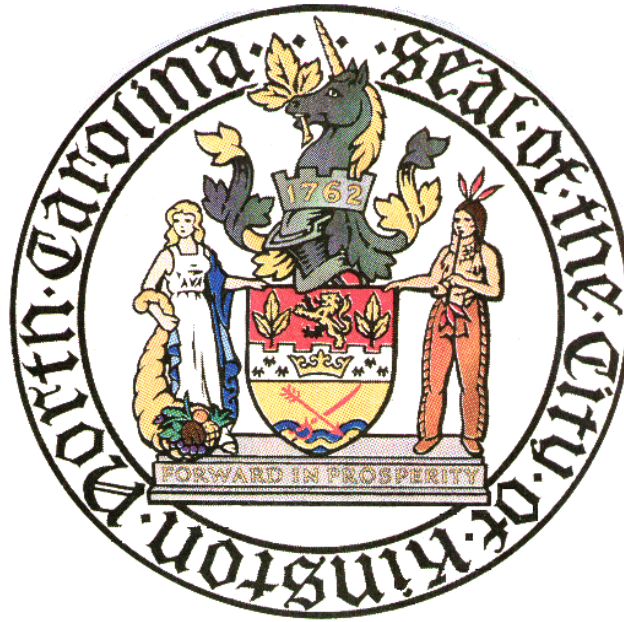


Kinston City Council



MINUTES

March 16, 2021

Minutes
Kinston City Council
City Hall · 207 East King Street
Tuesday, April 6, 2021
Regular Meeting at 5:30 pm

This meeting was held in person at the Kinston Community Center and published electronically at <https://www.facebook.com/KinstonCityHall>

REGULAR MEETING

Mayor Don Hardy called the Kinston City Council Meeting to order at 5:39 pm.

Mayor Don Hardy delivered the prayer followed by the recital of the Pledge of Allegiance.

Present: Councilmembers Sammy Aiken, Antonio Hardy, Kristal Suggs, and Robert Swinson, and Mayor Pro Tem Felicia Solomon.

Present Also: Tony Sears, City Manager and James Cauley, City Attorney.

CITIZEN COMMENT

Citizens must sign in prior to the start of the meeting if they wish to address the City Council.
Citizens should state their name and address prior to beginning their comments and may speak up to a maximum of 3 minutes.
Citizens seeking assistance or asking questions will be contacted by a member of the Governing Body or by appropriate City Staff.

Citizen Comments submitted electronically were read by the City Clerk.

1. Ronald Shedrick, 701 E. Washington Ave., Kinston, NC regarding Holloway and Adkin Parks; concerns for J. H. Sampson and New Voices/New Vision; and being excluded by the local Arts Council.
2. Quentin Greene, 800-A E. Caswell St., Kinston NC regarding the need for a grocery store in East Kinston and the old shirt factory lot being a perfect location.
3. Lisa Ayres, 1004 Harvey, Kinston, NC regarding focusing efforts on Main Street; and having a protected Emma Webb Park.
4. Barbara Sutton, President Kinston-Lenoir County NAACP regarding community concerns for Emma Webb Park.

Citizen comments submitted electronically are retained in their entirety at the end of the minutes.

In-person comment.

Marsha Lovick, 2805 Westbrooke Drive, Kinston, NC spoke regarding unleashed dogs in her neighborhood.

Adoption of the Agenda

If a Councilmember wishes to revise the agenda, the Motion to add or delete an item will be entertained prior to Adoption of the Agenda.

James Cauley, City Attorney requested a closed session for two items.

Councilmember Swinson made the motion, seconded by Mayor Pro Tem Solomon and upon a unanimous vote of [5-0], the agenda with a closed session for two items was adopted.

MINUTES

**Consider approval of the minutes of the City Council meeting held on March 16, 2021-----
Debra Thompson**

Councilmember Suggs made the motion, seconded by Councilmember Aiken and upon a unanimous vote of [5-0], the minutes were approved.

PRESENTATIONS AND RECOGNITIONS

1. Child Abuse Prevention Month ----- Colleen Kosinski

Colleen Kosinski, District Administrator-Guardian Ad Litem stated she was also the Chair of the Child Abuse Prevention Team. Ms. Kosinski shared statistics that included 58 children who were killed in North Carolina of child abuse and noted that one was in Lenoir County. There are resources for parenting, medical, mental health, etc. for families setup at the Court House, Kinston Community Center, the Pink Hill Wellness Center, and the LaGrange Library. This year’s theme is It shouldn’t hurt to be a child. Ms. Kosinski shared that the bench displayed would be dedicated at Pearson Park on tomorrow for the kickoff of Child Abuse Prevention Month. The Child Abuse Prevention Team has 150 volunteers and related that anyone interested participate in the next class in May. She expressed that everyone in this room is responsible for protecting children.

Mayor Pro Tem Solomon thanked Ms. Kosinski for the work she does and asked for clarification on the number of cases reported in Lenoir County alone. She asked had the numbers increased when some of the children started returning back to school. Ms. Kosinski stated the numbers were as of December and she expected the numbers to be much higher once the kids returned to school. She felt that through reporting sources they would then find out what had been going on while they were home.

Mayor Hardy thanked Ms. Kosinski and acknowledged the work she does, and that the community has a responsibility to help as well.

2. Child Abuse Prevention Month Proclamation----- Mayor Hardy

Mayor Hardy read the proclamation for Child Abuse Prevention Month and encouraged all citizens to remember that no child should be hurt.

3. Indie Music Month Proclamation ----- Mayor Hardy

Mayor Hardy read the proclamation for Indie Music Month and shared that music can save a life. He also shared that there will be an Indie Music event held here and he encouraged everyone to go out and enjoy.

ACTION AGENDA

**1. Conduct a Public Hearing for a Conditional Use Permit for Private Club and Bar-128 W. North Street ----- Adam Short
(THIS ITEM IS CONTINUED FROM MARCH 2, 2021)**

Adam Short, Director of Planning, Inspections, and Code Enforcement presented the application for a private club and bar to be relocated. The application was from Justin Martin with intentions of relocating The Heritage, a private club with a new location proposed as 128 W. North St. The property is zoned B-2 (Central Business District) which allows for bars, night clubs, and social clubs with an approved Conditional Use Permit. For bars located in the B-2 District, the only supplemental regulation is that they are not within 100 feet of a church and as for the application it was not. The zoning in all directions is B-2 (Central Business District-Commercial Uses and Operations). The Planning Board reviewed and recommended approval of this item through a special meeting. The general and specific conditions for the Conditional Use Permit are in your agenda packet, and with that, if you have any questions for me I would be happy to answer that now.

James Cauley, City Attorney: Mr. Cauley stated that this item and the next two items, items one, two, and three, on tonight’s agenda all are Conditional Use Permit applications. The process for these types of applications is a fact-finding process. It is not a legislative discretionary process like most Council decisions. With a Conditional Use Permit application due process rules apply, which means it is more of a court-like proceeding and Council sits as judges. Witnesses are sworn and are limited to certain evidentiary requirements. The evidence has to be relevant, competent, material, and substantial. If the application meets the requirements of the ordinance, then it is not a discretionary decision, and the permit should be allowed. In comparison to that of a rezoning, if an overwhelming number of people come in and convince you it is a bad idea, you are entirely within your legislative discretion to turn the rezoning decision down. That is not the same rule of the fact-finding process of a Conditional Use Permit. Another one of the due process requirements speaks to what type of evidence can be offered. Some evidence can only come in from a qualified expert. That person has to have credentials to get into testimony for things like property value, traffic congestion, and drainage issues. Another rule has to do with impartial decision making as in court, you expect the judge to be impartial. Applicants for a Conditional Use Permit have the same expectations and the law has the same requirement. Decision makers have to be impartial both in fact and in perception. Mr. Cauley stated he had not spoken to Ms. Solomon, but thinks she needs to be excused from the dais, given her connection to one of the permits (application number two). With the Council’s permission, he suggested that and asked if there were any questions about the process.

Mayor Hardy opened the Public Hearing.

The following speakers were sworn by the City Clerk:

Laurie Anderson, 200 N. Heritage St., Kinston, NC

We have been in business for five years, and the last two years as a bar. We run a lot of events for the City and for charities, and basically have been voted the best bar in Kinston for two years in a row; the two years we have been in business. So, the community voted for us in the Kinston newspaper. I feel that we are a benefit to the City, we don't have any issues there. We don't discriminate against anybody, and I know that part of the issue is that we have drag shows. We aren't a gay bar, but we do not discriminate. We do allow people to feel comfortable in our bar. That's all.

Justin Martin, Co-owner, 200 N. Heritage St., Kinston, NC

I agree with everything she was saying. We didn't have any problems getting up and running until we started doing. We can rent the space out for events to anybody that wants to do it. Just so happens we had this group that does drag shows once a month there. Once we started doing that is when we started having all the issues. Prior to that no fights, no nothing, no issues with the law or anything. That's all I have to say.. **Councilmember Aiken**, inquired about the hookah process and was told that that was on another permit.

Katie Webb, 415 William Pearce Rd., Kinston NC

I have been working with the ENC Pride Group, which is the LGBTQ group that does the drag shows for the past year. Trying to make sure that everything is within the law and in compliance with DOJ and the Public Human Services. Unfortunately, they have been targeted on social media by individuals who don't want to see a drag show in Kinston. That's none of their business, they don't have to come. That is one thing, I have been in the establishment several times. They play music, play bingo, it is fun. I didn't know if I would like that, but I do. You get a little dollar. You literally sit around and talk to people and Sugar Hill will deliver a pizza there. We are talking with Jay's about having people order food and they will bring it to you. Laurie and Justin are really nice people. I go in there and see a diverse group of people who I have never seen in any other establishment in Kinston. They feel like they have a safe place to go. Like Laurie said, it is not a gay bar, it's just welcome. I have never seen anything, any fights or people acting poorly towards each other, or out of line. I see people who are having a good time. I see bingo, trivia, or talking, and having dinner. It's a nice place to go. They also have this event, the drag show. I have not yet gotten to go to that. I can't wait to get my turn. I think that they should be approved that they can move to the new location and continue this asset to Kinston's downtown. **Councilmember Hardy**, what is the purpose of the move and was it because you feel like you are being targeted. **Ms. Webb**, That is a little bit of a complicated question. Not exactly. That has nothing to do with other entities or individuals. It is really a nice space. They were hoping, I don't know if you have been inside the space where they want to move to. It's got two entrances essentially. They would be across from the brewery and the Axe Throwing and have access to the pedestrians and of course traffic. Then they would also have a parking lot access on the other side. They want to essentially maintain what they have already, but they want to have a paint and design and an event party where they are right now. They would like to

continue that aspect of the business but move the bar and the daily use over to the space. So that's the purpose of the move. Just some of the opposition to them being moved, and some of the public commentary on social media centers around the LGBTQ community. It has nothing to do with their business. Does that answer your question? **Councilmember Hardy**, Yes, it did.

Rusty Alphin, 7423 Hwy. 70 W, LaGrange, NC

You will find no bigger advocate for property rights, self-determination of a business to do what it needs to do. No bigger advocate stands before you today that is against government intrusion. I am a big believer in the least amount of government is a better government; the more rights we have as individuals. With that being said, it comes to a point where citizens have to take the responsibility. We had a speaker earlier today, who is a big advocate, just as I am against child abuse. With that being said, many forms of child abuse as well. Before I say that we're going further than that, I am totally against government restricting people's rights. But when you talk about this bar and they brought up the drag queens. What a person does behind closed doors is not my business. But when you go out in public and flaunt it (and I have pictures to prove it), where some of the drag queens go out on the sidewalk and some of them have, let's just say no underwear on, and in negligees; they are wearing attire fit for the bedroom. You know, that's one thing as well, then when you publicly make comments (some on social media and some in the newspaper as well) and I have copies, and I have copies of the pictures as well. I am the one who took the picture. But I did it in a public setting, not private. When you go out and publicize that you want to create an outdoor drag queen event; in public view, on public property, complete with storytelling to our young impressionable children, that's when you have to stand up. That's when you draw the line in the sand. Now when you talk about the ENC and the Heritage being two different organizations, which in fact, the 501 c3 shows that the owners are actually on the board of directors of the ENC Pride. So, they can't say that they are just leasing the property where they don't have a vested interest in, because they are, and they do. But yet they want, and I have the documentation. They want to do storytelling events to our young children. That's child abuse. I don't care which way you want to look at it. And I am, well, as a Christian, let's call it abomination. And imma stand against it. I do not advocate you restricting them in the context of can they go to another place. I do say that you have as a City and a governing body you have ability and the right to prohibit them from walking, exposing themselves, or you might as well say exposing themselves when some of them come out with no underwear on in public view and then doing storytelling events. You do have that ability. I don't think you should censor what goes on inside. As much as I am against it, but it's still their right. But in public view, on public property, what kind of message does that send to a City that sorely needs new people, new businesses? What message does that send to people who are walking down Heritage Street or driving down Heritage Street? If you want to look at the pictures, there they are. Is that the kind of event that you want to sponsor in the City limits of Kinston? I would dare hope not. And I don't think any normal person would. But we're gonna find out I guess, won't we? They can move, but I think you should restrict what they do on the outside of that building. When it comes to public morality, public decency. And even a comment was made that they are going to bring their 10-year-

old child to the next event. I didn't realize a 10-year-old child was able to go to a bar where they serve alcohol; that was a public post by the way. Is that what you want? Is that acceptable to you? Is that acceptable that you want your child to view those things walking down the street? Or to be able to tell stories to your children; not mine. But I got it here. **Councilmember Aiken-** Would you like to show that to the Council so that we (*unintelligible*)? **Mayor Hardy,** If you would, pass them to the attorney first please?

Rusty Alphin

I got more. But I love my children and also my grandchildren. I don't want them exposed. I will tell you this, I fear no man, nobody. I don't care what no man can do, I do fear God though, and what he can do. And that's why I have to stand in opposition. And there's many more of us. And as a father, as a grandfather who takes his granddaughters down Heritage Street multiple time, I don't want to expose them to that. I don't have to worry about them going into the bar because they are not going, and neither am I. But when they bring it to the outside. Look at those pictures there, you cannot deny it. And then tell me and look at the pictures there. I think it is the next to the last one where they say they are going to do storytelling events to children. You can't deny that one and you can't deny the association between The Heritage and the ENC Pride, because it's there in black and white. I guess I'm done. **Mayor Hardy,** Thank you sir. Thank you for those comments. Who's next?

Dennis Parker, 4749 Aldridge Store Road, LaGrange, NC

I grew up around Kinston, and lived in Kinston. I live outside in the county at this time, own property in Kinston, and run a small business for 35 years here in Kinston; been a Christian for 37 years. As he said, God is the one we should fear. I say amen to the statements he made. I have grandkids, I have a great grand baby. I have family that has been affected by this type of lifestyle that they present. Children that have been messed with and at this point in time that particular one is messed up. Very confused, don't know if he is a man or a woman. Turned to drugs. I don't wish that on anyone. I remind you of the story about, you remember Lot, that was in the city of Sodom and Gomorrah. He was a man of influence because the Bible says he sat at the gates daily. God came to him and told him about the destruction of the city because of the sin of Solomon; it being an abomination. Lot pleaded, and he pleaded. If it finally got down to eight righteous people in this City, would you spare it. God said yes, but he couldn't find eight righteous people. So, Lot was led out and that city was destroyed by fire and brimstone by the hand of God. Why, because of sin; the sin of Solomon. Romans 1 & 2, read them. It tells about that, and it tells about God giving people over to a reprobate mind where they cannot understand righteousness, godliness, and the fear of God. We who are in our right minds, need to make that decision. You are elected officials, and you sit over the City called Kinston. The decisions you make not only affect your lives, but this whole city and everyone in it. And this lady with the bench, I commend her on child abuse; I have seen it. And this is child abuse if we let this type of thing out in the open where they can influence children by reading stories, going to the library reading stories, face painting, all this type of stuff. What God called sin in

the Bible in bygone days is still sin today. You will reap the judgement of it if you don't stand and occupy until he comes. Thank you.

Henry Seymour, 1280 Hwy. 258 N, Kinston, NC

I was born out here on Tower Hill Road in 1937. I used to come to town as a teenager. Had a lot of friends over there in East Kinston. Safe place, Saturday night ride my bicycle everywhere I wanted to go. Six years old, I went to Gordon Street Christian Church for public school because the school had burned down. First and second grade I walked from there, three miles to my farm where I was raised. Kinston was a good city. Let me say, I don't like to see bars come to Kinston. The ABC stores are already here. People that want to buy it, can get all the liquor they want already. We don't need any more outlets. Especially where people are going together and then going out in public. These pictures you've seen, they didn't appear out of thin air they were taken with a camera of these people who dress like this. The ten commandments were given by God who created everyone of you who are in here today. He created you for his honor and glory. But we have all sinned and rebelled against him. And then you know what he did, he loved us so much that he sent Jesus Christ, his own son into this world to die on the cross to take our sins upon him on that cross and pay the debt of hell, so we wouldn't have to and go to heaven. On that basis, justified my faith. Believing in him as my personal savior. Yes, he gave us the ten commandments as the moral standards for everyone that he has ever created. And we have broken those laws. And it gets worse as time goes on. Until that great apostasy will finally bring justice upon this entire world. I heard the preacher say on a video this week, it is too late for America. But it's not too late for you and me. Any time a person wants to repent, they can. If they will only believe Jesus. And the good wise man, Solomon, said in his letters, woe to the man that putteth the bottle to his neighbor's mouth. **James Cauley, City Attorney**, I apologize for interrupting you, but we need to stay on the topic. **Henry Seymour**, That's what scripture says, we're gonna all answer to God's word one day regardless of what we believe now, it is appointed that man is once to die and after that is judgement, Hebrews 9:27. The Bible is part of your life and mine. I haven't taken any more time than that lady that stood up here for 30 minutes. **Mayor Hardy**, This is a quasi-judicial proceeding, and we can't carry on, we have to stay on topic. **Henry Seymour**, Let me say this, Deuteronomy teaches us that a man that dresses in women's attire is an abomination and we don't want that walking on the streets of Kinston for our children, our grandchildren, and our great grandchildren to see. Momma, what's that? So, I'm against all this stuff. God is against it and he has written it down in his Bible. We are all going to stand before the judgement seat of Christ one day. Everybody that's in here is going to have to answer to God. That's all I have to say. **Mayor Hardy**, Thank you for your comments.

Linda Beamon, 714 Hugo Road, Kinston, NC

I have been here all my life and this city is not what it was with me growing up. I feel like Kinston has enough bars, and that's fine. They want to have these businesses. But when you got people coming in, like they've all been explaining, dressed the way they are, I think it is going to be confusing to children. It's going to be with them doing stories like, John grew up wearing a dress because his parents

wanted him to be like this, or something. I don't agree with it. I think the children will be very confused, by seeing a man in a dress walking down the street. I know as they get older they're gonna see this because it's legal. But I think it should be morally appropriate to walk on the street dressed the way they should in public. And not try to influence these small children with what their lifestyle is. Let the kids grow up to be individuals that they are. I don't care what they do behind their shut doors. I just don't want it out here where I got to see it, or the kids have to see it. Thank you. **Mayor Hardy**, thank you ma'am.

Jess Edwards, 1707 Cambridge Drive, Kinston, NC

I am Jess Edwards I am the owner of Kinston Realty Group and a resident of Kinston. I am here tonight on behalf of the owners of the property at 128 W. North Street. They had a death in family and were not able to be here and asked me to come and assert to y'all that they are property owners and their ability to lease their property to any business that fits the criteria set by the city and the code. As it has been described to you, this business is already in existence right across the street, and was issued a Conditional Use Permit five years ago by this Council. It is moving to this other location; they meet all the requirements. If they choose to lease their space to any sort of group it is well within their rights as a business. That same group that is in issue tonight can go to the Chef and the Farmer and lease space, they can go to Sugar Hill Pizza and lease space, they can lease space right here in this Community Center and it would be within their rights to do so. I agree with some of the comments. I don't believe that the government should have the right to overly enforce rules from private citizens and property owners. It was said earlier tonight that they don't have an issue with the bar moving across the street, they just have an issue with this one particular group. And fortunately, I feel thankful that y'all do not have the job discerning whether it is right or wrong to do what that group is doing. Your only job tonight is to listen to the facts and decide if it meets the standards of the Conditional Use Permit, and it has been said that it does. Thank y'all so much, I just wanted to share that on behalf of the owners of the property.

Councilmember Aiken

Mr. Mayor, I have a couple of questions. People talked about how people were dressing on the sidewalk. For the attorney and maybe the police chief, what type of obscenity laws do we have on the books here in Kinston?

Mayor Hardy

Do we have anyone to speak in favor of or in opposition of; anyone to speak in favor of or in opposition of? Hearing none and seeing none, I yield back to the Council.

Mayor Hardy closed the Public Hearing.

Chief Dilday stated he was not prepared to quote the vicinity statutes, in reference to dress. The State of North Carolina regulations are nudity below the waist would be illegal out in public and is not gender specific. Just because someone thinks that something is in bad taste, does not mean it is illegal.

Mayor Pro Tem Solomon asked if she was correct in that their decision tonight was to approve the existing business (The Heritage) to transfer their business to North Street. Ms. Anderson and Mr. Martin have stated that the Heritage is a bar. They have created a space that is inclusive. It is a business that embraces the citizens of Kinston; if she heard correctly they said that it does not discriminate. Also, if she heard correctly, she heard that the things discussed had nothing to do with changing locations. Our expectations are for the laws to be upheld. Ms. Solomon wondered if this type of dialogue occurred about the Womanless Pageant held here as a fundraiser got this type of response. She knows many have participated in Walk a Mile in Her Shoes that advocates against domestic abuse. She thanked The Heritage for creating an environment that is inclusive, and everyone that shared their opinion, because that's what we have a right to do. She thanked God for having God-fearing Christians here and for serving a God of love. One that is inclusive, one that loves everyone in spite of who they are and what they have done. Ms. Solomon stated she would be concerned to see a 10-year-old in a bar, and out at night. She recommended to keep your children home. If you are don't want them to go where there are storytellers, keep your children home.

Mayor Hardy stated he echoed the sentiments of Mayor Pro Tem Solomon. As we move forward, there are guidelines that we must abide by. We will abide by the law and ensure that all the guidelines are followed.

Councilmember Hardy stated that he hopes everyone understands there are guidelines we have to abide by as well and when we run across some of these touchy issues we have to follow the law. He hopes the owners heard the comments made and would act accordingly and respect those that are out in the streets.

Mayor Pro Tem Solomon said it is also our responsibility to represent every citizen in this county. She doesn't want a perception to be made and does not want to find ourselves in a place where we discriminate against the lifestyle that is different because it does not mirror that of everyone else. She stated that she did not want people to be vilified based on their gender, race, religion, and who they love. Ms. Solomon said she doesn't have the responsibility to agree about how you live, but she does have a responsibility to love you.

Adam Short said that the planning board recommended approval and based on his review it appears to be compliant.

James Cauley shared that there is a draft of a proposed order in the materials. If they are inclined to approve or deny it would require specific findings to pass that denial.

Councilmember Swinson made the motion, seconded by Councilmember Hardy and upon a unanimous vote [5-0], the Conditional Use Permit for a private club and bar at 128 W. North Street was approved.

2. Conduct a Public Hearing for Conditional Use Permit for Multi-Family Apartments-North Queen Street ----- Adam Short

(THIS ITEM IS CONTINUED FROM MARCH 2, 2021)

NOTE: Mayor Pro Tem Solomon was removed and excused from consideration and voting on this CUP.

Adam Short, Director of Planning, Inspections, and Code Enforcement, related that this Public Hearing is for a request submitted by Traci Dusenbury on behalf of Halcon Companies to acquire a Conditional Use Permit for Multi-family Apartments that is on a portion of an 8.61-acre tract currently owned by Bright Leaf, LLC just off North Queen Street adjacent to Kinston High School. Halcon Companies have similar developments throughout North Carolina and Virginia with some in the vicinity in Greenville and Elizabeth City. The property is zoned O&I (Office and Institutional) which does allow for multi-family apartments with some specific requirements. The main requirements are use like this in addition to the assurances that are required for all Conditional Use Permits. More specifically, it meets the acreage and they have designed this based on lot size to meet those requirements. It comes out to 64 units for development. The zoning on the adjacent parcels, to the North you have B-1 (Commercial/Social Security Office); South, RA-6 (Vacant/Agriculture); East RA-6 (Educational/Kinston High School); and to the West O&I (Residential Offices). The Planning Board recommended the approval of this in their special meeting. There are specific and general conditions in the memo CUP considerations in section 4.5. Mr. Short's presentation included a map of the site, the preliminary site form, and initial comment issues regarding utilities. Councilmember Swinson asked if there were any requirements for ingress/egress for the facility. Mr. Short answered that the intent of the ordinance speaks to access for emergency vehicles (the primary concern). The alternate route for this case would be through the Kinston High School property. It is not ideal, but it is the only other access to the property. Councilmember Hardy asked if having only one way in and one way out be a safety issue. Mr. Short stated the one way in, and one way out is more for the public rights. The development itself can be looped. As long as the police can get into the facility, the facility is safe itself. Mr. Hardy stated if it is a safety issue, are the developer is taking into consideration that there is only one way in and one way out, does that meet all our requirements as far as the City is concerned. James Cauley asked Mr. Hardy if we would hear the evidence and see what we hear on that.

Mayor Hardy opened the Public Hearing.

The following speakers were sworn by the City Clerk:

Mark McCloskey, Halcon Companies

I was asking Mr. Short if there was something dealing with the ingress/egress, I don't think there is for 64 units. Typically, we see that tipping point at about 80 units, or 88 units where a second means of ingress/egress is required. I am Mark McCloskey, and I will be representing Halcon Companies. Traci Dusenbury started the first meeting and with two dates this evening we had to split our forces. I am a partner with Halcon Development and wanted to try to give a summary of our project. Starting the summary of our project. Again, Mark McCloskey. I am starting with the development of, Riverstone Crossing at the Neuse, as Adam pointed out, the zoning is O&I Office and Institutional, which does permit multi-family dwellings with the approval of the

Conditional Use Permit. The tract size is 5 acres with a post-unit mix of 64 units. That's a mix of 12 one-bedroom units, 40 two-bedroom units, and 12 three-bedroom units. The development will also include a community building with a playground and associated site amenities including a covered picnic area, outdoor seating areas, resident computer room, and multi-purpose room in the community building. As the City Attorney pointed out, Conditional Use Permits have a certain criteria to meet and it is our burden to present that evidence and prove that we do meet the ordinance. One of those is to demonstrate the consistency with the future land use plan. In the case of Kinston, the controlling document is the Plan Kinston, enhance it's perception promoting growth, and moving forward, which was adopted by the Council in October of 2015. As far as controlling the program use, go down a couple of slides, I have the land use map. It should on the presentation I emailed over earlier. In the land use plan, it is map number 40, future land use plan. It is pretty much dead center of that map. I have the site written down on it. The area or our post-project is actually located within three separate planning areas, or what the land use plan call planning categories. It's a combination of what they call mixed use, office and institutional, and residential. And in the plan it speaks to what each of those planning categories intend to attract for future growth. And the common denominator for all three of those planning categories is that they list multi-family as a desired use to advance the purpose of a future land use plan. Further in the plan it is talked about the O&I Office and Institutional zoning district being cited in the plan as the applicable zoning district for these planning areas to develop multi-family. In other words, if somebody wanted to get property rezoned to permit multi-family, O&I, which is the zone for our property, would be a way to begin that process. We already have the underlying zoning, we just need the conditional use permit, which we are here to demonstrate this evening. In addition to the plan consistency Conditional Use Permits must meet other criteria. We must demonstrate that the proposed use will not endanger the public health or safety, will not injure the value of adjoining or abutting property, will be in harmony with the existing development and uses within the area which the project will be located and will be in conformity with the land use plan. The proposed use of the multi-family development with not endanger the public health and safety. Rather we believe that the proposal provides new housing and advances the public health and safety through new housing choices of clean, safe, and affordable alternatives. With regard to the ingress and egress, on a development of this size, we typically prefer to have a single means of entrance and exit rather than connecting to another alternative. If nothing else, to discourage through traffic for folks that do not live in the residence who are driving through the development as a cut-through. So, we prefer to design with a single mean of ingress/egress, and once you are on site the project is designed to accommodate emergency vehicles (fire, police, and rescue). Our engineer has designed that to accommodate all of those vehicles to make safe maneuvers throughout the development. Item number two will not substantially injure the value of adjoining or abutting property. The proposal will enhance the neighborhood and potentially increase adjacent property values since the new infrastructure will be constructed to serve the project and made available to nearby properties. At a minimum, the properties will not negatively impact values of nearby properties. Item three, the proposed use of multi-family will be in harmony with existing development and uses within the area. This area of the development contains a mix of uses which serve as a transitional zone of development which includes medical, office, institutional, and residential uses. The addition of a multi-family residential development will be

compatible with the existing development in the area, while complying with the Unified Development Ordinance and the intent of the Future Land Use Plan. Item four, the proposed use of multi-family will be in conformity with the adopted Land Use Plan. As I previously stated, it conforms to and advances all the goals of the Future Land Use Plan of Kinston, and that the site is located within the three planning categories which site multi-family as a desired use. In addition to meeting the above criteria we have just reviewed, Conditional Use Permits must also demonstrate compliance with any other additional site-specific supplemental conditional use requirements, which is directly tied to their proposed use. In this case, the UDO has two additional requirements for multi-family developments. Section 7.18 of the UDO indicates Item 1: require that the site be designed to comply with the RA-6 zoning district. Item 2 of that section requires a minimum spacing of 20 feet between multi-family structures. Our proposal meets the requirements stated in these supplemental requirements for multi-family. The site is designed for all of the RA-6 zoning district standards and all buildings are greater than 20 feet apart. I think further down I list all of the RA-6 zoning district requirements for section 6.6 of the UDO, just so you can see those. Those are the standards that the concept plan was designed around, and further down I break out the corridor density calculations to illustrate that the proposed density of 64 units is just a little less than what would be permitted on 5 acres; equals out to 65.5 units. I have also included just some photographs of other multi-family developments we have worked on throughout the state in the recent years. I am available for any questions and I thank you for your time. I know we started this process back at the March meeting and came to the conclusion that it is probably best that we have an in-person meeting, and I appreciate your time and allowing us to come back this evening.

Councilmember Aiken

I see that you have a stormwater pond. **Mr. McCloskey**, Yes sir. **Mr. Aiken**, That was one of the questions that we had on Doctors Drive when they did the initial design and all. With the past rains that we have had, we figured that came in handy. We didn't have as much flooding as we had prior to prior rains. It was just that stormwater pond. **Mr. McCloskey**, We typically include those anywhere in eastern North Carolina. I live in New Bern, so I know about flooding too.

Councilmember Hardy

I just want to be sure because the same issue we have on Doctors Drive now, we may have to put a road in there to go some more apartments of something. I know you said one way in and there would be room to turn around. The reason I ask that question is I don't want it to come back on our taxpayers later on, and have to put a road in there to have an exit. That's why I brought up the question because we are dealing with something similar in another area. That's why I want to make sure that we understand that if some kind of problem come up are you all willing to come in and support us if we have to go down that route. It is close to the school, as you know. We just want to make sure our children are safe, and we are making the right decision with just one entrance in and one exit out. **Mr. McCloskey**, Absolutely, we will certainly comply with any development regulations or desires of Council. With regard to it being by the school, we have several other developments throughout North Carolina that we specifically selected that are in close proximity to schools. In Fayetteville we did a 72-unit multi-family development, which is in walking distance to all three (elementary,

middle, and high school) that proves to be a great asset to the families living there. They are able to walk to school rather than have to wait for a bus or have a parent drive you.

Councilmember Swinson

In your proposal, do you have any security management that is going to be security or checking to make sure we don't have any stragglers or people not living in the development? **Mr. McCloskey**, Yes, sir. We have multi-layers for public safety and security; first is site-lighting to light up the site, on-site management that will be there during the day, on-site maintenance staff, and we also have a camera system that's monitored 24/7. It is monitored remotely, and some municipalities with the system we use would be able to give access to the Police Department, we are doing that in other communities. They can pull this up on a cellphone or whatever technology they use. We also have other communities that have cameras, lighting, and personnel on site.

Councilmember Hardy,

I have one more thing. The other question I had was when it comes to that school being there you know that there are football games, and I am looking at this diagram, and how close it is to that football field. And of course, we got ordinances for noise, and things of that nature, I just want to make sure because we had an issue earlier with a resident that moved close to a place that's loud. Now he wants the City to step in and do something about it. When we make these decisions to build places and put things close to events that's loud, the people that's moving there they going to complain to the City Police Department about the noise. Just wanted you to be aware that you chose this location. Right? And so, we don't want to have to constantly deal with taking our police officer's time to keep running out and they are making too much noise. Of course, there is a football field there and the games are on certain nights. Just wanted to make that point. **Mr. McCloskey**, With regards to football games, I certainly wouldn't complain about that. I think we have a long-standing tradition in eastern North Carolina, everyone (I think) enjoys the rally for some high school football. I think it would be an asset for some of the children living and would be able to see some of those games. But, point well taken and we will keep that under consideration.

Mayor Hardy

Thank you Sir. Did your other partner want to say something?' **Mr. McCloskey**, I do have a project engineer if you have any engineering specific questions, he is available for that. I am the planning expert, and he is the engineering expert. I will be available for any other comments.

Councilmember Aiken

I have a question for the engineer. Did you seek any other location in Kinston? Have y'all looked at the old shirt factory location? **Mr. McCloskey**, Since I am on the development side, I don't think the engineer, we really didn't reach out to him until we found the site. But yes, looked at multiple sites for several years. This is the one that we found to be the most feasible. We reached out to the local broker to help us find that site and he is here tonight. He was helpful in finding the location we think we will have a good chance to help us be successful. We chose the location; it has great access to medical, the schools, schools, shopping, retail opportunities, employment opportunities

and that's why we set the design on that site. At that point, the engineer got involved and assisted with the design.

Mayor Hardy

Will there be any others to speak in favor of or opposition of?

Kellen Bryant, Kinston High School, 2601 N. Queen Street, Kinston, NC

Good evening. I am Kellen Bryant; I am currently the principal at Kinston High School. I am here representing Kinston High School with the support of the district staff at Central Office. Also, I know Dr. Ibegbu is here as well. He shares similar concerns that I do. We know the City Council is going to issue a Conditional Use Permit if evaluated in the quasi-judicial process to using the nine standards that were just explained by the housing developer. Based on those nine that are presented to you, we are in opposition to the approval of the Conditional Use Permit for multi-family apartment units based on two of them. The establishment, maintenance, or operation conditional use will not be detrimental to or endanger the public health, safety, or general welfare. Our opposition is simple, it is based on access and safety. Our job, my job is to ensure limited access to our children, to our students, to our staff on the school campus, to anyone on the outside to safeguard instruction and the well-being of our students and staff while in our care each and every day. We believe any development that close to the school campus, whether an apartment complex, factory, shopping mall, will have a negative impact to our daily working conditions and increase access to our students during the school day, and after-school activities beyond our control, as well as access to the school campus after hours during the week and weekends. Speaking about the one-way entrance, one way in and one way out and the use of emergency services if needed, having to go through the school's campus brings up another concern. The second one. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity. While we are in favor of additional housing in the city, we are opposed to the location of this residential property so close to the high school campus for reasons of access to the school and students, safety and security of the campus, students and staff, and interruptions unforeseen from school events, that sometimes go on until 11:00 at night, that could adversely affect those who would live in the apartment complex and unforeseen events within the housing development that could adversely affect school events as well. The population density in the 64 multi-unit facility in such close proximity to the school is a major concern. The noise ordinance, we have no control over that at the school level. Thank you for hearing our concerns today about the Conditional Use Permit for multi-family apartment units on a proportion of 8.6-acre tract adjacent to Kinston High School directly beside our parking lot and literally right behind our football field. It's three stories and the height of the several other apartment complexes that they have, it would go above our bleachers behind the football field. Thank you for recognizing and hearing our concerns today, and that we have directly related these to access and safety that arise for us should there be such a development so close to Kinston High School. Thank you.

Brent Purdom, 4004 Barrett Drive, Raleigh, NC

My name is Brent Purdom, and I am with Triangle Site Design and we helped to develop the concept plan that you guys see. One of the things I just want to address, usually when you talk about the second entrance, usually it is not considered until you get to

100 units. So, we are well below that number. And also, I pulled the traffic count, which is through the NC DOT and the peak traffic times (mornings and afternoons), you are looking at 33 cars in the morning and then in the afternoon you are looking at 40 cars. Which is not a lot, especially if you are going in the opposite direction to the stoplight at Heritage and Queen Streets. You have a secondary access there that we were talking about in case of an emergency would be coming through this corridor. Obviously, we don't want that, nobody wants that. Your primary is gonna be off Queen Street. That's ambulances, fire trucks, whatever is needed it's gonna be coming from there. If something were to happen and block it, obviously there is that opportunity, but nobody really wants that to go through there. So, from the traffic aspect of it, looking at DOT, looking at the counts, and looking at everything that's related it shouldn't have a big impact on the morning time and the afternoon time peak hours. I just wanted to make sure that was clear. And if you guys have any questions, I would be glad to answer them. **Mayor Hardy**, Anything from the Council? Thank you sir.

Dr. Eric Ibegbu, Atlantic Medical Group, 2541 N. Queen Street, Kinston, NC

Thank everyone for the opportunity to be here and the opportunity to support or oppose. And I am here to oppose and stand in support of the Kinston High School and Principal Bryant. She spoke very directly about the impact of students and that's also my concerns as well. I operate the outpatient surgery center that is pretty much in the front of this proposed 64 complex that they are proposing to build. For outpatients who are under sedation of anesthesia there is of course, going to be the concern of the safety access. And of course, I think this will be increasing the population density in that small area with the school already with kids there and people in my office, and then now I don't know how many people they propose to be in that area. It then becomes a dense area. Even with the problem of dealing now with COVID-19 the more dense the population is as we saw in big cities like New York, the reason that COVID-19 took a ravaging impact on the city is because of the density of the people mass in that area. So, I can say that I am not against the development of housing opportunities in Kinston or any other community for that matter. I think that there are very great, nicely spaced-out places around Kinston where the project could go. I just think that is a problem for students to have access to something that is so close to campus. Even it might persuade, although it doesn't happen very, very, much, we have students who after school hang out in my parking lot. Of course, you speak to them and encourage them to move on. So, I really don't think it is a very wise decision to choose that spot when there are an incredible amount of landscape in Kinston waiting to be built up. So, this is not the only space. So, these are my concerns and thank you for the opportunity. **Mr. McCloskey**, Just an opportunity to address those concerns. So, the property won't actually abut your property, Doctor. It's going to be subdivided and there will be remaining acreage separating your practice, a vacant tract, and then after that we will start. I can certainly appreciate not wanting a bunch of high school students loitering and hanging out in the parking lots. When we design our sites, we shoot for designing a development that is inviting to our residents and give them some opportunities to have some space to enjoy on site. Multiple playgrounds for children, game rooms, and activities with the management company. So, it is our intent to try to keep the children on site rather than wondering onto other people's property. In regard to the height of the building, we certainly intend to meet the criteria and the maximum height that's permitted in the RA-6 zoning district, which is 40 feet. The buildings are designed to be at or below 40 feet.

So, we will meet the ordinance there. Just talking about the land use plan, which was adopted less than six years ago, I assume there was a planning commission that worked on that and designated this property, this area as a use for multi-family and that's what hoping to get approved and carry through and advance the purpose of planning/zoning and the intent to reach the land use plan. Certainly, we will take all consideration of the neighbors and strive to be a good neighbor. We have great relationships with businesses, other residents in other developments, and schools, so we are certainly available for any outreach, or if you want to talk to us directly, feel free to contact us. **Mr. Aiken**, What's the percentage of low-income or how is it designed for advertising for residency? **Mr. McCloskey**, We there's criteria at about 80% of the market rate price. We are talking about using that; we should have anywhere from \$18,000 - \$50,000 a year. **Mr. Hardy**, How long is this project. Do you know how long it will take for project? **Mr. McCloskey**, For construction? Once we are underway, it will be, usually about a 14-month construction process. Once you get our plans approved, and approved underwriting, and funding, we start construction, and it will be about a 12to14 months for a project design. **Mr. Swinson**, Question. I am looking at your outline here, and I have a question where you have 48 units at Villas at Northview for 52 residents, 31 parking spaces. How are the spaces allotted the units? And I want to say thank you in advance before we go any further that you are providing, or you guys are willing to provide apartments at market rate value that we've had so many times for first year teachers, fire and police that need those market rate value apartments, that hasn't had that chance to do that. I applaud you guys for that. Your presentation has been really good. Once again to the residents and everyone in the congregation this evening, we have to follow the guidelines set forth for the quasi-judicial requirements. And if you would answer that question as far as parking. **Mr. McCloskey**, Sure, in regard to parking, I think the property you are talking about, it is an elderly project. Typically, we would allocate one space per unit, or up to 1.25 spaces per unit. For a family development we might go as low as 1.75 spaces per unit or whatever the local ordinance would require. It has been my finding two spaces is certainly adequate. A lot of ordinances around North Carolina call for two per unit. Some are less; there is a trend in the planning world to go to less parking, rather than more parking, but certainly look for 1.75 or 2 spaces per unit. And then, if I could just take a moment for the need for housing, we just did a market study and would like to share that with the Council. Right now, there is a need for 1,010 units in Kinston and the surrounding working area. What we are proposing is 64 units and that will just satisfy 7% of the actual demand. So, this is just one step to trying to help solve the housing problem. It is not unique to Kinston, it's all over the state. So, 7.2% demand we met for this project.

Mayor Hardy

Anyone else wish to speak in favor of or in opposition of? Anyone else wish to speak in favor of or in opposition of? Hearing none, I now yield back to the Council.

Mr. Short

Mr. Mayor, I have one comment. I misspoke earlier, there is a section in our ordinance that speaks to permanent dead-end streets. Because it was a pass through and is not, but Doctors Drive at one time was a permanent dead-end street, there was no pass through or anything else. The ordinance speaks to requiring a cul de sac in that termination. I apologize for having misspoken.

Mayor Hardy asked if that would mean having a second point of entry? Mr. Short said in this case we wouldn't require it because there is actually an access point through the high school.

Councilmember Aiken asked about the statistics of housing needs in the community. He reminded everyone that in 1999 in the Lincoln City community we lost over 400 homes from the hurricane and floods. A study was done after that to see how many dilapidated homes and building we had in Kinston. We had over 580 that were not in the flood plain. We had 40-year-old houses where nobody paid taxes, trees growing through them, used for crimes, houses of ill-repute, and things of such. In the last couple of years, starting with Palmers Junkyard, it took about two years to get that cleaned up. Out of the 580 buildings we have torn down 50 to 80 per year. We've had some of the students' parents have come to the City Council regarding housing. Mr. Aiken stated that when he goes to Greenville and Winterville, he sees a lot of Kinston residents living there. They have left Kinston. 'In 1999 our population was over 30,000 and presently we are trying to maintain 20,000. Anytime we can get some new apartments and new growth in the community Creating an apartment complex, the apartments off Doctors Drive (with increased population in the area) may prompt the owner of the Lowes Food building to reconsider and reopen. He stated he was in favor of the apartment complex.

Mayor Hardy asked if there would be anything further from the Council and/or the attorney. Mr. Cauley stated it was the same comment as earlier. There is a draft of the proposed order in your package if you are inclined to approve with the appropriate findings and conditions. Mr. Cauley stated he didn't hear anything to check that.

Mayor Hardy closed the Public Hearing.

Councilmember Swinson made the motion, seconded by Councilmember Suggs and upon a unanimous vote [4-0], (Mayor Pro Tem Solomon was excused from voting) and the Conditional Use Permit for multi-family apartments on North Queen Street was approved.

Mr. Sears requested a five-minute recess and Mayor Hardy recessed the meeting at 6:51 pm.

Mayor Hardy reconvened the meeting at 6:08 pm.

Mayor Pro Tem Solomon returned to the dais for the remainder of the meeting.

3. Conduct a Public Hearing for a Private Club and Hookah Lounge ----- Adam Short

Adam Short, Director of Planning, Inspections and Code Enforcement presented a request by Mr. Henry Bratcher to acquire a Conditional Use Permit to operate a private club and hookah lounge located at 800-B W. Vernon Avenue. The property is zoned B-1 General Business which allows for private clubs meeting the following standards: Location may not be used for gambling, bingo, billiard, dance hall, bar, nightclub, or social club if is within one hundred (100) feet of a church, or if it is within three hundred (300) feet of a presently licensed, approved, and operating use listed in this section. Upon inspection it is not within 300 feet of another such use. It is located close to a church,

but it is outside of that 100-foot requirement. It appears to meet that criteria of the ordinance. Zoning and land use on the adjacent properties in all directions is B-1 General Business; to the North is vacant and institutional use, to the South is Commercial, to the East is Commercial, and to the West is Commercial. The Planning Board recommended approval by unanimous vote on this item at its most recent meeting. Again, for your consideration in the attachment list you have the considerations for the Conditional Use Permit from Section 4.5. You also have the application and the description of the use. If you have particular questions about the operation and that type thing, I will do the best I can to answer, but I think the developer is here and might want to speak to that themselves. Mr. Short asked if there were any questions before we open the hearing.

Mayor Hardy opened the Public Hearing.

The following speakers were sworn in by the City Clerk:

Saleisha Averhart, Attorney, 555 Fayetteville Street, Ste 300, Raleigh, NC

Good evening. My name is Saleisha Averhart, and I am actually the attorney representing Mi Kiosha Hookah Lounge. I am based in Raleigh North Carolina and the property owner is Mr. Reggie Bullock who is a long-time resident of Kinston (born and raised). He is currently a professional basketball player with the New York Knicks with the National Basketball Association. Thank you to Adam and the Planning Department and also the police department for their expertise as Mi Kiosha plans to make Kinston North Carolina their home. I do believe the staff has done a great job summarizing the project and we believe the project speaks for itself. Myself, and Mr. Chris Bratcher are here to answer any questions that you all may have related to the project. Just to ensure it does meet each of the nine criteria that the City Council has to evaluate so that the Conditional Use Permit can be granted. Specifically with the establishment maintenance or operation, this project as Mr. Short said is in a B-1 General Business district and pursuant to section 6.3.10, this come right in the heart of that it is a highway-oriented retail service-type establishment that is meant to service the entire city of Kinston and surrounding areas. It meets that objective specifically that encourages planned commercial and office parks, as a rental location, this is already located in a strip mall. Number two, the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already committed, or diminish any incurred property value within the neighborhood. If you look in the application that was submitted, it gives the hours of operation. If there are any questions related to parking or congestion and things like that. The hours of operation are in the evening after the majority of the other tenants are no longer using the premises. It is a strip mall, so the entire front area has two sections of parking. In that area there is about 40 to 50 parking spaces and also in the back of the building there is additional space that has ample use of the parking there. Wednesdays and Thursdays from 6 pm to midnight are the projected hours of operation and Fridays and Saturdays 6 pm until 2 am. The other tenants in that area (six tenants total), their hours operation-three end at 5 pm, one ends at 7 pm, and one is between 9 and 9:30 pm. There should not be any issues with respect to the use and enjoyment of property by other owners in that area. With respect to Section 7.13 as Mr. Short said, with respect to the 300 feet and the 100 feet distance, those things have been established. On the establishment of the Conditional

Use Permit not to impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. Again, we just explained with the use and purpose and parking, hours of operation and things of that nature, we do believe that that section has been met. With respect to number 4, the exterior architecture, appeal, and function; there are no changes being proposed to change the exterior to change the exterior of the structure and that's why that was not included in the package because there are no changes to take place that would compete with that. With respect to number 5, adequate utilities, access roads draining, parking, and necessary facilities, again, those things have been reviewed by the Planning Department and through their review they have determined that we have met all those and have adequately explained this section and subsequently ensure **(Unintelligible)** and have Mr. Bratcher for additional information as far as specific questions you may have related to that. Adequate measures have been, or will be taken to provide ingress/egress as designated as a minimum traffic congestion on public streets. This is connected to a highway, so there is, I believe with that building, if you look at the maps that have been provided through the application there are more than one entrance and exit through the properties. There isn't that issue when it comes to congestion and there is also overflow parking in the back, so that we are not crowding up the front area that is closest to the highway. Number 7, the conditional use shall in all other respect confirm all the applicable regulations for this district in which it is located. That is true and was confirmed through the Planning Department's recommendation and it also advances the purpose of the planning and inspections. We have number 8; public access shall be provided in accordance with the recommendation of the City's Land Use Plan and that has been done. It is consistent with Section 6.6 of the Land Use. With respect to the hookah fees, it being consistent with the recommendation of the casual statements that has also been reviewed in the application submitted. I just wanted to briefly lay that out for you all and if you have any questions for me, I am here to definitely answer those. Mr. Bratcher, who is the manager of the hookah lounge and feel free to ask whatever questions you may have in the event you have anything related specifically to parking or any issues you may have. **Mayor Hardy**-Thank you very much you did a great job showing us the site. Mr. Bratcher, what kind of security do you have and how many employees. **Chris Bratcher, Manager**-We will have about two to three employees to start and we have ADT security cameras all the way around the facility and within the facility. We give the police our records if anything was to happen, as well as have security on site within while we are open during operations. **Councilmember Aiken**-For a country boy, what's a hookah lounge? **Saleisha Averhart**-If I could follow up on a response on the security they are going to have present is retired law enforcement. **Chris Bratcher**- It is pretty much a form of smoking tobacco. It is different flavored tobacco called Shisha; different flavors from strawberry, watermelon, ice mint, and any type of flavor you can come up with, they make. It is not a bong. A lot of people have the misconception that it is like a bong used for purposes other than tobacco. This is specific for tobacco reasons. Like people who like to drink alcohol. After a long day's work, relax, unwind, take your mind back through the day and stuff like that; it's kind of a relaxation thing. That's all that is. It's cool hookahs, with the different types of hookah (tall ones, short ones) and they are very cool. **Councilmember Aiken**-They don't have them like they used to, do they? **Mr. Bratcher**-No sir. Totally different quality. The shisha actually burns with coal

instead of fibers (sticking papers in them and things like that), this is totally coal. **Councilmember Hardy**-You did a good job of explaining that to us. Of course, I am a former military guy, and of course I have been to a lot of foreign countries. I am just wondering is it the same thing they got in like the little glass containers that they burn. **Chris Bratcher**- Like from Iraq and other foreign countries? That is exactly where it came from. **Mayor Hardy**-Thank you Mr. Bratcher, is there anything further from the Council. **Mayor Pro Tem Solomon**-I just say before we vote, We just ask you to let Reggie know how grateful we are for him to invest in his community and the beauty of the name. In honor of both of Reggie’s sisters, who unfortunately we lost to violent crime. Please let him know that that speaks, and how grateful we are for him to invest back into his community, and for him to honor his sisters. **Ms. Averhart**-He is so thrilled to be able to bring things back into Kinston. I don’t think he would mind me sharing that one of the first things that we talked about and things like that, is how much he cares about the Kinston community and his desire to really bring back and give back to you. **Mayor-Hardy**-Thank you. Is there anything further from the Council, the Manager, and the Attorney? **James Cauley**-As with the others there is a proposed order in your package.

Mayor Hardy closed the Public Hearing.

Mayor Pro Tem Solomon made the motion, seconded by Councilmember Swinson and upon a unanimous vote [5-0], the Conditional Use Permit for private club and hookah lounge located at 800-B W. Vernon Avenue was approved.

4. Consider Approval of Amendment for Lawrence Heights Water and Sewer Project Construction Administration Contract Agreement with Municipal Engineering Services Company ----- Rhonda Barwick

Rhonda Barwick, Public Services Director shared that during the January 19th Council Meeting the Council awarded the construction and administration rights for the Lawrence Heights Water and Sewer Project to Municipal Engineering Services. Soon after the award, we started the bid process. There were questions and some concerns about the construction time we had provided. CDBG, the engineer and the City staff felt like in order to encourage more folks to bid, so we could get a better price, and also to alleviate any future change orders due to the time concerns that they had, that we should rebid the project. We brought it to the Council, and it was rescinded. It is now under review by CDBG; they have to review our paperwork. The vendor has asked for more time. So that adds two more months to the engineering process; they have to inspect the work, do any document, and any other bid work. Ms. Barwick asked to consider amending the agreement that you gave in January from originally \$120,00 to \$151,044. There is funds in the project at this time to cover this cost. Hopefully, this will entice us to get better prices for the work in the actual time. Mayor Hardy asked if that would be done in 60 days. Ms. Barwick stated that was the recommendation of the bidders that do that kind of work. In order to make sure they can get the work done, and it was important to the City that all the people in the neighborhood could get we felt like to ensure, they would need more time to meet those driveway specifications. Mayor Hardy inquired about the timeframe and Ms. Barwick shared that it would go through the bid process and be returned to Council to award the bid. At that time, it will tell you when it starts, and how long it will take.

Councilmember Swinson made the motion, seconded by Councilmember Suggs and upon a unanimous vote [5-0], amendment for Lawrence Heights Water and Sewer Project Construction Administration contract agreement with Municipal Engineering Services Company was approved.

5. Consider Awarding Bid for Engineering Contract for the 540 Circuit Upgrade to Booth and Associates ----- Rhonda Barwick

Rhonda Barwick, Public Services Director stated as part of the Council’s continued effort to strengthen our electric system, this year’s Electric Fund budget includes \$2.3 million to upgrade the 540 Circuit. That is the circuit that runs for Hull Road about 6.2 miles towards LaGrange. In order to secure engineering services for the project, the City asked for Requests for Qualifications. We received six responses from potential engineers and Booth and Associates received the highest score for their qualifications from City electric staff. They have provided an estimated cost for a \$108,500 for the work. Ms. Barwick asked the Council to consider awarding this contract to Booth and Associates for \$124,775 which provides for a 15 percent contingency.

Councilmember Suggs made the motion, seconded by Councilmember Hardy and upon a unanimous vote [5-0], Booth and Associates was awarded the Engineering contract for the 540 Circuit upgrade for \$124, 775.

6. Consider Adoption of Resolution in Support of Redistricting Reform ----- Mayor Don Hardy

Mayor Hardy presented the resolution.

Councilmember Swinson made the motion, seconded by Mayor Pro Tem Solomon and upon a unanimous vote [5-0], the resolution supporting Redistricting Reform was adopted.



RESOLUTION

**RESOLUTION OF THE CITY OF KINSTON
IN SUPPORT OF REDISTRICTING REFORM**

WHEREAS, the current redistricting process creates a conflict of interest-as State legislators are effectively choosing their own constituents; and

WHEREAS, the redistricting process should be conducted in an open manner with real opportunities for public dialogue and feedback, not behind closed doors; and

WHEREAS, legislative incumbents often draw districts that are not compact and split communities of interest; and

WHEREAS, important principles such as the protection of the Federal Voting Rights Act of 1965 and respect for neighborhoods and cities should be clearly listed for a Commission to abide by; and

WHEREAS, voters are more likely to participate when they feel that their vote will count and that they have a reasonable chance of electing candidates who represent their interests; and

WHEREAS, elected officials are more responsive to constituents when voters have a choice of candidates, thus increasing accountability and serving the best interests of the voters of North Carolina.

NOW, THEREFORE, I, Mayor Don Hardy and the Kinston City Council do hereby resolve that:

The State of North Carolina should establish an independent redistricting process that ensures diversity of representation, protects communities of interest, and does not unduly favor one political party over the other, for all future redistricting.

Adopted this 6th day of April 2021.

7. Consider Special Permit Sudan Shriner's Spring Ceremonial Parade-- Chief Tim Dilday

Chief Dilday presented the Special Permit for the Sudan Shriner's Spring Ceremonial Parade to be held on May 15th at 10 am. Their route is from Caswell Street North to Lenoir Avenue. The concern is the outdoor gathering and in accordance with the Governor's Executive Order #204 (expiring on April 30) is for approximately 100 individuals per space. They are expecting approximately 200 people and over a six-block span. That means the parade can accommodate about 1,200 people and we don't think we will reach the total capacity for that outdoor event. Under current regulations masks are required for people within six feet of a non-household member. The street closure permits are not in the packet due to the volatile nature of what we are dealing with, they are requesting to get it approved, then we will do the notifications. Mayor Hardy inquired if there were any problems seen and James Cauley stated the paperwork appeared to be in order.

Councilmember Suggs made the motion, seconded by Councilmember Hardy and upon a unanimous vote [5-0], the Sudan Shriner's Spring Ceremonial Parade was approved.

8. Consider Special Permit – BBQ Fest on the Neuse ----- Chief Tim Dilday

Chief Dilday presented a special permit request for a scaled-down version of the BBQ Fest on the Neuse in the past. Street closures will be from Blount to King and West of Queen Street. Compliance with executive orders is a concern. Do keep in mind that this is a two-day event, and the average attendee spends about two hours.

Jan Parson, shared information on the festival for this year. The BBQ Fest Committee has participated in the Count on Me NC program to let everyone know they are serious about protecting their health and well-being. This program was created in joint effort by government and health officials in partnership with tourism industry leaders from across the state. Since November 2020, the Visit Kinston staff has recruited more than 66 businesses in Lenoir County to become Count on Me NC certified which is more than any other county in Eastern North Carolina. Ms. Parson stated that this year to maintain social distancing they have limited the number of cook teams to 65 rather than 95 and the number of vendors accepted is limited to 85 rather than 125. They will require 10 feet of space between each vendor and each cook team. Mayor Pro Tem Solomon asked what has the distance been in the past and was told that they have been side by side in the past. Tables and chairs will not be provided this year, you will need to bring your own chair. Everyone is encouraged to wear their mask, sanitize, hand-wash and shared that there will be sanitizing stations will be available. There will be children's entertainment this year, but will not have a carnival. Councilmember Aiken asked if there would be shuttles from the mall this year and Ms. Parson said there would not. Mr. Aiken also asked about having a band this year and Ms. Parson stated there will be one there. Chief Dilday added that on Friday it is from 5 pm -10 pm, and on Saturday it is from 10 am -5 pm. Ms. Solomon asked if the businesses that were certified had some type of markers. Ms. Parson said yes, they receive those once they take a short test.

Councilmember Swinson made the motion, seconded by Councilmember Suggs and upon a unanimous vote [5-0], the BBQ Festival on the Neuse was approved.

9. Consider Authorizing Recruitment and Hire-Public Services Department -----Rhonda Barwick

Rhonda Barwick, Public Services Director shared the positions she is requesting Council to approve for recruitment and hiring. There are two in the Electric Fund, Electric Line Tech I-IV; two in Storm Water, Equipment Operator II and Maintenance Worker III; and in the Public Service Fund, a Customer Service Representative. Ms. Barwick stated that another Customer Service Representative was previously recruited for and due to the number of applications received, request to use those applications to fill this position.

Councilmember Hardy made the motion, seconded by Mayor Pro Tem Solomon and upon a unanimous vote [5-0], authorization for recruitment and hire – Public Services was approved.

10. Consider Authorizing Recruitment and Hire-Parks and Recreation Department-- Corey Povar

Corey Povar, Parks & Recreation Director shared the positions he is requesting Council to approve for recruitment and hiring. There are two in Parks, one Maintenance III (full-time) and five Summer Maintenance Workers (Seasonal); in the County, two Center Assistants-Nature Center, two Center Assistants -Planetarium; and at Kinston Community Center one Head Swim Team Coach (full-time). Mr. Povar explained that two ladies started the program, one was unable to continue and that this is an instructor role and is not part-time. Previously this was a contract position, but the laws have since changed and we have to hire those instructors onto our payroll. We have an Assistant Swim Team Coach and are requesting to hire a Swim Team Coach. Mayor Por Tem Solomon asked if the Swim Team Coach was an instructor and Mr. Povar said it was labeled as an instructor through Human Resources. Ms. Solomon asked to have that change because it can be misleading. When people see Swim Team Instructor and that sends a message that KCC is preparing to give swimming lessons. When they see Swim Team Coach, the thought is that we are creating a swimming team. Mr. Povar stated it is listed as a swim team coach, but for the Council it is listed here through HR as an instructor position. It is not a part-time position, it is not a full-time position, but it is advertised as a Swim Team Head Coach. Ms. Solomon asked that we change that because if the role is that, of an instructor, I wouldn't want to be misleading to the community. Mr. Povar said he did want to make that as clear as possible. He is asking to advertise for a Swim Team Head Coach because we have a swim team here at the Community Center. It is not a swimming instructor this is a swim team that is headquartered out of the Kinston Community Center (the Kingfish) and this is to hire a head coach for that swim team. It is a program that we offer here at the Community Center. Discussion continued and Lea Mill, Interim Human Resources Director shared that we have positions that are full-time, part-time (temporary), part-time for contract. This position is actually a contract. Their work schedule is based on the needs of the team. Mr. Sears shared that this team used to be at Holloway. Ms. Solomon still had concerns and Ms. Mills stated we used to contract them, and the IRS changed the rules on us, and we had to move them from being pai under AP to being paid under payroll. Mr. Sears added that it will be advertised as a swim coach and it will be listed inside of the coach. The law used to allow them to be contract. When they changed the labor laws, it was easier and safer for us to make it an employee versus a contract. We are not doing anything different, just adhering to the labor laws. Ms. Solomon asked did we have a swim team and the number of members. Mr. Sears shared that there were and hope that they come back now that COVID is wrapping up. Mr. Povar stated we do and there are about 25 members. We hope to recruit them back, but it is something that haven't been. Mr. Sears said not every kid competes. Just because you are on the team, does not mean you are competing, you do have the opportunity to compete. Mr. Povar noted that it is an advertised program through KCC. Ms. Solomon asked if we had a swimming instructor and if they were part-time, full-time, or contract. Mr. Povar said the

swimming instructor does teach swimming lessons and is a part-time employee. Mr. Sears stated before COVID, the team used Holloway as the swim location and came before Council to say they would like to get in. It was an outside group that was doing it, they split, and the two ladies decided they wanted to keep it going. We are looking to add the position back that we previously had. We are not adding anything new, but we do need to advertise for the position. Ms. Suggs asked if the position was always a City position. Was the Kingfish an outside agency and now we are acquiring it or was it always a responsibility of the City? Mr. Povar stated the swim team used to use the Galaxy as their headquarters. Rather than a responsibility, because we have added it to our programs as revenue, it is more of a benefit than a responsibility. Ms. Suggs said it seemed acquired and Mr. Sears said it was, and once the organization split, the ladies wanted to continue their program and we partnered with them to continue that here are the Community Center.

Councilmember Hardy made the motion, seconded by Councilmember Suggs and upon a vote [4-1] (Mayor Pro Tem-Nay), authorization for recruitment and hire – Parks and Recreation was approved.

CITY MANAGER’S REPORT

1. Pride of Kinston Update ----- Leon Steele

Leon Steele, Executive Director introduced Laura Lang Tribula, State Employees Credit Union and Robyn Godfrey, Servpro as two new board members. Mr. Steele stated he is very happy, and they are fortunate to have them on the board. He shared information about why the rebranding of the Pride of Kinston. We recognized what Pride of Kinston meant in the past and people are unclear as to what Pride of Kinston is, what we do, and it requires a lengthy explanation. This is an opportunity to educate the community with a new look about what we are and what we do in our community with our organization and use a new image to illustrate that. We are frequently confused with other organizations and businesses. The new board wanted to get this going with a graphic that is current to today rather than the 1980s. He reviewed how they arrived at the new graphic and shared that it also allows the opportunity to have very brandable merchandise. An instantly recognized label with lots of opportunities for caps, tee shirts, keychains and other items that could be easily sold on the e-commerce page. One of the really important reasons to pursue this right now, people are letting him know that they feel better now that the message is the Pride is inclusive of everyone. Mayor Hardy thanked Mr. Steele and stated he looks forward to seeing what it entails. Mr. Steele said that people are already referring to that way. Ms. Tribula said she greatly appreciates the energy and stamina that Leon has, and he is wonderful to work with. He is excited, and the board is also with the new logo. I appreciate the opportunity to serve there. Mayor Pro Tem Solomon related that we are glad that they are part of the team. A lot of us that have worked with you know that you guys have the same energy and are go-getters.

2. Planning Department and Kinston Teens Grant----- Adam Short

Adam Short, Director of Planning, Inspections, and Code Enforcement announced that the Planning Department in partnership with Kinston Teens has been the recipient of a grant through the American Flood Coalition. The program is going to help us do a design, very much

grass roots-based stakeholder and input for Emma Webb Park. There is a stream that flows through Emma Webb and how that affects the neighboring community. We partnered with Parks and Rec. as well. To add to that, going beyond the Flood Coalition’s grant portion, on the last call we had they said around \$30,000 for their portion for the plan. We also committing to chipping in as well so can do a more comprehensive design to the park itself and the amenities that will be included in that. We are really rolling all that into one process. Happy to partner with Kinston Teens and you will hear a lot more in the coming months on the stakeholder meetings, input, surveys, that kind of stuff on what that entails. Mayor Hardy noted the outstanding job from that partnership.

CITY ATTORNEY’S REPORT

There was no City Attorney’s Report.

MAYOR AND COUNCILMEMBER REPORTS

Councilmember Hardy took a minute to thank the staff and wanted to let them know that the work they do is often overlooked. A lot of people don’t understand how you support us, make the Council look good and stand out in this community. He wanted them to know that he really appreciated them, and he has learned so much in this first year. He also shared with the Chief that he will miss him very much. He thanked Mike also for making this happen tonight.

Councilmember Swinson shared that he was contacted by Mr. Edwin Jones. They are honoring his brother, Mr. Nat Jones that was a for player with James Brown band. And they will do a historic marker for Mr. Nat Jones and it will be publicized here. They also did a proclamation, which was passed to the Clerk and hopefully, at the next meeting we will have a date for the marker and the proclamation for the dedication to Nat Jones.

Councilmember Suggs said she wanted to say a special thank you to everyone, every department head, each and every member of the City. She recently lost her mother about two and one-half weeks ago. She shared that everybody has reached out to her and she is just grateful for all the love and support for the family. It was unexpected, but nevertheless, she really felt supported by the City and the City staff. And Parks and Rec. Just everybody that played a hand in all that she had to carry out that week. She is eternally grateful. Another quick announcement is that Kinston Teens is hosting an event on Saturday, in sponsorship about NC Block about growing up in Kinston for young people ages 18-26. This is short notice, but they are traveling throughout the state and they are doing interview with people and they are going to have it at the hub. So, that’s a great outdoor space. He will put something out on social media tomorrow. Anyone ages 18-26 that may be interested in sharing some knowledge of how it was growing up in Kinston. Look for them on social media tomorrow.

Councilmember Aiken asked the Mayor to expound on why we are meeting today and why we will be back on zoom for the next meeting.

Mayor Hardy stated one reason was the quasi-judicial process required us to meet in person. Mr. Cauley noted that it was due process requirement of the Conditional Use Permit hearings require in-person participation. We saw at the last meeting that there was going to be opposition, and the best way to handle that was in person. That’s why we got together ahead of the schedule that was anticipated. Everybody on the Council has been vaccinated. Mayor Pro Tem Solomon asked were we looking to come back face to face in May. Mayor Hardy stated in May and there would be something done to the Chambers. At the recommendation of the Council, we will look to come back in May with precautions. Mr. Sears stated that any of the upgrades we make we can work around the Council meetings. The next meeting will be zoom. Mayor Hardy thanked all the staff for a flawless vaccination site. There were 310 people vaccinated on the day.

Councilmember shared that there was a fatality today and encouraged everyone to be more careful. Mayor Hardy shared that there would be some work done for awareness to get people to slow down.

Councilmember Swinson made the motion, seconded by Councilmember Suggs and upon a unanimous vote [5-0], to enter closed session pursuant to NC General Statutes 143-318.11 (a) (3) Attorney-Client Privilege was approved.

CLOSED SESSION

Pursuant to NC General Statutes 143-318.11 (a) (3)-Attorney/Client Privilege closed session was entered at 9:30 pm.

Councilmember Aiken made the motion, seconded by Mayor Pro Tem Solomon and upon a vote [5-0], to return to open session at 9:58 pm was approved.

ADJOURNMENT

Mayor Pro Tem Solomon made the motion, seconded by Councilmember Suggs and upon a vote [5-0], the Kinston City Council Meeting was adjourned at 9:59 pm.

Respectfully submitted,

Debra Thompson, City Clerk