

**City of New Bern
Board of Aldermen Meeting
March 12, 2019 – 6:00 P.M.
City Hall Courtroom
300 Pollock Street**

- 1. Meeting opened by Mayor Dana E. Outlaw. Prayer by Alderman Bengel. Pledge of Allegiance.**
- 2. Roll Call.**

Present: Mayor Dana Outlaw, Alderman Sabrina Bengel, Alderwoman Jameesha Harris (participated by phone beginning at 6:18 p.m.), Alderman Robert Aster, Alderman Barbara Best, Alderman Johnny Ray Kinsey and Alderman Jeffrey Odham. Absent: None. A quorum was present.

Also Present: Mark Stephens, City Manager; Michael Scott Davis, City Attorney; and Brenda Blanco, City Clerk.

- 3. Request and Petition of Citizens**

John Watson of 217 Middle Street expressed concern about the noise ordinance adopted on May 22, 2018. He stated citizens in the C1 and C2 districts, the bed and breakfast establishments, and those within 100 feet of those districts are unable to lodge enforceable noise complaints because of the ordinance language. He noted a resident's decibel reader on their smart phone app had registered 110 DB at a distance of 100 yards from one the restaurant bars. Mr. Watson presented a petition signed by those desiring a change in the ordinance. The petition also included suggestions for language and sound emission standards.

Victor Taylor of 2817 Walter Drive was joined by Ethel Belle Sampson, a resident of 1036 Sampson Street. They announced a town hall meeting would be held on March 22, 2019 at 6:00 p.m. at Ebenezer Presbyterian Church on Bern Street to discuss the disposition of the Stanley White Recreation Center. Three of the Board members have indicated they would attend, and Mr. Taylor invited the entire Board to attend. Mayor Outlaw asked the City Attorney about the full Board attending, and Mr. Davis said all of the Board could attend, but it could not deliberate or discuss City business amongst itself. Board members, however, could make comments during the citizens' meeting.

Brooke Guthrie of 5106 Springwood Drive, Trent Woods, spoke about the downtown noise ordinance, stating it was important to allow events and live music to continue after 11 p.m. She felt live music was an attraction for young professionals, and expressed concern that events would be moved from the downtown area if they were not able to last longer.

Kimberly Lassiter of 106 Stadium Drive stated the downtown scene with live music was a gathering place for young professionals. She also stated she understood residents' concerns, as the music could get loud. However, she felt the entertainment fostered a desirable atmosphere for young professionals.

Camille Klotz of 218 Pollock Street expressed concern about the current noise ordinance, noting her whole house shakes from the music at a downtown venue. She operates a bed and breakfast, and even her guests have complained.

(Alderwoman Harris joined the meeting by phone at 6:18 p.m.)

Ms. Klotz did not suggest the noise end by a particular time, but that it be toned down.

Alderman Bengel thanked everyone for their opinions on the noise ordinance. She announced the City Attorney had been asked to draft a new noise ordinance that would be inclusive of all of New Bern, not just downtown. The downtown noise probably needs to be relegated to a decibel level. An ordinance that utilizes a decibel level should be less arbitrary and easier for police to enforce. She also noted that proposed ordinances are listed on the Board's agenda, thus providing notice to the public; ordinances are not approved behind closed doors.

Consent Agenda

4. Consider Adopting a Resolution Calling for a Public Hearing to Amend the Fiscal Year 2018 CDBG Allocation of Funds.

Staff proposed amending the FY2018 CDBG fund allocations. The amendment would authorize reallocation of funds for the construction of up to four affordable, rental housing units. A public hearing was requested for March 26, 2019 to receive input on the proposed amendment.

5. Consider Adopting a Resolution to Close Streets for United Worship Center's Annual Community Day and Church Grand Opening.

Walter Linsey with United Worship Center requested the 800 block of West Street and 900 block of Main Street be closed from 10 a.m. to 5 p.m. on April 6, 2019 for the church's annual community day and grand opening.

6. Consider Adopting a Resolution to Close Streets for A Memorial Day Parade.

On behalf of Vision Forward, Victor Taylor requested specific streets be closed to vehicular traffic on May 25, 2019 from 10 a.m. to 2 p.m. for a Memorial Day Parade. Those streets are the 400-600 blocks of Fort Totten Drive, 1300-1600 blocks of Trent Boulevard, 400 block of First Street, 700-1300 blocks of Broad Street, 400-800 blocks of George Street, and the 700 block of Cedar Street. A rain date of June 1, 2019 was also requested.

7. Consider Approving a Proclamation for Folds of Honors 10th Anniversary.

Folds of Honor, a charity organization that honors military sacrifices by awarding educational scholarships to spouses and dependents, requested a proclamation observing its 10th anniversary. The organization's annual golf tournament is scheduled for June 1, 2019 at the Emerald Golf Club.

8. Consider Approving a Proclamation for Arbor Day.

Parks and Recreation requested a proclamation for Arbor Day, which is observed on March 22, 2019.

9. Approve Minutes.

Minutes from the February 26, 2019 regular meeting were provided for review and approval.

Alderman Odham made a motion to adopt Items 4-9 of the Consent Agenda, seconded by Alderman Aster. The motion carried unanimously 7-0.

10. Presentation by Craven County Schools on Education Vision.

Dr. Meghan Doyle, Superintendent of Craven County Schools, presented the vision for Craven County Schools and a brief overview of the 2018-2023 Strategic Plan. Dr. Doyle described the process by which the Craven County Board of Education convened a 62-member community stakeholder committee of Craven County citizens to create a vision for public education. This vision was the foundation for the writing of their new strategic plan. Five goals were adopted, all of which were briefly reviewed by Dr. Doyle.

Dr. Doyle thanked Mayor Outlaw and Mr. Stephens for participating on the committee. She also thanked Alderwoman Harris for her participation in the schools' observance of Black History Month.

At the request of Mayor Outlaw, Mr. Stephens shared information about the alliance being formed by Pender County with respect to meeting the needs of the school systems during times of disaster. Mr. Stephens commented on some of the challenges faced by schools during the recent hurricane.

**11. Conduct a Public Hearing on the Rezoning of 4526 US Highway 17 South; and
a) Consider Adopting a Statement of Zoning Consistency; and
b) Consider Adopting an Ordinance Rezoning 4526 US Highway 17 South.**

John Thomas of Thomas Engineering requested 2.40+/- acres located at 4526 US Highway 17 South be rezoned from R-20 Residential District to C-3 Commercial District. The property is further identified as Tax Parcel 8-206-079, which is located

in the City's extraterritorial jurisdiction. A public hearing was noticed and advertised as required.

Morgan Potts, City Planner, shared a brief PowerPoint presentation detailing the request and depicting the parcel of land. She stated the proposed use was compatible with the area, and that the Planning and Zoning Board voted unanimously to approve the request at its February 5, 2019 meeting.

Mayor Outlaw opened the public hearing. John Thomas of Thomas Engineering came forward and described the area and surrounding uses. He noted Ms. Moffett of Moffett Enterprises, LLC intends to locate her staff to the site. Alderman Bengel made a motion to close the public hearing, seconded by Alderman Aster. The motion carried unanimously 7-0.

Alderman Bengel made a motion to adopt a statement of zoning consistency, seconded by Alderman Kinsey. The motion carried unanimously 7-0.

Alderman Odham made a motion to adopt an ordinance rezoning 4526 US Highway 17 South, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

12. Consider Accepting a Petition to Annex Property at 4250 US Highway 70 East and Adopt a Resolution to Call for a Public Hearing on the Annexation.

Brice's Creek Bible Church, Inc. is the owner of property located at 4250 US Highway 70 East (Tax Parcel 7-037-019) consisting of approximately 32.17 acres. In October 2018, the church submitted a request to be annexed by the City. If the Board accepts the petition, it is asked to call for a public hearing on March 26, 2019 to receive comments on the annexation. Mr. Stephens explained if the church planned to develop property located within the City's sewer service area, then it must ask to be annexed in order to receive sewer service. Alderman Aster asked if the church could still receive City utilities if it were not annexed, and Attorney Davis confirmed it could. Alderman Aster said it was his understanding that the Church really did not want to be annexed, but was making the request just to satisfy procedural steps.

Alderman Aster made a motion to deny the petition to annex 4250 US Highway 70 East, seconded by Alderman Bengel. The motion carried unanimously 7-0.

13. Consider Adopting a Resolution Approving a General Warranty Deed from Habitat for Humanity of Craven County NC and the City of New Bern for 813 West Street.

At its March 8, 2016 meeting, the Board of Aldermen approved a Deed and a Transfer and Reversion Agreement with Habitat for Humanity for the property located at 813 West Street. A home has since been constructed on the property, and Habitat is now ready to convey the property to Daae Khetphilbum and wife, Chen Paw. To facilitate this conveyance, the City's signature is needed on a general warranty deed to evidence that Habitat has complied with the terms and

conditions of the Transfer and Reversion Agreement and that the reversion provisions of the Agreement are no longer applicable.

(Alderman Kinsey momentarily stepped out of the room at 6:52 p.m.)

Alderman Bengel made a motion to adopt a resolution approving a general warranty deed from Habitat for Humanity of Craven County NC and the City of New Bern for 813 West Street, seconded by Alderman Odham. Upon a roll-call vote, the motion carried unanimously 7-0. Of note, Alderman Kinsey had briefly stepped out of the room, thus technically yielding an affirmative vote.

14. Consider Adopting a Resolution Approving the 2019 Local Government Agencies General Records Retention and Disposition Schedule.

In accordance with Chapters 121 and 132 of the NC General Statutes, the NC Department of Cultural Resources issues schedules establishing the minimum amount of time records must be retained by local governments. Once issued, the City approves and adopts the schedules, thus agreeing to comply with the retention periods established. The latest schedule was issued on March 1, 2019, and requires the City's adoption. At Alderman Bengel's request, Mr. Stephens confirmed that this was not an internal policy, but action to comply with a schedule issued by the State.

Alderman Bengel made a motion to adopt a resolution approving the 2019 Local Government Agencies General Records Retention and Disposition Schedule, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously 7-0. Of note, Alderman Kinsey had briefly stepped out of the room, thus technically yielding an affirmative vote.

15. Consider Adopting a Resolution Declaring a 2008 Sewer Cleaner Truck as Surplus Property and Authorizing Sale by Electronic Auction.

In 2008, the City purchased a new sewer jet-vac truck. After almost 11 years of use, the vehicle was pulled from service in 2018 and replaced with a new unit. Staff requested the old truck be declared as surplus property and sold through an electronic auction.

(Alderman Kinsey returned to the room at 6:55 p.m.)

Alderman Aster made a motion to adopt a resolution declaring a 2008 sewer cleaner truck as surplus property and authorizing the sale of the truck by electronic auction, seconded by Alderman Best. Upon a roll-call vote, the motion carried unanimously 7-0.

16. Consider Adopting a Resolution to Authorize the Submission of a Rural Housing Recovery Infrastructure Grant Application.

The NC Department of Commerce Division of Rural and Economic Development offers a Rural Housing Recovery Infrastructure Grant to help address critical

housing shortages by supporting developments impacted by recent hurricanes. The grant is for \$350,000 and requires no matching funds. Staff desires to apply for the grant to offset costs associated with the Tate Commons tax-credit project located at 1025 Karen Drive.

Alderman Bengel questioned if the grant funds would be used to cover the City's costs or private developer's costs. Mr. Denis Blackburne of Woda Cooper Companies explained the grant would cover infrastructure costs such as sewer and sidewalks, and he confirmed the City was the applicant. Mr. Blackburne explained the cost of the infrastructure would be half the City's and half the developer's. Mr. Stephens explained while the City submits the application, the actual write-up and application was drafted by the developer's engineer. He also explained the grant was available through the NC Department of Commerce in partnership with the NC Housing Finance Agency for tax-credit projects located within municipalities in need of public infrastructure improvements to make those projects happen in 2016, 2017 or 2018. The grant was tied to communities impacted by hurricanes.

Alderman Odham made a motion to adopt a resolution to authorize the submission of a rural housing recovery infrastructure grant application, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

At the Mayor's request, Mr. Blackburne explained the NC Housing Finance Agency's protocol for scoring projects and described the limited number of projects approved annually.

17. Consider Adopting a Resolution to Authorize the Submission of a Highway Safety Grant Application.

The Police Department is seeking approval to apply for a grant through the 2018 Governor's Highway Safety Program. If awarded, the funding of \$17,500 would be utilized to procure a motorcycle to replace the department's existing 2013 Harley Davidson motorcycle. The grant requires a 30% match and a trade-in value of \$9,500 for the existing motorcycle. The matching funds of \$7,500 are earmarked in the department's current-year budget.

Alderman Kinsey made a motion to adopt a resolution to authorize the submission of a highway safety grant application, seconded by Alderman Best. Upon a roll-call vote, the motion carried unanimously 7-0.

18. Consider Adopting a Resolution Authorizing the City Manager to Sign a Landowner Consent Form for the Installation of Natural Gas Lines at 203 First Street.

Natural gas service is desired at the Workforce Development / VOLT Center. To have this service installed, it is requested the Board authorize the City Manager to execute a Land Owner Consent Agreement with Piedmont Natural Gas, allowing them to install gas lines and meters on the property. Mr. Stephens pointed out there would be some minor changes to the consent. However, in the essence of time, Board approval was being sought now. Before the form is signed by Mr. Stephens,

the City Attorney suggested the language in the agreement be cleared up with respect to running lines across the City's property to service other properties. Mr. Davis suggested a motion be made to approve the recommended easement subject to the City Manager and City Attorney's approval. He explained the need to know the corridor in which the line would be located, and the reasoning for not allowing Piedmont to run lines all over the property without the City's consent and knowledge as to where the lines would be placed.

Alderman Bengel made a motion to adopt a resolution authorizing the City Manager to sign a landowner consent form for the installation of natural gas lines at 203 First Street with the review of the City Manager and City Attorney, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously.

19. Discuss Accepting Bid on Tax Parcel ID 8-013-020 Located in the Redevelopment Commission's Boundary.

At the January 9, 2018 Board meeting, a desire was voiced to hold off on the sale of any city-owned property until a Redevelopment Commission could be entertained. On July 10, 2018, the Board confirmed its desire to leave frozen all city-owned properties that fell within the Redevelopment Commission's boundary. The Board voted unanimously to accept bids only on properties outside of the Commission's boundary and to establish a minimum bid policy.

Alderman Best has since been contacted by a constituent who has indicated a desire to bid on property located at 1507-1509 Washington Street (Tax Parcel 8-013-020). According to Jeff Ruggieri, Director of Development Services, this property falls within the boundary of the Redevelopment Commission. The constituent, who lived in the North Hills Drive area and sustained flooding during the hurricane, desires to locate a home on the Washington Street property, which is adjacent to her mother's property.

Alderman Bengel asked if the constituent would be moving her house to the property or building on it. Alderman Best responded Judith Nelson wanted to move her home from the North Hills area to the desired parcel. Alderman Aster asked if it would be easier for the citizen to purchase from the Redevelopment Commission ("Commission") instead of the City, in order to avoid the bid process. Mr. Davis said it would be more efficient to purchase from the Commission, but the question is when would the Commission be ready to work on these type of transactions. If this were an urgent need, he would suggest someone speak with the Commission to make sure the proposed use of the property is consistent with the Commission's plan, which they are working on now. Alderman Bengel noted the Commission might be willing to sell the property at a reduced price or transfer it at no cost if the intended use met the Commission's plan. Mr. Davis suggested it would be ideal to have reassurance that the property is suitable for the desired use. The Redevelopment Commission's draft plan should come out in June. Mr. Davis pointed out that if Ms. Nelson were not ready to move now, the process with the Commission would be easier. He suggested Alderman Best inquire about Ms. Nelson's timeline. Alderman Bengel said she would commit her vote that the City would not sell the property to anyone else within that process, within the City's legal

rights. Alderman Best noted the City has owned the parcel since 2006, has been maintaining it since that time, and has not collected taxes on it.

Theresa Lee, Chairman of the Redevelopment Commission, announced the Commission has a comment period at their meetings and anyone could approach them. The Commission just worked through minimum housing, and the next thing to be discussed is vacant land. The Commission hoped to bring a draft plan to the Board soon. Mayor Outlaw noted any potential property buyers that go through the Commission would have the same burden of due diligent to investigate setback requirements, etc. as they would under the City's bid process. Mr. Davis suggested Ms. Nelson meet with Jeff Ruggieri, Director of Development Services, and a building inspector about requirements and then report back on the findings. The Board could then consider action once it received the report.

If the Redevelopment Commission approves a plan in June, the Commission would then present it to the Board for approval. The City could then convey property to the Redevelopment Commission, which could be done simultaneously. Mr. Davis stated he could research whether the City could convey property sooner, if it desired to do so. Alderman Bengel expressed concern that the City could not place a condition on the property to ensure that Ms. Nelson would put a home on the land. Alderman Aster questioned whether Ms. Nelson was ready to move her house, if it would fit on the desired parcel, whether a contractor had inspected the home to see if it could be moved, if it would be too costly to move the home, etc. He felt these and other variables needed to be answered before considering the request.

Upon Alderman Best's inquiry, Mr. Davis said the Board could change its policy about entertaining bids on parcels within the Redevelopment Commission's boundary. Mayor Outlaw noted one of the reasons the Board desired to transfer property to the Commission was because the Commission could place restrictions on the property to ensure that homes are constructed. The Mayor then asked Mr. Davis if the City could convey the subject parcel to the Commission prior to the plan approval so the Commission could put restrictions on the property. Mr. Davis said a reversion agreement would be put in place to provide that any properties that do not have a home constructed within an allotted time would revert to the Commission. Mr. Davis pointed out if Ms. Nelson was not ready to move her home or build right away, then there was no harm in waiting to transfer the property through the Commission. A benefit of acquiring the property through the Commission is it may be able to offer the property for free, at half the tax value, etc. Alderman Best agreed with allowing Mr. Davis two weeks to investigate the possibility of transferring the property to the Commission prior to adopting the Commission's plan. During that two-week period, Alderman Best would talk with Ms. Nelson about her timeline and plans. Alderman Aster said if Ms. Nelson were ready to move her house, he would second a motion by Alderman Best to sell the parcel to Ms. Nelson or accept her bid.

20. Appointment(s).

Alderman Bengel made a motion to appoint Crystal Temple Erlitz to the Craven 100 Alliance Board of Directors, seconded by Alderman Aster. The motion carried

unanimously. Ms. Erlitz will fill the seat recently vacated by Jeff Ruggieri's resignation.

Alderman Kinsey made a motion to appoint Anne Schout to the Planning and Zoning Board, seconded by Alderman Odham. The motion carried unanimously. Mrs. Schout will serve a three-year term and fill the seat previously held by Raymond Layton. Of note, Mrs. Schout recently resigned from her seat as an alternate on the Board of Adjustment.

(Alderman Kinsey momentarily stepped out at 7:46 p.m.)

21. Attorney's Report.

Mr. Davis reported on the lawsuit against the Howling Dog Saloon. He noted the tenant had closed the bar, and the property owner had agreed to sign a Consent Judgment precluding the use of that property as any kind of restaurant, bar, or anything that might create a public nuisance on the property for the next decade. A draft Consent Judgment and Final Order of Abatement was placed at each Board member's seat. Mr. Davis asked for direction to move forward.

Alderman Odham made a motion to authorize the City Attorney to move forward with the Consent Judgment and Final Order of Abatement, seconded by Alderman Bengel. The motion carried unanimously.

22. City Manager's Report.

The City Manager had nothing to report.

23. New Business.

Alderman Bengel

The Elks Lodge located at Main and Murray Streets is in need of additional lighting. Charlie Bauschard, Director of Public Utilities, was asked to evaluate the area for additional lighting.

The City Manager and Police Chief were asked to address the backed-up traffic that occurred yesterday. Mr. Stephens explained the issue stemmed from the NC Department of Transportation's ("NCDOT") resurfacing of Highway 70, which included the closure of one of the off ramps. NCDOT did not notify the City of the planned work or ramp closure.

(Alderman Kinsey returned to the room at 7:49 p.m.)

Alderman Aster questioned why the Police Department did not work to help alleviate the congestion and move the traffic through the City. He suggested the Police Department have a written policy and standard operating procedure on how to handle these situations in the future. He expressed concern about this happening again when highway construction begins in James City. Alderman Aster also questioned why the Police Department could not change the traffic control signals on Broad and East Front Street to flashing lights to allow traffic to flow.

The DoubleTree Hotel is currently closed indefinitely, as it is in litigation with insurance as a result damages sustained in the hurricane. The property is privately owned, and the City cannot do anything about its status. From a tourism aspect, this is very concerning. Citizens were encouraged to write the owners, RPG Incorporated, to express their concerns.

A shout-out was given to the Public Works Department for the Main Street Champion Award, which it will receive on Thursday morning from the NC Main Street Association. Thanks was also expressed to David Tennant, Water Resources Project Manager, and David Cox, Solid Waste Superintendent, for their assistance in the absence of Matt Montanye, Director of Public Works.

Alderman Bengel expressed her unhappiness with a grant application submitted by the City without her knowledge. The grant impacts the Farmer's Market, which was not included in the discussion. While she was not ready to discuss the issue in detail, Alderman Bengel stated she would be asking the Board to withdraw the grant application. The Farmer's Market has indicated it may be writing a letter to the grantor advising that it was not asked for input on the City's grant application to put the farmer's market at the City Market site. Alderman Odham clarified the grant is not to put *the* farmer's market at the City Market, but is to create a new farmer's market at a different location, which will not have any impact on the lease held by the current Farmer's Market.

Alderman Aster

Fire Chief Adam Snyder from Atlantic Beach Fire Department passed away yesterday following injuries sustained from a snow-skiing accident when he was on vacation with family in Virginia. Everyone was asked to keep that family and department in their prayers. New Bern Fire and Police Departments participated in escorting Chief Snyder home.

Congratulations was expressed to the City of New Bern Fire and Rescue for its rating being lowered to a Class 2. Alderman Aster asked that Chief Boyd provide a presentation on the process at an upcoming Board meeting.

Several drainage complaints have been expressed by residents of Hardee Farms and Brices Crossing. Alderman Aster requested Mr. Montanye look at the drainage pipes as quickly as possible.

Plans are ready for Old Airport Road, and meetings with area residents will soon be scheduled.

Alderman Kinsey

Thanks was expressed to Mr. Montanye for working on ditches and rights-of-way. At his request, Mr. Montanye provided an update on ditch maintenance work and the need to bid out work properly.

Alderman Odham

Meloni Wray, Director of Craven County Elections, recently made a presentation before the Board that reviewed options to increase voter turnout and lower the cost of the City's elections. Alderman Odham suggested elections be held on even years and that the next election be moved to 2020, which is a primary year. This will yield a cost of less than \$5,000. He explained the benefits of moving the election to 2020. Alderman Bengel asked about addressing the length of terms, since they would be cut short. Mr. Davis said it would be whatever the legislature

agreed to as proposed in the charter amendment. Alderman Bengel stated there is a bill in the house now to change elections to even years. Alderman Odham stated historically there has been such a bill in almost every long session, but it never has gotten far in the process. Alderman Odham noted legislation is open to hearing a charter change, but the City would need to work expeditiously since the filing period would be later this year.

24. Closed Session.

Alderman Odham made a motion to go into closed session pursuant to NCGS §143-318.11(a)(3) to maintain attorney-client privilege to discuss Allen vs. City of New Bern, seconded by Alderman Kinsey. The motion carried unanimously, time being 8:10 p.m.


25. Adjourn.

Alderman Bengel made a motion to adjourn, seconded by Alderman Odham. The motion carried unanimously 7-0, time being 8:48 p.m.

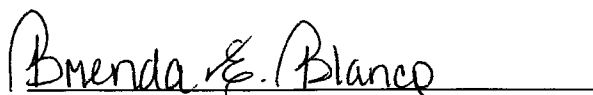
The attached documents are incorporated herewith and are hereby made a part of these minutes.

NOTE: For additional details and information on the Board of Aldermen meetings, please visit the City of New Bern's website at www.newbernnc.gov. Video and audio recordings of the meeting have been archived.

Minutes approved: March 26, 2019



Dana E. Outlaw, Mayor



Brenda E. Blanco, City Clerk