

207 West Second Street  
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**January 9, 2023 – 7:00 p.m.  
Regular Town Council Meeting  
Minutes**

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**COUNCIL PRESENT:**

Herbert Hales II, Mayor  
Mark Smith, Mayor Pro Tem  
Keith Davis, Council Member  
Bobby Peele, Council Member  
LaWanda Neal, Council Member

**STAFF PRESENT:**

Tony Sears, Interim Town Manager  
Tymeeka Williams, Town Clerk  
Marcus Burrell, Town Attorney Partner  
Dale Holland, Interim Planning Director

**COUNCIL ABSENT:**

Trinity Henderson, Council Member

**1. CALL TO ORDER**

- Call to Order – *Mayor Herbert Hales, II*
- Invocation – *Council Member Keith Davis*
- Pledge of Allegiance – *Mayor Herbert Hales, II*

Mayor Hales called the meeting to order at 7:00 p.m. Council Member Davis offered the Invocation and Mayor Hales led everyone in the Pledge of Allegiance.

**2. PUBLIC COMMENT**

*This portion of the meeting is an opportunity for citizens to speak on any issue concerning the Town of Kenly. Please note that each citizen is limited to a total of 3 minutes\*. Please direct all comments/concerns to the entire council rather than individual members. Further, it should be noted that the Town Council reserves the right to not act on items first presented at this meeting.*

*\*This time may be adjusted based on the number of citizens who wish to speak.*

**NO PUBLIC COMMENTS**

**3. ADJUSTMENT/ADOPTION OF THE AGENDA**

- a. Adjustments to the Agenda

**NONE**

- b. Adoption of the Agenda

**ACTION:** Motion to adopt the Agenda as Presented

Motion: Council Member Smith  
Second: Council Member Peele  
Vote: Unanimous 4-0

#### 4. CONSENT AGENDA

*(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Board may request to have an item removed from the consent agenda for further discussion.)*

- a. Draft Minutes
  - January 9, 2023 – Regular Session

**ACTION:** Adoption of Consent Agenda as Presented

Motion: Council Member Smith

Second: Council Member Peele

Vote: Unanimous 4-0

#### 5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- a. MLK Community Association will hold its 10th annual Recognition and Prayer Breakfast on January 16, 2023 at 8:30am at the Kenly American Legion Building: 404 W First Street, Kenly NC 27542. This year's theme is "The Dream, Are We There Yet". This event is FREE and open to the public.
  - Monica Davis/President & Founder

Council Member Keith Davis urged all in attendance to join the town at the Prayer Breakfast on Monday January 16<sup>th</sup>. Council member Davis will also be the MC at this event.

#### 6. PUBLIC HEARINGS

- a. Special Use Permit -416 S. Gardner Avenue – **Quasi-Judicial**  
*Presenter:* Dale Holland, Interim Planning Director  
Council entered into Public Hearing at 7:04pm

*A quasi-judicial hearing resembles a court trial where testimony is presented. Citizens may give testimony in a quasi-judicial hearing after they have taken an oath. Town Council acts like a court of law and receives only sworn testimony and other credible evidence. In addition, the Town Council must make findings of fact based upon the evidence presented. The Town Council refrains from "ex parte communication" about these cases, as the Town Council must decide based solely on the evidence presented at the hearing itself.*

Dale Holland presented Michael Paul (applicant) plans to build a Duplex on S Gardner Ave. It is a vacant land parcel that faces the rear of Dollar Tree and service stations. It is adjacent to the railroad right of way in the R6 zoning district. The front is 20 ft, side is 6ft and the rear is 20, 17- & 18-foot rear set back 44ft. Applicant fully complies with all 4 processes of the hearing.

1. That the application will not materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approved.

2. That the application meets all required specifications and conforms to the standards and practices of sound land use planning and the Town Code of Ordinances or other

applicable regulations.

3. That the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.

4. That the application will not adversely affect the adopted plans and policies of the town, or violate the character of existing standards for development of the adjacent properties.

Motion was made at 7:10pm to Close Public Hearing

**ACTION:** Public Hearing was closed at 7:10pm

Motion: Council Member Smith

Second: Council Member Peele

Vote: Unanimous 4-0

Public Hearing closed and Council entered back into Regular Session and council discussed concerns about the property for the special permit as the area is known to flood. Council member Davis suggested the existing height of the canal should be built up above the street level. Dale Holland explained to council they could approved the special permit use because applicant complied with all four regulations, and they could approve with conditions.

Attorney Burrell explained to Council members that they should approve/deny special permit based on evidence presented and what can be proven. Personal feelings or experiences have no basis concerning the special use permit.

Based on the evidence presented, all 4 findings have been met and council is able to approve with conditions. Height of street needs to be 18/20 inches above ground level after backfill (Michael Paul)

**ACTION:** Special Permit Use to Build Duplex is approved WITH Conditions: All 4 Items Approved

Motion: Council Member Smith

Second: Council Member Davis

Vote: Unanimous 4-0

**ACTION:** Lot Grade Must Be Equal to or Greater to The Grade Height of the Road

Motion: Council Member Smith

Second: Council Member Davis

Vote: Unanimous 4-0

## 7. NEW BUSINESS

### a. Planning Board Applicants & Appointments

Planning Board members were up for reappointment and needed to be set on a staggered timeline. There were eight applicants and only seven available seats. Out of the eight applicants, two were not selected for the following reasons: Josia Jackson was no longer considered in the list of applicants because she does not live in the Extra-Territorial Jurisdiction (ETJ). Tom Gregorski was also not selected because he does not live in the ETJ. The current members for the Planning Board are Chris Manning: TERM: 1 year; Jamey Wilkinson (Town of Kenly's ETJ member) TERM: 1 year; Joanne Medlin TERM: 2 Years; Mark Smith (Mayor Pro-Tem); Patricia Shaw TERM 1 year; Melody Worthington TERM: 3 years; Tom Wood TERM: 3 years.

**ACTION:** Council members appointed Planning Board Members

Motion: Council Member Davis

Second: Council Member Neal

Vote: Unanimous 4-0

## 8. OLD BUSINESS

### a. Audit Update

Audit began on Jan 6<sup>th</sup> and is in process. Slip lining project underway in Town of Kenly and will continue until completed. Awaiting grant award so the audit has to be submitted by January 31, 2023.

**ACTION:** Informational Only

## 9. TOWN MANAGER / STAFF REPORTS

### 1. Town Manager

#### ➤ *Utility Bill Adjustment Document*

Mr. Sears reported on one sewer utility adjustments as follows:

#### ➤ 502 E Second Street-Recommended Adjustment of \$172.39

**ACTION:** Approval of Adjustment(s) as Requested

Motion: Council Member Davis

Second: Council Member Peele

Vote: Unanimous 4-0

- a. During Christmas holiday, there was a storm that caused electrical issues throughout the Town of Kenly. Duke Energy came in as the storm knocked out street lights and caused the Town Hall Server to overheat. Server was down for

a few days and that caused the Online Bill Pay System to be inoperable. Citizens had to remit their bills in other ways because of this problem. Food Lion also experienced a problem during the storm that cause their HVAC system to go down.

- b. Chief of Police started on January 3, 2023; certifications in progress. Will be sworn in at February Town Council meeting.
  - c. Tony Sears & Dale Holland presented the Code enforcement issues with a business owner on NC Hwy 301/222; business owner has regressed since presented with property clean up presented. Property owners have been given ample opportunities to comply with codes/ordinances. Board in support of Code Enforcement department taking action. Their first notice of violation was November 19, 2021.
- 2. Town Clerk- **NONE**
  - 3. Town Attorney- **NONE**

## **10. OTHER BUSINESS**

- 1. Informal Discussion
- 2. Council Member Comments
  - a. Council Member Davis requested that all events and activities that can be posted, to be posted on the Town of Kenly's Electronic Information Board in a timely manner.
  - b. Council members and staff had a great time at the Christmas Party and were very pleased with the planning and coordination. Looking forward to next year already.

## **11. CLOSED SESSION**

- a. **NONE**

## **12. ADJOURNMENT**

- a. Adjourn the Meeting

With there being nothing further, the meeting was adjourned at 7:51 pm

**ACTION:** Motion to Adjourn

Motion: Council Member Neal

Second: Council Member Davis

Vote: Unanimous 4-0

Duly adopted this the 13<sup>th</sup> day of February, 2023 while in regular session.

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Herbert L. Hales II  
Mayor: Town of Kenly