



CITY OF LUMBERTON

CITY COUNCIL

MINUTES • JUNE 12, 2017

Regular Meeting

Council Chambers

6:00 PM

500 N Cedar St, Third Floor, Lumberton, NC 28358

I. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Bruce W. Davis	Mayor	Present	
Leroy Rising	Precinct 1	Present	
John Robinson	Mayor Pro Tem	Present	
Burnis Wilkins	Precinct 3	Present	
Karen Higley	Precinct 4	Present	
John Cantey Jr.	Precinct 5	Present	
Chris Howard	Precinct 6	Present	
Leon Maynor	Precinct 7	Present	
Erich Hackney	Precinct 8	Present	
Wayne Horne	City Manager	Present	
Laney Mitchell-McIntosh	City Clerk	Present	
Holt Moore	City Attorney	Present	

2. *Police Officers Present*

3. *Invocation: City Attorney Holt Moore*

Pledge of Allegiance

II. PROCLAMATION: "2017 LADY PIRATES VARSITY SOFTBALL TEAM DAY"

A. Pride in Lumberton: Lady Pirates Varsity Softball Team

A Pride in Lumberton was presented to each member the Lady Pirates Varsity Softball team for their victory which allows them to reign as Regional Champions.

III. PUBLIC COMMENT PERIOD

Ciera Locklear, American Red Cross Administrator presented City Council with a plaque for the highest blood drive efficiency in the City for 2017. She thanked the City for partnering with Red Cross to make this happen.

Mr. Wayne Martin thanked Council for putting in place a golf cart ordinance.

IV. CONSENT AGENDA

Councilman Cantey made a motion, seconded by Councilman Hackney, that the Consent Agenda be approved as read with the exception of items 4m and 4g. It carried unanimously.

Councilman Cantey made a motion, seconded by Councilman Hackney, to amend Item m. to say from the GoFundMe Account. Councilman Hackney asked a question as to Item g. if only the requirement of a permit was added to the Golf Cart Ordinance No. 2017.06.02. City Attorney Moore stated that the requirement that a permit

must be obtained is the only change incorporated into Ordinance 2017.06.02 since the Council Policy Committee on June 7th. It carried unanimously.

a. Minutes Approval

1. City Council - Regular Meeting - May 8, 2017 6:00 PM -

RESULT:	ACCEPTED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- b. Adoption of the City of Lumberton's Downtown Master Plan - Council Policy Committee
On April 5th Jason Epley with Benchmark CMR presented a draft copy of the City's new Downtown Master Plan to the Council Policy Committee and received comments on said plan. Since that time Jason, along with Benchmark staff has made revisions and modifications to the plan to accommodate changes recommended by City Council. Mr. Epley will make a formal presentation of the final planning document at CPC, however a paper copy of the plan will be placed in your Council packets on Friday, June 2nd for your review prior to the meeting.

Staff recommends that City Council adopt the new Downtown Master Plan for the City of Lumberton.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- c. Adopt an Ordinance Directing the Building Inspector to Demolish and Remove the Unsafe Structure located at 62 Halsey Street - Council Policy Committee

The house located at 62 Halsey Street was inspected by our department and was determined to be unsafe. A notice of Condemnation and Hearing was sent. A hearing was held on March 23, 2017. An order to demolish the structure was issued. The time in which the owner had to demolish the structure has expired as of May 26, 2017.

Staff recommends that City Council adopt an Ordinance Directing the Building Inspector to demolish and remove the structure located at 62 Halsey Street.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- d. Adopt an Ordinance Directing the Building Inspector to Demolish and Remove the Unsafe Structure located at 11 Bryant Street - Council Policy Committee

The house located at 11 Bryant Street was inspected by our department and was determined to be unsafe. A notice of Condemnation and Hearing was sent. A hearing was held on March 22, 2017. An order to demolish the structure was issued. The time in which the owner had to demolish the structure has expired as of April 26, 2017.

Staff recommends that City Council adopt an Ordinance Directing the Building Inspector to demolish and remove the structure located at 11 Bryant Street.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- e. 2214 : Adopt an Ordinance Directing the Building Inspector to Demolish and Remove the Unsafe Structures located at 123,125,127,129 Lovette Road - Council Policy Committee
- The homes located at 123, 125, 127, 129 Lovette Road was inspected by our department and was determined to be unsafe. All the homes are located on the same parcel of land and are owned by the same person. A notice of Condemnation and Hearing was sent. A hearing was held on March 21, 2017 and the owner was present at the hearing. An order to demolish all the structures was issued. The time in which the owner had to demolish the structures has expired as of April 26, 2017.

Staff recommends that City Council adopt an Ordinance Directing the Building Inspector to demolish and remove the structures located at 123,125,127,129 Lovette Road.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- f. Grant approval for staff to craft a new ordinance relating to late night restaurants, to be reviewed by the Planning Board and then brought to Council. - Council Policy Committee
- In a recent discussion with staff, Council expressed its agreement that our ordinance which requires a conditional use permit for those wishing to open a restaurant which serves alcohol, should be repealed, based upon an opinion from the ABC Commission. I should point out that Council first passed an amendment in 2012 requiring conditional use permits for restaurants 'with bars and/or nightclubs.' The addition of the language concerning restaurants 'which serve alcohol' came in 2013. With Council's blessing, staff's intent would be to remove all of these amendments from the ordinance. For your convenience a copy of the full ordinance which is to be repealed (not the new ordinance discussed below) is attached.

An additional relevant point which was touched on only briefly, is the fact that we also have a conditional use requirement for establishments which would consist *only* of a bar or night club (no restaurant), and there is a list of supplemental restrictions which apply to such establishments. These restrictions are not alcohol related, other than requiring that they have

requisite state permits. We believe we are on solid ground to allow that section to remain. As a side note we have had no applications under that provision in anyone's memory. (They all seem to come in under the restaurant option).

But as discussed, the plan is to repeal the ordinances relating to *restaurants* which serve alcohol and those with bars and nightclubs, and attempt to replace those with some reasonable restrictions on restaurants operating in the late night hours. As the plan is for the repeal of those existing ordinances to take place at the June 12th meeting, Council requested that staff get the alternative ordinance underway as soon as possible. What we would envision is something along the lines of requiring a conditional use for restaurants which will be open between midnight and six AM, and having an appropriate list of supplemental restrictions for that category of restaurant. Staff requests Council's blessing to craft such an ordinance and list of supplemental restrictions to be presented to the Planning Board, and then to come to Council at its anticipated special meeting in July.

Grant approval for staff to craft a new ordinance relating to late night restaurants, to be reviewed by the Planning Board and then brought to Council.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

g. Adoption of the Golf Cart ordinance - Council Policy Committee

At your spring planning workshop, Council expressed interest in an ordinance regulating golf carts within the city. As discussed, the legislature has made it such that golf carts are not allowed on public streets unless the city involved passes an ordinance regulating them. There are vehicles which resemble golf carts that the state will register, but those essentially have equipment sufficient to be registered as cars. This ordinance would apply to basic golf carts. Attached to this agenda item is a draft ordinance which incorporates, I believe, all of the comments which were raised at the workshop. One of those was that the City did not want to have the Police Department in the business of inspecting golf carts and collecting insurance paperwork. So the inspection requirement is omitted and this ordinance just includes a requirement that persons have the insurance paperwork available on the golf cart. A couple of equipment-related items Council may want to consider is whether you want to require a rearview mirror and seatbelts; it seems that some golf carts have these and some do not.

The overall sense was that there are those who are operating golf carts on public streets already, which is a violation of state law, and others would like to have a golf cart but want to do so legally. This ordinance would take care of both of those situations. Consider the proposed golf cart ordinance, and pass if deemed acceptable.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- h. Approval to Write-off of Delinquent Receivables - Council Policy Committee
A list of delinquent accounts is attached for review and consideration for write-off. This is a standard accounting practice to write-off accounts receivable that are three years old and taxes receivable that are ten years old and continue our efforts to collect them.
Recommend that CPC approve the write-off of the attached delinquent receivables.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- i. Authorize YE Budget Amendments - Council Policy Committee
Budget amendments will be needed for the year end closing of fiscal year 2017.
Recommend that CPC authorize the City Manager and Finance Director to perform budget amendments for year end closing effective June 30, 2017.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- j. 2221 : Adoption of the Educational Policies - Council Policy Committee
Please find attached a memorandum discussing the City's Educational Assistance and Educational Adjustment programs, and proposed updates to those programs for your consideration.
Approved with the changing of may to shall receive a one-step pay increase within Sec. 16-46. Educational Adjustment.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Davis, Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney

- k. Refer the petition from Live Oak Engineering and Surveying, PLLC for property located at 2100 West 5th Street to the Planning Board for their review, and authorize the Planning Director to set the date of the public hearing - Council Policy Committee

Live Oak Engineering and Surveying, PLLC has submitted a Conditional Use Permit petition for property located at 2100 West 5th Street (parcel # 3221-01-007.01/Deed Book 1024 Page 474).

This request is to allow for vehicle equipment storage and material storage at this location.

This property is located within Area 17, as identified in our Land Use Plan.
CPC to review the request, refer the petition to Planning Board for their review, and authorize the Planning Director to set the date of the public hearing.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- l. Approve the designation of \$1,500.00 of Community Revitalization Funds for a Community Day in Precinct 2 - Council Policy Committee
Councilman Robinson requests \$1,500.00 of Community Revitalization Funds be designated for a Community Day.
Designate \$1,500.00 for a Community Day in Precinct 2.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- m. Approve the designation of \$7,000 as a Grant to the Robeson County Disaster Recovery Committee to be used to pay for Spore Testing - Council Policy Committee
Councilman Cantey is requesting a one-time \$7,000 grant to be given to the Robeson County Disaster Recovery Committee to be used for spore testing and other related expenses from the GoFundMe Account held at BB&T.
Designate \$7,000 to the Robeson County Disaster Recovery Committee from the GoFundMe account.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- n. Approve the designation of \$2600.00 to be given to Breath of Life Ministries as follows: P2 - \$500.00, P3 - \$500.00, P4 - \$500.00, P5 - \$500.00, P6 - \$500.00 and P7 - \$100.00 - Council Policy Committee
Councilman Robinson requests \$500.00 of CRF to be given to Breath of Life Ministries, Inc.

for a Back to School event...City-Wide Rejuvenation Day (The Great Awakening) on August 12th, 2017, at the Dr. Raymond B. Penning Athletic Complex.
Designate \$500.00 of CRF to be given to BOLM after July 1st.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- o. Approve the designation of \$700.00 of CRF for Project Graduation as follows: P1 - \$100.00 P2 - \$100.00 P3 - \$100.00 P4 - \$100.00 P5 - \$50.00 P6 - \$50.00 P7 - \$100.00 and \$100.00 from the Mayor's Discretionary Fund - Council Policy Committee
Councilman request \$100.00 of CRF for Project Graduation.
Designate \$700.00 to Project Graduation.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Cantey Jr., Precinct 5
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

V. PUBLIC HEARINGS

- a. Repeal of Restaurant-related Amendments to Section 35-149 of the City Code – Holt Moore, City Attorney
As has been recently discussed between staff and Council, based upon apparent conflict with the jurisdiction of the North Carolina ABC commission, it is recommended that the amendments to Section 35-149 of the City Code which are attached (first two attachments) be repealed. A proposed ordinance to that effect is attached (3rd attachment). I have confirmed that the School of Government recommends repealing an ordinance with an ordinance. The conditional use permits which were issued under these provisions would become null and void as a result of the repeal.

Pass ordinance repealing amendments to Section 35-149 of the City Code which were adopted on August 13, 2012, and April 15, 2013.

Mayor Davis opened the Public Hearing to consider repealing the amendments to City Code Section 35-149 which were approved by Council on August 13, 2012 and March 25, 2013. City Clerk Laney Mitchell-McIntosh submitted the Affidavit of Publication showing that the Notice of the Hearing was advertised in The Robesonian.

RESULT:	APPROVED [8 TO 0]
MOVER:	Erich Hackney, Precinct 8
SECONDER:	John Cantey Jr., Precinct 5
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- b. LaBreeska Renaie Lowry Conditional Use Permit petition for property located at 3555-A Roberts Avenue (parcel # 1005-01-022-03B/Deed Book 1601 Page 609). – Brandon Love, Planning Director
LaBreeska Renaie Lowry has submitted a Conditional Use Permit petition for property located at 3555-A Roberts Avenue. This request is to amend the operating hours for their restaurant, bar and grill.

On November 10, 2014, City Council granted a Conditional Use Permit with conditions that the public operating hours shall be from 10:00am to 11:00pm only, for this location.

This property is located within Area 11, as identified in our Land Use Plan.

On April 18, 2017 the Planning Board held the public meeting and unanimously recommends that City Council deny the Conditional Use Permit request.

On April 20, 2017 the Planning Department sent out letters to the adjacent property owners within 150 feet of the petitioned property, notifying them of the Conditional Use Permit request.

On April 19, 2017 a request was sent to Public Works Department to have a sign placed on the property, notifying the adjacent property owners of the Conditional Use Permit request, on or before April 28, 2017.

On April 20, 2017 a request was sent to the Robesonian to have the legal ad for this request ran on April 28, 2017 and May 5, 2017.

Recommends that City Council hold tonight's public hearing and deny the Conditional Use Permit request for the following reason(s):

- To remain consistent with the approved conditions of previously approved Conditional Use Permits, for similar uses.

This is a continued public hearing, Mayor Davis opened the Public Hearing to the issuance of a Conditional Use Permit for property located 3555-A Roberts Avenue. City Clerk Laney Mitchell-McIntosh submitted the Affidavit of Publication showing that the Notice of the Hearing was advertised in The Robesonian. The purpose of the petition is to amend the operating hour for their restaurant, bar and grill.

Attorney Ed Brooks appeared before Council on behalf of his clients and stated that enlight of the action of the items that Council just approved; Repeal of Restaurant-related Amendments to Section 35-149, this hearing is made moot. He stated that he discussed the fees with the Planning Director and he is satisfied and would like to withdraw the Conditional Use Permit Application.

Councilman Hackney stated that he would like for Attorney Brooks along with his clients to know that Council concerns are for public safety issues. He remembered him of two of the concerns that were stated by one of our citizens' in the public hearing (1) that an applicant has good intention when they start out with such an

establishment; and (2) that not any good things happen after 12 o' clock. He stated that he would encourage him to talk with his clients about nuisance abatement issues. He stated that the City does not want to cause problems and with that said Councilman Hackney made a motion, seconded by Councilman Cantey to accept the withdrawal of the CUP application and return the application fee of \$250.00. It carried unanimously.

RESULT:	APPROVED [8 TO 0]
MOVER:	Erich Hackney, Precinct 8
SECONDER:	John Cantey Jr., Precinct 5
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

c. Proposed 2017-2018 Fiscal Year Budget – Wayne Horne, City Manager

The proposed 2017-2018 Fiscal Year Budget was presented to City Council on Wednesday, May 24th, 2017 Budget Workshop.

* NCGS 159-12 requires no earlier than 10 days after the budget is presented that City Council hold a public hearing to allow for public comments on the proposed budget before it is adopted.

* The proposed budget has been placed in; the City Clerk's Office, the Robesonian County Public Library, South Lumberton Resource Center and East Lumberton Resource Center.

Notice of the public hearing was advertised in the Robesonian.

Recommend that City Council hold a public hearing and consider the adoption of the proposed FY 2017-2018 Budget Ordinance.

Mayor Davis opened the Public Hearing to consider the adoption of the FY2017/2018 Municipal Budget. City Clerk Laney Mitchell-McIntosh submitted the Affidavit of Publication showing that the Notice of the Hearing was advertised in The Robesonian.

Councilman Cantey thanked the City Manager for his work on the budget, a job well done and that his vote is not an indication that his work is not appreciated. He expressed his concerns for rate adjustments and he could not vote in favor of the rate adjustment enlight of the citizen's situations.

RESULT:	APPROVED [8 TO 0]
MOVER:	Erich Hackney, Precinct 8
SECONDER:	Chris Howard, Precinct 6
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

VI. NEW BUSINESS

a. Water Plant Generator Service Agreement – Council Policy Committee -- Rob Armstrong, Public Works Director

The Caterpillar water plant generator was damaged during the flood and was rebuilt by Gregory Poole Power Systems. In order to maintain the warranty of the generator Public Works is required to have routine service conducted by a Certified Caterpillar Service Provider. Gregory Poole Power Systems is a certified provider and has prepared the attached annual service agreement to provide the required maintenance for a fee of \$6,584.50 annually.

CPC is requesting Council's approval of the Water Plant Generator Service Agreement by Gregory Poole Power Systems for \$6,584.50 to be paid with funds transferred from the water and sewer capital reserve fund to operations code 60-00-7120-3960.

RESULT:	APPROVED [8 TO 0]
MOVER:	Leroy Rising, Precinct 1
SECONDER:	John Robinson, Mayor Pro Tem
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- b. Tanglewood Drainage Improvements Engineering Services – Council Policy Committee -- Rob Armstrong, Public Works Director
- As a result of Hurricane Mathew, the City has been awarded a \$3,000,000 Golden Leaf Grant to fund a large drainage improvement project in the Tanglewood area. Public Works requested qualification statements from engineering firms interested in provided professional design services for the project. Two firms submitted qualification statements: McAdams, Durham NC and The Wooten Company, Raleigh, NC. Public Works reviewed the statements and ranked them based on the following scoring matrix.

<u>Evaluation Criteria</u>	<u>McAdams</u>	<u>Wooten Company</u>
Technical Approach (25 points)	23	24
Personnel Experience (25 points)	24	24
Firm Experience (25 points)	24	24
<u>Familiarity with the Locality (25 points)</u>	<u>20</u>	<u>24</u>
Total	91	96

The Wooten Company scored the highest primarily due to their familiarity with the Tanglewood area and their understanding of the existing drainage patterns. CPC recommends Council award the design services for the Tanglewood Drainage Project to the Wooten Company of Raleigh.

RESULT:	APPROVED [8 TO 0]
MOVER:	John Robinson, Mayor Pro Tem
SECONDER:	Erich Hackney, Precinct 8
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

- c. Approval of Dunn Road Fire Station Renovation Bid – Council Policy Committee -- Paul Ivey, Fire Chief
- Station #3 (Dunn Road) Fire Station was damaged by flooding due to Hurricane Matthew on October 8, 2016. The fire department requested bids from vendors to renovate the fire station so that it can be utilized as it was prior to the hurricane. A pre-bid meeting was held

on May 11, 2017 at 10:00am at the Dunn Road fire station and three vendors were in attendance. The bid opening date was on May 25, 2017 at 10:00am, at which time only one vendor had submitted a bid. The bid was not opened and it was returned to the contractor. Due to lack of bids, the bid date was extended to June 5, 2017 at 10:00am in hopes of securing additional bids.

On June 5, 2017, a bid opening was held for the Dunn Road Fire Station Renovation project. Three bids were received and opened at 10:00 a.m. The bids were as follows:

Certified Construction Services	\$93,750.00
Cornerstone Construction Company	\$89,050.00
K & S Builders, Inc.	\$67,060.00

CPC recommends that City Council approve the Dunn Road Fire Station Renovation Bid award to K & S Builders, Inc. in the amount of \$67,060.00.

RESULT:	APPROVED [8 TO 0]
MOVER:	Burnis Wilkins, Precinct 3
SECONDER:	John Robinson, Mayor Pro Tem
AYES:	Rising, Robinson, Wilkins, Higley, Cantey Jr., Howard, Maynor, Hackney
ABSTAIN:	Davis

VII. ADJOURNMENT

There being no further business to come before Council the meeting was adjourned.