximity to public uses such as schools and park, the proximity to heavily traveled road, the proximity to other qualified properties [clusters], and areas of police concerns. He thanked City Attorney James Cauley and his staff attorney David Rief for their guidance. The process included having the Police Department look at the properties and identified those that were problematic to help narrow the list. So this will also address crime.

Mr. Short noted that based on three and half years of data from the Police Department, over half of the 50 properties were in the top third of ranking for number of calls, and 88% of the 50 properties were in the top two-thirds.

Councilmember Aiken stated most of the houses are rental properties and asked if there is one particular property owner. Mr. Short stated no. Mr. Sears added all 50 properties are unoccupied.

Mr. Short showed maps from where the process began in 2012.

David Rief, Cauley-Pridgen Attorney, stated the map can be built on over time. We have provided information about the condemnations that have already taken place. This includes condemnations that were funded by the City as well as those that were funded by the property owners. In addition to being able to map the condemnations that have taken place and that will take place, we will be able to track the visual improvements. We will have pictures of the houses uploaded in their dilapidated condition, and once the demolition takes place, a new picture of the vacant lot will be added. It can be made accessible for the public to see the improvements that the City has been making and long term it will be a great asset to the City.

Councilmember Solomon asked when the work will begin. Mr. Short stated we want to give City Council the opportunity to review the list and identify properties that could be added or removed from the list. Mr. Cauley stated we are looking for City Council's blessing to move forward on these fifty. Mr. Short stated if we receive City Council approval, we can start on the condemnations this week. We can approach it several different ways. Typically we put them out for bid in groups of ten. Mr. Cauley added that all 50 will not be in the same place procedurally. They will come up for demolition at different stages.

Mayor Murphy asked if the amount budgeted is enough to cover the fifty properties. Mr. Cauley stated we cannot answer that at this point. Probably not, but it will depend on the process, the resistance and the cost of demolition. There are unknowns as we work through them.

Councilmember Solomon asked for a projected time line. Mr. Rief stated it depends. If the City wants to take a hard line with property owners and stick to a very strict schedule, it could be 4 months. If the City is willing to work with the property owner, which is in the City's best interest, to completely repair the property or to demolish the property at the owner's cost, it could be worthwhile to give them a little extra time. The cost is also dependent on the size of the structure. There may be asbestos removal cost. It is hard to determine how far the funds will go because there are so many variables.

Councilmember Whittington confirmed that houses would be clustered to cut down on cost where possible. Mr. Short showed a map displaying the houses that have been demolished either by the City [purple] or by the property owner [brown]. Mr. Rief stated the map shows the various layers and the groupings. Mr. Short stated the properties on Tower Hill Road would be a great starting point for clustering.

Mr. Sears stated it will be a process and the low hanging fruit will move up on the list. We don't want to totally change the list and if City Council wants to add to the list, that can be done.

Councilmember Aiken asked the percentage of the costs for legal fees, demolition and the landfill fees. Mr. Short stated it will vary by property.

Councilmember Whittington asked if Lenoir County will entertain a discount on the landfill fees. Mr. Short stated it would help our funds go a lot further. Mr. Sears stated we will be happy to talk to them about it.

Mayor Pro Tem Swinson asked once demolition has been done, are there any stipulations on rebuilding on the lots. Mr. Sears stated once the City gets the property, the City could group them back together to eliminate non-conforming lots and make them big enough for someone to build. Those are things that we would handle in the back end of the process. Adjacent property owners may be interested in purchasing some of the lots. There are a lot of different options once the City owns them, and restrictive covenants can be added. Mr. Shorts stated clustering will allow more with larger properties down the line.

Mayor Pro Tem Swinson asked about the sizes of the lots and combined acreage on Tower Hill Road. Mr. Short stated the lots are usually 6,000 to 8,000 square feet. The lot minimum in that district is 6,000 square feet, and many lots can be rebuilt on without any variance procedures.

Mr. Cauley stated a point of clarification is that the end goal is not City ownership of the properties. The City may end up owning some of the properties, but that would be because the owner failed to respond to the code enforcement action. Our goal is code enforcement clean up. Mr. Sears thanked Mr. Cauley for the clarification. It is the intent to have the property owners clean up their own properties for the betterment of the neighborhood.

Mayor Murphy asked if the City cleans up a property, does the City take ownership. Mr. Cauley stated not at that point. There would have to be a lien and foreclosure process. Mr. Short stated sometimes just by notifying the property owner, they will take care of it.

Councilmember Tyson stated he totally agreed that the houses need to be demolished, but the year after the property has been demolished, the next call is to cut the grass.

Councilmember Solomon expressed her appreciation for the explanation of the process. We don't want to drag our feet. We should not be lenient, and we should be very aggressive and follow due diligence.

Mayor Murphy asked if City Council has identified any omission on the list.

Councilmember Tyson stated he thinks the list is complete and asked if the issue with Dr. Askew's property has been resolved. Mr. Short stated the demolition has been completed.

Councilmember Aiken stated he agrees with the list. The City should pursue grants to rebuild communities.

Mayor Murphy stated that grant is Choice Neighborhoods and we have applied unsuccessfully the last 4 out of 6 years. It takes a tremendous amount of manpower and we continue to get roadblocks. We have to find ways to build up not tear down. It makes more economic sense to tear down some of the structures and have opportunity in the future to build up.

Councilmember Aiken stated that most of these are in residential area. On Queen Street there are a lot of properties that have not been utilized as a business in 20 years. In the future, we may want to look at the ordinances on maintaining buildings on Queen Street.

Mayor Murphy asked if some of the houses are suitable for controlled burning. Mr. Sears stated the structures are beyond where it would be safe for our firefighters to train in these structures.

Mayor Murphy asked if the next phase could have a list of structures for firefighters to train. Mr. Sears stated we will look at it, but it is difficult when you talk about the cost of abatement and comparing that to the process of demolition. Mr. Short added that there will still be some demolition cost associated with burning the structures because the foundation and backfill will have to be removed and the lot would have to be cleared.

Mayor Murphy called for a recess at 7:05 pm.

REGULAR MEETING

Mayor BJ Murphy called the Kinston City Council regular meeting to order at 7:17 pm.

Councilmember Joseph Tyson led the prayer followed by the Pledge of Allegiance.

CITIZEN COMMENT

PRESENTATIONS AND RECOGNITIONS

1. Public Power Week.....Rhonda Barwick

Rhonda Barwick, Public Services Director, stated each year the Mayor has been gracious to proclaim the first week in October as Public Power Week. We will have an Energy Fair on October 3rd at City Hall from 10 until 2. We will also sponsor a cleanup on October 7th. If there are individuals or groups who wish to participate, they may call Sheri Benson at 939-3283. She introduced Marty Jones, Line Crew Leader for Electric; Kenneth Gooding, Senior Substation and Controls Technician; and Justin Boyette, Business Office Administrator.

Mayor Murphy read the proclamation for Public Power Week and encouraged the entire community to get involved and participate in the cleanup.

Mrs. Barwick asked that everyone remember the two employees, Tim Butler and Scott Hardison, who are in Florida working to help restore power after the hurricane.

MINUTES

Consider approval of the minutes of the City Council meetings held on Monday, August 21, 2017 and Tuesday, September 5, 2017.....Monique Hicks

Councilmember Aiken made the motion, seconded by Councilmember Tyson and upon a unanimous vote the minutes were approved.

CONSENT AGENDA

All 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 requests, in which case the item will be moved to the Action Agenda.

Mayor Pro Tem Swinson introduced the following Consent Agenda:

- 1. Consider the adoption of five budget ordinance amendments for the FY 2017-18 Annual Operating Budget, the Vernon Avenue 3.4 mile Electric Distribution Circuit Capital Project, the Queen Street Water Line Replacement Project, FY 2016-21 Stormwater Projects and Grainger Stadium Improvements.....Catherine Gwynn

(This item is from the September 5, 2017 agenda.)

- 2. Consider the award of a bid to White’s International in the amount of \$117,421.02 for the purchase of a dump truck for the Water Operations Division.....Rhonda Barwick
(This item is from the September 5, 2017 agenda.)
- 3. Consider adoption of a Resolution adopting the Wastewater Capital Improvement Plan and the Wastewater Asset Management Plan.....Steve Miller
- 4. Consider adoption of a Resolution adopting the Water Capital Improvement PlanSteve Miller
- 5. Consider adoption of Resolutions to pursue State grants and loans for Lawrence Heights Water and Sewer Improvements.....Steve Miller
- 6. Consider adoption of a Resolution to pursue a \$150,000 State grant to complete the Water System Asset Management Plan.....Steve Miller
- 7. Consider **acceptance** of the final total bid amount of \$2,400 for 1000 McCaskill Drive and 924 Herbert Drive.....Adam Short
(This item was discussed during the work session and moved from the Action Agenda.)

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

PUBLIC HEARING

- 1. **Conduct a Public Hearing for the Lawrence Heights Sewer Replacement Project as required by the CDBG Infrastructure Program.....Steve Miller**

Steve Miller, Assistant Public Services Director, stated the City will apply to the CDBG program for \$2 million to help with the Lawrence Heights sewer replacement project. There is a script that has to be read for CDBG and we can proceed with the public hearing to receive comments from the public.

Mayor Murphy declared the public hearing.

Mr. Miller read the following statement:

This public hearing on September 18, 2017, will provide an explanation and description of the 2017 North Carolina Department of Environmental Quality (DEQ) Community Development Block – Infrastructure Grant (CDBG-I).

I am present to discuss the purpose of the public hearing for the City of Kinston’s CDBG-I funding application. The purpose of the public hearing is to obtain citizen’s views and to allow response from the public to funding proposals and answer any questions posed by citizens. This public hearing will cover the City’s community development needs, development of the proposed activities, and a review of program compliance before the submission of the City’s CDBG-I funding application to the state of the North Carolina.

The City proposes to request funding from NCDEQ’S CDBG-I program for the **Lawrence Heights Sewer Replacement Project**. The purpose of the CDBG-I grant program is:

- To improve the quality of life for low to moderate income people by providing a safe, clean environment and clean drinking water through water and sewer infrastructure improvements and extensions of service.

- To benefit a residential area where at least 51% of the beneficiaries are low to moderate income as defined by the United States Department of Housing and Urban Development.
- To perform eligible activities.
- To minimize displacement, and
- Provide displacement assistance as necessary.

For the fiscal year of 2017 the CDBG-I funding available is expected to be **\$21.7 million**. The maximum available grant is \$2.0 million over a 3-year period. Applications for funding will be received **until September 29, 2017**.

The CDBG program is able to fund a wide variety of community development activities. The State of North Carolina has chosen to fund two activities: water and sewer infrastructure, and economic development projects that lead to job creation or retention. The infrastructure program, or CDBG-I program can fund a range of water and sewer infrastructure activities, including, but not limited to the, following:

Water:

- Projects that resolve water loss in distribution systems.
- Projects that extend public water to areas with contaminated wells.
- Projects that extend water lines to areas with dry wells.
- Projects that assist with low water pressure in public water systems.
- Projects that regionalize two or more water systems.
- Project that rehabilitate or replace a water treatment plant.

Wastewater:

- Projects that resolve inflow and infiltration to collection systems and surcharges from pumps stations and manholes.
- Projects that extent public sewer to areas with failed septic tanks.
- Projects that rehabilitate a wastewater treatment plant to allow for greater efficiency/compliance with regulations.

The City is seeking an amount in CDBG-I funds not to exceed **\$2 million for the Lawrence Heights Sewer Replacement Project**. The purpose of the City's request is to **replace sanitary sewer infrastructure in the Lawrence Heights neighborhood, near the intersection of Highland Avenue and Old Snow Hill Road. The project will replace approximately 14,000 feet of pipe, 290 sewer services and 37 manholes.**

The project proposed by the **City of Kinston** was identified in **City of Kinston Wastewater Capital Improvement Plan, 2017 revision**. An informal community meeting was held in the project area **on August 9, 2017** to inform citizens of the potential project, respond to any questions and to allow residents an opportunity to complete CDBG income surveys.

A total of 100% of the CDBG- I funding will be used to benefit Low to Moderate Income (LMI) people. The project area in the **City of Kinston has been determined to have a LMI ratio of 85% based on income surveys received prior to September 1, 2017**. The project area includes **all properties on the following streets north of Highland Avenue and east of Old Snow Hill Road: Dixon Street, Williams Street, Stadium Drive, Hyman Avenue, Stroud Avenue, Charlotte Avenue, George Avenue, Nobles Lane, Jackson Lane and Lawrence Lane.**

The range of activities covered by the CDBG-I funds for the **Lawrence Heights Sanitary Sewer Replacement Project** includes:

- Construction.
- Environmental Review
- Engineering Design
- Construction Administration and observation.
- Legal activities.
- Surveying.
- Grant Administration.

If the City of Kinston is awarded a CDBG-I grant, the town is required to adhere to federal procurement requirements and other federal regulations which include:

- American with Disabilities Act/Section 504 Survey
- Davis-Bacon & Related Labor Acts
- Adoption/Submittal of a Citizen's Participation Plan
- Adoption/Submittal of an Equal Opportunity Plan
- Adoption/Submittal of a Fair Housing Plan
- Adoption/Submittal of a Language Access Plan
- Adoption/Submittal of a Relocation Assistance Plan

- Adoption/Submittal of a Section 3 Plan
- Excess Force Provision

The State of North Carolina requires that the if the City of Kinston receives CDBG grant funding that the town will certify that they will comply with the requirements of the general displacement and relocation policy for CDBG grant funding. This policy assists low to moderate income people with costs associated with relocation or displacement, should such relocation become necessary due to the project activities. CDBG funds can be used for those costs, if necessary. No displacement of residents will occur as part of this project.

In the past, the City has applied for and received for the following completed CDBG project:

- \$250,000 grant for utility extensions associated with Abbey Gardens
- \$50,000 Talent Enhancement Capacity Building Grant (training for staff at ECU)
- \$100,000 Catalyst Program Grant (demolition along MLK corridor)

The City will submit its CDBG-I application for the **Lawrence Heights Sanitary Sewer Replacement Project on September 29, 2017**. The CDBG-I application will be available for review during normal business hours at **the City of Kinston Public Service Complex, 2360 Highway 258 South, Kinston, North Carolina**. Additional information is available from **Steve Miller, Assistant Public Services Director** by email at steve.miller@ci.kinston.nc.us, by phone at **252.939.3285**, or by mail at **City of Kinston Public Services Department, PO Box 339, Kinston, NC 28502**. Should you have any complaints or grievances regarding the subject public hearing, they should be addressed to the addressee mentioned above within 10 business days or by **October 2, 2017** and a written response to the written complaints and/or grievances will be sent by the Town/City/County within 10 business days, where practicable.

After no one speaking in favor or in opposition, the public hearing was closed.

ACTION AGENDA

1. Conduct a Public Hearing AND consider the amendment of the Conditional Use Permit for Stockton Pointe Apartments.....Adam Short

Adam Short, Planning Director, stated we have an amendment to the grant order [May 1, 2017] that was issued for the Stockton Pointe apartment complex located at the termination of Doctors Drive. As part of that approval there was an agreement that the developer would help install a service road that would connect through to Airport Road for emergency vehicles. Since that time, the City has been awarded a grant from the Golden Leaf foundation to fund a fully serviced public road up to city standards. We have amended the agreement to encapsulate those changes and to move it forward. Since there are changes in terms of the original agreement, we are bringing this to City Council for approval.

Mayor Murphy declared the public hearing open.

James Cauley, City Attorney, asked Steve Miller, Assistant Public Services Director, to explain the modifications in paragraphs F and G of the draft amendment.

Steve Miller, Assistant Public Services Director, stated paragraphs F and G talk about the cost sharing for the project. The scope of the project changed from being just a gravel access road to being a paved road, and the cost changed significantly as well, but most will be covered by grant funds. We have talked to the developer, and we would like to keep the estimated cost at \$117,530 for section F, removing the 14.09% and the applicant’s share of the cost will be \$117,530 estimated cost. Section G will read, the actual amount due from the applicant to the City shall be modified from the estimated amount to 14.09% if the cost exceeds \$850,000. We

are just making sure we cover the City’s obligations under the grant and addressing any potential increase in cost. We have no reason to think that the cost will be more than \$833,000.

After no further comments, Mayor Murphy declared the public hearing closed.

Mayor Pro Tem Swinson introduced the following amended order:

AMENDMENT TO ORDER GRANTING A CONDITIONAL USE PERMIT FOR
A MULTIFAMILY APARTMENT DEVELOPMENT

The City Council of the City of Kinston, and with the consent and agreement of Pendergraph Development, does hereby grant this Amendment to the Order Granting a Conditional Use Permit dated May 1, 2017 (hereinafter the “Order”) and held by Pendergraph Development (hereinafter “Applicant” or Pendergraph”) for the development of the Multifamily Apartments authorized therein to be located at the termination of Doctor’s Drive, which can be identified by NC PIN 451612967122.

- I. The Order is amended to revise paragraph 4 so that it reads as follows:
 - 4. The Applicant agrees to the following conditions of approval and each of said conditions is a condition of approval:
 - a. that the applicant will acquire and convey or cause to be conveyed to the City the necessary right of way for a public road connecting Doctor’s Drive to Airport Road and a water line adjacent thereto;
 - b. that the road and water line will be constructed in accordance the design criteria and standards set forth by the Kinston Public Services Department and the estimated total cost thereof is \$833,760;
 - c. that the City anticipates constructing the road and water line utilizing primarily grant funding obtained from the Golden Leaf Foundation;
 - d. that upon completion of the work, the City will determine the actual total cost thereof;
 - e. that within thirty (30) days following receipt of an invoice from the City (but not before April 1, 2018), the Applicant will pay to the City for its share of the cost of the work;
 - f. the Applicant’s share of the cost of the work is estimated to be a total of One Hundred Seventeen Thousand, Five Hundred and Thirty Dollars (\$117,530); and
 - g. if project costs exceed \$850,000, the actual amount due from the Applicant to the City shall be modified from the estimated amount, such that the amount paid is equal to 14.09% of the actual cost of the work, as determined by the City.

- II. With the conditions as set forth herein:
 - a. No evidence has been presented indicating that the project, if completed as proposed, will endanger public health or safety;
 - b. No evidence has been presented indicating the project will reduce or injure the values of adjoining or abutting properties;
 - c. 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;
 - d. No evidence has been presented indicating the proposed use is not in general conformity with the city’s land use plan and other plans officially adopted.

Based upon the foregoing, the City Council concludes and determines that the proposed use, if built in accordance with the terms and conditions as amended herein, satisfies the general conditions imposed on the Council in its deliberations by the Unified Development Ordinance for issuing a Conditional Use Permit and the Council hereby ratifies and affirms each of the conclusions set forth in the Order as further amended herein.

Councilmember Tyson made the motion, seconded by Councilmember Aiken and upon a unanimous roll call vote the amended Order was approved.

2. Consider the options to clarify language in the Unified Development Ordinances related to the separation of certain types of businesses.....Adam Short
(This item was discussed during the Work Session.)

Councilmember Solomon made the motion to approve Option Two to clarify language in the UDO, seconded by Councilmember Tyson and upon a unanimous vote the motion was approved.

- 3. **Consider acceptance or rejection of the final total bid amount of \$2,400 for 1000 McCaskill Drive and 924 Herbert Drive.....Adam Short**
(This item was discussed during the Work Session and moved to the Consent Agenda).

- 4. **Consider the award of a bid for Phase II for Grainger Stadium.....Bill Ellis**

Tony Sears, City Manager, stated the City opened bids Friday, but the prices were higher than anticipated, so there are items that staff would like to reexamine to get the cost within the City’s threshold. We will make the upgrades before the start of next season, and Mr. Ellis has said he will volunteer his time to help finish the project.

- 5. **Consider the award of a bid to T&D Solution to install lighting on South Queen StreetRhonda Barwick**
(This item was added to by the City Attorney and was from the September 5, 2017 agenda.)

Rhonda Barwick, Public Services Director, stated at the last meeting we had bids for the lighting on South Queen Street. We received one from T&D Solution in the amount of \$152,100 and we recommended approval of the bid.

Councilmember Aiken made the motion, seconded by Councilmember Whittington and upon a unanimous vote the bid award was approved.

APPOINTMENTS

- 1. **Consider the appointments of Christopher Bradshaw, Sr. and Edgar E. Futrell, Jr. to the Parks and Recreation Commission to each serve three year terms beginning September 2017 through August 2020Bill Ellis**
(This item is from the September 5, 2017 agenda.)

Councilmember Solomon made the motion, seconded by Mayor Pro Tem Swinson and upon a unanimous vote the appointments were approved.

CITY MANAGER’S REPORT

Tony Sears, City Manager, stated that at the last City Council meeting Councilmember Aiken inquired about the three appointments for the Planning Board. Councilmember Tyson was not in attendance, but he has an applicant that he would like to be considered as well. As soon as we have all the applications, we will bring the appointments to the City Council for approval.

CITY ATTORNEY’S REPORT

James Cauley, City Attorney, stated there was an item at the last meeting related to a bid that was split due to the lack of a quorum, and we need to take action on that item.
(This is item five under the Action Agenda.)

MAYOR AND CITY COUNCILMEMBERS’ REPORT

Councilmember Aiken stated he received a concern about the lack of places for women to shop. He shared that Kinston didn't have the demographics for the larger retail chains to locate in Kinston, but Retail Strategies was working on bringing smaller businesses in Kinston.

Councilmember Tyson there is a meeting with Retail Strategies scheduled for Friday and this will be shared. Kinston is not the only place losing brick and mortar stores, its universal. Amazon, QVC and other online shopping are killing brick and mortar stores.

Councilmember Solomon asked if Highland Avenue near St. John Village is NCDOT. Mr. Sears confirmed that it is NCDOT. Councilmember Solomon stated that the vines are growing on the signs in that area. Mr. Sears stated that staff will notify NCDOT.

Mayor Murphy commended staff as the community braced for the potential impact of hurricane, especially on social media. It is all important and thanked everyone for their efforts.

CITY MANAGER'S REPORT - TWO

Tony Sears, City Manager, stated that MIS is working on the new telephone system.

Mr. Sears showed a photo of Bill Ellis who is scheduled to retire October 1, 2017.

ADJOURNMENT

Mayor Pro Tem Swinson made the motion, seconded by Councilmember Tyson and upon a unanimous vote the City Council meeting adjourned at 7:52 pm.

Respectfully submitted,

Monique Hicks, City Clerk