

**Minutes
Kinston City Council
Monday, July 17, 2017
Work Session at 5:30 pm · Regular Meeting at 7:00 pm**

Mayor BJ Murphy called the Kinston City Council meeting 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. Resolution to remove traffic signal at Adkin and Tower Hill.....Rhonda Barwick

Rhonda Barwick, Public Services Director, stated at the June 19th meeting we received public comments on removing six traffic signals. Since the City no longer service NCDOT signals, we only have 15. We conducted a survey to determine which ones may not be needed, and that was the result of the six signals proposed for removal. During the public hearing it was decided that the signal at Tower Hill and Adkin that has been inactive for eleven years would be removed.

2. Revised Fats, Oil and Grease Policy.....Rhonda Barwick

Rhonda Barwick, Public Services Director, stated the purpose of this policy is to help regulate grease build up and monitor other pollutants that may be placed in our sewer system. These are regular housekeeping changes and before we honor a request for a variance, we have at least three months to observe it to determine if a variance is needed. We are changing the fines so that they match the sewer use ordinance. We have added a progression for offenders of the policy. The changes were submitted to the Utilities Advisory Commission in June and those present agreed with the changes.

Mayor Murphy asked how often customers are fined and how often do we do inspections. Brian Lucas, Water Resources Manager, stated we have about six to seven fines a year and we do inspections quarterly.

Councilmember Aiken asked for guidelines for residents. Mrs. Barwick stated citizens should dispose of grease in an old jar or container, allow it to solidify and dispose of it in the garbage.

3. Bid award for hurricane debris removal from Catfish Branch.....Rhonda Barwick

Rhonda Barwick, Public Services Director, stated this is a big branch and has very deep ravines. There are a lot of huge trees in it. On May 16, 2017, we accepted bids and we only received two. We thought we needed to get better pricing so we rebid and on June 8, 2017 we accepted two bids, one from Lanier Tree Service for \$99,950 and one from the Davis Company for \$21,420. Davis Company bid both times and both times the bid was non-responsive due to them not submitting the proper paperwork. We feel like the award amount is what it is going to take to get the trees out of the deep ravines. We will apply for reimbursement from FEMA.

Councilmember Whittington confirmed that the other two bids were closer to the Lanier bid. Mrs. Barwick added that the other bidder was \$123,000 and based on the amount of work needed, our staff's recommendation is that it could not be done for \$20,000.

4. NCDOT proposed median on Sussex Street.....Steve Miller

Steve Miller, Assistant Public Services Director, stated NCDOT asked us to install a raised median on Sussex Street at Highway 70 and Hill Farm Road. In NCDOT's traffic study, over a five year period there were about 57 accidents at the intersection. NCDOT is proposing to widen Sussex to three lanes from Highway 70 to the Lowes entrance and extend the median pass the first McDonalds' entrance. There will be a left turn lane for cars trying to go to McDonalds. None of the property owners or businesses opposed the change. NCDOT will do all of the work, then it will be maintained by the city. NCDOT is planning to put a raised median on Highway 70 westbound to put the U-turn out further into the intersection.

Councilmember Tyson asked if this is the access to the new hotel. Mr. Miller stated the hotel access is Sheffield which is currently a private road.

Mayor Murphy asked how much of Sussex does the city own. Mr. Miller stated back to Berkeley Avenue and we maintain about half of Berkeley.

Councilmember Aiken asked that staff look at the right turn lane from 258 North onto Highway 70 into Walmart. Cars seem not to realize that it is a right turn only and end up in the ravine.

5. Acceptance of a 340 foot extension of Doctors Drive..... Steve Miller

Steve Miller, Assistant Public Services Director, stated Doctors Drive has been extended for the three additional complexes. All the work has been done and inspected. We would like to accept it and add it to our city maintained streets and to the Powell Bill list.

Mayor Murphy asked for a brief explanation of Powell Bill and asked for an update at an upcoming meeting. Mr. Miller stated there are two aspects to the Powell Bill report, the street listing which is prepared by the Public Services Department and the Finance Department handles all of the financial reporting.

6. Proposed Brunch Ordinance.....Tony Sears
THIS ITEM WAS ADDED TO THE WORK SESSION AGENDA.

Tony Sears, City Manager, stated the State of North Carolina has passed legislation to allow the sale of alcohol beverages before noon on Sunday at licensed premises. The ordinance could be passed at this meeting or at a later date.

Councilmember Tyson stated he personally does not have any concerns, and asked if a public hearing is needed to allow citizens to voice their opinion. James Cauley, City Attorney, stated a public hearing is not legally required.

Mayor Murphy stated he has spoken to Laura Lee Sylvester, Executive Director from the Chamber of Commerce, and she has surveyed all of the restaurants, and she has heard from all except two, and all have been 100% in favor of the ordinance. He asked if this affects grocery store sales. Mr. Cauley stated that he believes that it does and it would allow the purchase.

Councilmember Whittington made the motion to add this ordinance to the action agenda, seconded by Mayor Pro Tem Swinson and upon a unanimous vote the motion passed.

Mayor Pro Tem Swinson asked if City Council can make changes to the ordinance for weed abatement and abandoned properties of absentee property owners so that we can do more on code enforcement issues. Tony Sears, City Manager, stated there are property rights, so we do have to provide property owners notification and opportunity to remedy the problem. If citizens have concerns they can call the City Manager's Office or Code Enforcement and we will do our best to address it.

Councilmember Solomon asked when will the process for identifying homes to be demolished begin. Mr. Sears stated we have already started and 173 structures have been identified and we will start the process of prioritizing.

Councilmember Tyson asked if the Unmet Needs Committee is still operating. Gloria Blake, Human Resources Director, stated it is still in existence. There has been another committee formed from the Unmet Needs Committee called KARE which existed in 1999 after the flooding from Hurricane Floyd. There are two families still in hotels, and most others are receiving what they can from FEMA and participating in the buyout. Councilmember Tyson asked if the group is still receiving items for the next catastrophic event. Mrs. Blake stated the committee through United Way is applying for different types of grants to assist with that.

Mayor Murphy stated we have been pushing the flood prevention issue pretty hard. The action that needs to be taken is not at the local government level, but at the state and federal levels. We also need a champion to push it and hopefully someone with the state will pick it up and run with it. We released the 1965 Army Corps of Engineers study last week. The City Attorney spent two days getting the information from the Library of Congress. This week we are meeting with Emergency Management, NCDEQ and a member of the Governor's office to ensure that as we move forward and our state and federal partners are on the same page. We hope someone at the state level will run with it and we will have more of a support role.

Mayor Murphy recessed the meeting at 6:14 pm.

REGULAR MEETING

Mayor BJ Murphy called the City Council regular meeting to order at 7:01 pm.

Councilmember Wynn Whittington led the prayer followed by the Pledge of Allegiance.

CITIZEN COMMENT

Russell Rhodes, 1501 Greenbriar Road, President of Neuse Sports Shop and Member of the North Carolina Retail Merchants Association, stated he is in support of the brunch ordinance that has been added to the agenda. The Retail Merchants Association lobbied aggressively for passage of the legislation that allowed for this action to take place, and they are supporting passage of ordinances throughout the State and are having good success. He has spoken to restaurant operators, grocery stores and fellow retailers and all are unanimously in support of this action. He asked City Council to please pass the ordinance.

Eric Cantu, Salute, GI Joes Museum, stated the 2008 National Defense Authorization Act authorizes the Secretary of Defense to conduct a program to commemorate the 50th anniversary of the Vietnam War. The commemorative partner program is designed to assist a grateful nation in thanking and honoring our Vietnam Veterans and their families. Commemorative partners are encouraged to participate by planning events and activities that recognize Vietnam Veterans. Salute, GI Joes' museum is announcing the partnership of the North Carolina State Council of Vietnam Veterans of America. The summer of 2017 will forever be remembered as the time when veterans from the Vietnam War were officially welcomed home by their fellow Americans with music and art. He asked for support of a program scheduled for August 18, 19 and 20th.

Mayor Pro Tem Swinson introduced the following Consent Agenda:

CONSENT AGENDA

1. Consider adoption of a Resolution to remove the traffic signal equipment located at Adkin Street and Tower Hill Road.....Rhonda Barwick

10-2017

**RESOLUTION
REQUESTING THE REMOVAL OF THE TRAFFIC SIGNAL EQUIPMENT
AT THE INTERSECTION OF ADKIN STREET AND TOWER HILL ROAD**

WHEREAS, the traffic signal equipment at the intersection of Adkin Street and Tower Hill Road has not operated since 2006 when this equipment was covered over with bags; and

WHEREAS, a recent traffic study performed on this intersection determined that the traffic signals are no longer warranted based on criteria set forth in the Manual on Uniform Traffic Control Devices; and

WHEREAS, a Public Hearing on the proposal to remove these traffic signals was held in the Kinston City Council Chambers on June 19, 2017 to hear citizen comments and concerns pertaining to this action; and

WHEREAS, the current traffic control devices installed at Adkin Street and Tower Hill Road allow pedestrian and vehicular traffic to flow safely through the intersection.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the City Council of the City of Kinston, that any and all traffic signal equipment located at the Adkin Street and Tower Hill Road intersection be removed.

2. Consider approval of the revised Fats, Oils and Grease Policy.....Rhonda Barwick
3. Consider approval of a bid award to Lanier Tree Service in the amount of \$99,650 for the removal of Hurricane Matthew debris from the Catfish Branch.....Rhonda Barwick
4. Consider adoption of a Resolution for NCDOT to install a median on Sussex Street near its intersection with West Vernon Avenue/Highway 70Steve Miller

11-2017

**RESOLUTION OF SUPPORT
FOR INSTALLATION OF MEDIAN
ON SUSSEX STREET BY NCDOT**

WHEREAS, Sussex Street is a city-maintained street located at the intersection of Highway 70 and Hill Farm Road;

WHEREAS, the North Carolina Department of Transportation and city staff have performed traffic studies of the intersection to improve safety and reduce traffic delays; and

WHEREAS, the North Carolina Department of Transportation is recommending the installation of a raised median on Sussex Street, and

WHEREAS, the North Carolina Department of Transportation is willing fund, design and construct the median at no cost to the City of Kinston.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Kinston, that the City of Kinston does support this project to improve traffic safety and reduce congestion.

5. Consider adoption of a Resolution to accept a 340 foot extension of Doctors Drive into the City's street system.....Steve Miller

12-2017

**RESOLUTION
REQUESTING THE CITY OF KINSTON ACCEPT THE DOCTORS DRIVE EXTENSION
INTO THE CITY OF KINSTON'S STREET SYSTEM**

WHEREAS, the Doctor's Drive extension lies within the corporate limits of the City of Kinston; and

WHEREAS, the Doctor's Drive extension was constructed in accordance to City of Kinston standards as confirmed by the City of Kinston Construction Inspectors; and

WHEREAS, the owner of this currently private section of roadway is requesting that the City of Kinston accept ownership, control and maintenance responsibility of this recently constructed section of Doctor's Drive, and

WHEREAS, the maps on file showing the approximately three hundred forty (340) feet of the Doctor's Drive extension are located in Plat Cabinet 13-352 and Plat Cabinet 14-107 in the Lenoir County Register of Deeds office.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the City Council of the City of Kinston, that the Doctor's Drive extension be added to the street system of the City of Kinston effective July 17, 2017.

6. Consider approval of the minutes of the City Council meeting held on Monday, June 19, 2017Monique Hicks

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

ACTION AGENDA

1. **Consider approval of a Special Events Permit for Walk A Mile in Her Shoes Fundraiser on Saturday, September 30, 2017 at Pearson Park from 1:00 to 6:00**Alonzo Jaynes

Timothy Dilday, Police Major, stated this request involves temporary street closures. The walk will take place between 3:00 pm and 5:00 pm. The route is east on Gordon Street, north on Herritage, west on Peyton to Atlantic, south on Mitchell, east on North and will end behind the Red Room. They are expecting approximately 200 participants.

Councilmember Tyson made a motion, seconded by Councilmember Solomon and upon a unanimous vote the Special Events Permit was approved.

2. **Consider approval of a Special Events Permit for St. Mary's Sixth Annual Neighborhood Block Party on Wednesday, August 9, 2017 from 6:00 pm to 8:00 pm**Alonzo Jaynes

Timothy Dilday, Police Major, stated this request includes the street closure of Rountree Street between Rhem and Bond adjacent to the church and they are expecting approximately 250 attendees.

Councilmember Solomon made the motion, second by Mayor Pro Tem Swinson and upon a unanimous vote the Special Events Permit was approved.

3. **Conduct a Public Hearing and consider approval or denial of a Conditional Use Permit for a Tattoo Parlor at 1301 South Queen Street.....Tony Sears**

Tony Sears, City Manager, stated he is filling in for Adam Short, Planning Director. Mr. Brandon Corey of the House of Ink is the applicant. The zoning for the business is currently B-1. This is for a Conditional Use Permit and it meets the guidelines and requirements.

Mayor Murphy declared the public hearing open. \

Councilmember Tyson asked how many other facilities the applicant owns in the City.

Mr. Brandon Corey, Applicant, stated he only owns the tattoo parlor. He owns a restaurant cleaning business but it is not operated from a facility. The building has two sections, and there are plans to submit to put the restaurant cleaning office in the same building at a later date.

Councilmember Aiken asked how often the health department inspects a tattoo parlor. Mr. Corey stated they have to inspect the business once every three months.

After no further comments in favor of or in opposition the public hearing was closed.

Councilmember Whittington made the motion for approval, seconded by Councilmember Solomon and upon a unanimous vote the CUP was approved.

4. Consider adoption of an Ordinance to allow the sale of alcohol at 10:00 am on Sundays within the City of Kinston’s corporate limits..... Tony Sears
THIS ITEM WAS ADDED TO THE AGENDA.

Tony Sears, City Manager, stated during the last session, the North Carolina General Assembly passed a referendum allowing a municipality to grant the option to sale alcoholic beverages on Sunday at 10:00 am instead of at noon. It would have to be a licensed establishment and comply with all ABC laws.

Councilmember Tyson asked how businesses will be notified. Mr. Sears stated we will identify those who hold ABC permits and notify them.

Councilmember Whittington confirmed this only applies to the city limits.

Councilmember Whittington made the motion, seconded by Councilmember Tyson and upon a MAJORITY vote [Councilmember Aiken voted no.] the Ordinance was adopted.

2017-14

**Ordinance To Allow the Sale of Alcoholic Beverages
Before Noon on Sundays at Licensed Premises**

WHEREAS, on June 29, 2017, the North Carolina General Assembly enacted Senate Bill 155, entitled “An Act to Make Various Changes to the Alcoholic Beverage Control Commission Laws”; and

WHEREAS, Section 4 of Ratified Senate Bill 155 authorizes city and county governments to adopt an ordinance to allow alcohol sales beginning at 10 am on Sundays; and

WHEREAS, Ratified Senate Bill 155 was signed into law by Governor Roy Cooper on the 30th day of June, 2017 and became effective on that date (Session Law 2017, Chapter 87); and

WHEREAS, Sunday morning alcohol service will allow the hospitality community and retail merchants in our community to meet the needs of their customers; and

WHEREAS, Sunday morning alcohol service will benefit our small business community, bring people into business districts earlier in the day, and generate increased opportunities for our business; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of Kinston, North Carolina that:

Section 1. Pursuant to the authority granted by S.L. 2017-87 any establishment located in the corporate limits of Kinston and holding an ABC permit issued pursuant to G.S. 18B - 1001 is permitted to sell beverages allowed by its permit beginning at 10 A.M. on Sundays.

Section 2. All laws and clauses of law in conflict herewith are repealed to the extent of any such conflict.

Section 3. This ordinance is effective on the 17 day of July, 2017.

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

MAYOR AND CITY COUNCILMEMBERS' REPORT

Councilmember Aiken stated that the mosquitoes on Desmond Street were really bad due to the Adkin branch being stagnant. He was informed that the city sprays for mosquitoes in the early morning hours so residents may not be aware that the area has been sprayed. He asked if chemicals could be put in the water.

Mr. Sears stated to put the chemical in the water is difficult because it has to be a stationary pond. We will have staff to identify areas where the stream is stagnant, and we will give extra attention to areas around the Adkin Branch.

ADJOURNMENT

Mayor Pro Tem Swinson made the motion, seconded by Councilmember Solomon and upon a unanimous vote the City Council meeting adjourned at 7:18 pm.

Respectfully submitted,

Monique Hicks, City Clerk