

**City of New Bern
Board of Aldermen Meeting
January 26, 2021 – 6:00 P.M.
City Hall Courtroom
300 Pollock Street**

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

Present: Mayor Dana Outlaw, Aldermen Sabrina Bengel, Jameesha Harris (by telephone), Robert Aster, Barbara Best, Johnnie Ray Kinsey, and Jeffrey Odham.
Absent: None. A quorum was present.

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

Consent Agenda

- 3. Consider Adopting a Resolution to Call for a Public Hearing to Amend Sections 15-472, 15-474 and 15-486 of the City of New Bern Land Use Ordinance.**

At its October 13, 2020 meeting, the Board of Aldermen asked that the Planning and Zoning (“P&Z”) Board review the Land Use Ordinance with respect to height limitations in the residential and commercial waterfront overlay districts and the Riverstation mixed-use overlay district. P&Z discussed these changes at their meetings in November, December and January and voted unanimously to amend the following sections of the Land Use Ordinance: 15-472 “Residential waterfront overlay district established”, 15-474 “Required conformity to dimensional regulations”, and 15-486 “Establishment of Riverstation mixed-use overlay district; promulgation of use and design standards”. It was requested the Governing Board call for a public hearing to be held on February 9, 2021.

- 4. Consider Adopting a Resolution to Call for a Public Hearing Amending the 2020 Annual Action Plan for the Community Development Block Grant Program.**

The US Department of Housing and Urban Development (“HUD”) requires Community Development Block Grant (“CDBG”) Entitlement Cities submit an Annual Action Plan summarizing the actions, activities and resources that will be used to address needs and goals identified in the Strategic Plan section of the 2020 Consolidated Plan. The Board approved the Annual Action Plan on September 22, 2020, and staff seeks to amend that plan to include HUD’s third round of CDBG

coronavirus (“CDBG-CV”) funds. The latest funds amount to \$194,483, bringing New Bern’s total amount of CDBG-CV funds to \$346,735. A public hearing is required to amend the plan, and it was requested that hearing be held on February 9, 2021.

5. Consider Adopting a Resolution to Call for a Public Hearing to Rezone 3205, 3207, and 3209 Country Club Road from R-15 Residential District to R-10 Residential District.

Samantha and Wendell Wright and Brian McCracken, the owners of 3205, 3207 and 3209 Country Club Road, sought to rezone the properties from R-15 Residential District to R-10 Residential District. The parcels consist of roughly 1.38 acres and are identified as Tax Parcel IDs 8-056-001, 8-046-035, and 8-046-036. A public hearing was requested for February 9, 2021.

6. Consider Adopting a Resolution to Call for a Public Hearing to Rezone Tax Parcel ID #8-211-005 from R-10 Residential District to R-6 Residential District.

Michael Raines, owner of a large parcel near Arcadia Village and Academy Green subdivisions, sought to rezone a 42-acre portion of the land from R-10 Residential District to R-6 Residential District. A public hearing was requested for February 9, 2021.

7. Consider Adopting a Resolution to Call for a Public Hearing for the Creation of a Residential Property Periodic Inspection Program per Section 2.1.2 of the Redevelopment Plan.

One of the requirements established in the Redevelopment Plan is the creation of a Residential Property Periodic Inspection Program (“RIPE”). Lengthy discussions by the Redevelopment Commission yielded a unanimous decision to create a RIPE. The program is designed to proactively identify and remediate housing that does not meet the City’s minimum housing code or related ordinances. Enforcement will be conducted by the City’s Minimum Housing Officer. If a property fails an inspection, the officer will meet with the property owner to discuss the deficiencies and establish a reasonable timeframe in which to bring the property up to minimum standards. A public hearing was requested for February 9, 2021.

8. Consider Accepting a Petition to Annex Property at 431 Riverside Drive and Adopting a Resolution to Call for a Public Hearing on the Annexation.

Mark and Susan Passaro, owners of 431 Riverside Drive, submitted a petition requesting that the 0.575-acre parcel be annexed into the City of New Bern. It was requested a public hearing be set for February 9, 2021 to receive comments on the request.

9. Approve Minutes.

Draft minutes from the January 5, 2021 work session and January 12, 2021 regular meeting were provided for review and approval.

Alderman Odham made a motion to approve Items 3-9 of the Consent Agenda, seconded by Alderman Kinsey. The motion carried unanimously 7-0.

10. Introduction of Assistant Attorney Working with the City Attorney.

Scott Davis, the City Attorney, introduced Jaimee Bullock Mosley, an attorney who will be working with Mr. Davis to serve his local government clients. She will be assisting the City's Planning and Zoning Board, Redevelopment Commission, Board of Adjustment, and Historic Preservation Commission. Mrs. Mosley, a native of New Bern, graduated from New Bern High School in 2008. She attended the University of North Carolina at Chapel Hill where she earned a B.A. in history in 2012. She received her J.D. from North Carolina Central University School of Law in 2015, and shortly thereafter was admitted to the North Carolina Bar. Mrs. Mosley previously focused on criminal matters, but is eager to be involved in local government law.

Mrs. Mosley thanked the Board for an opportunity to serve the community. She also thanked Mr. Davis for both his confidence in her and for extending the opportunity for her to serve in the capacity as Assistant City Attorney. Members of the Board welcomed Mrs. Mosley.

11. Consider Adopting:

- a) a Statement of Zoning Consistency or Inconsistency for 3498 Martin Drive; and**
- b) an Ordinance to Rezone 3498 Martin Drive**

A public hearing was conducted on this rezoning request at the Board's January 12, 2021 meeting. Since the hearing was statutorily considered a remote meeting, the Board was required to provide a 24-hour period for submission of comments and was also required to delay consideration of the matter until its next meeting. During that 24-hour period, one letter of comment was received from an adjacent property owner, a copy of which was provided to the Board.

As a matter of history, the property owner, MMJH, LLC, requested to rezone the 2.36-acre parcel located at 3498 Martin Drive from I-2 Industrial District to I-1 Industrial District. The P&Z Board unanimously approved the rezoning request at their December 1, 2020 meeting.

Mayor Outlaw questioned whether there were zoned parcels in New Bern that were landlocked and whether land access was an issue with respect to zoning. Mr. Davis

confirmed there were such properties, and that zoning was simply a use applied to properties through the City's land use ordinance. Zoning does not involve issues of accessibility.

Alderman Aster made a motion to adopt a statement of zoning consistency and an ordinance to rezone 3498 Martin Drive, seconded by Alderman Odham. Upon a roll-call vote, the motion carried unanimously 7-0.

12. Consider Adopting a Resolution to Request Local Legislation to Authorize the City of New Bern to Charge a "Fee in Lieu of Construction" for Sidewalks Required for New Developments Requiring Site Plan Review.

As discussed at the Board's work session on January 5, 2021, the proposed resolution asks the NC General Assembly to introduce local legislation to authorize New Bern to charge a "fee in lieu of construction" for sidewalks required for new developments requiring a site plan.

Mayor Outlaw said he had concerns and questions and was not fully supportive of the issue at this time. Alderman Bengel posed questions about the process. Mr. Davis explained the result, if approved by the General Assembly, would be a law to allow New Bern to adopt an ordinance to create a fee in lieu of the sidewalk. Once the City's local bill is authorized, the City may wait many years before it actually adopts an ordinance to charge the fee. Knowing that, Alderman Bengel stated she was more comfortable moving forward. Alderman Odham agreed with Mayor Outlaw that there were a lot of inconsistencies in sidewalks, and he questioned and recalled that the City had remedied that issue a couple of years back by amending the land use ordinance to require sidewalks. Mr. Davis confirmed sidewalks were required in subdivisions and projects that require departmental review, which tend to be commercial projects. However, there could be a single-family residence or small business that does not trigger the developmental review and, thus, does not trigger the requirement for a sidewalk. Alderman Odham questioned if the new ordinance were in place whether the builder would have the option to build sidewalks or pay the fee. Mr. Davis responded the builder would not have an option, as staff would determine the method to be followed. Discussion continued, which included the current process, potential future changes, and the methodology for implementation.

(Alderman Kinsey momentarily stepped out of the room at 6:35 p.m.)

Alderman Odham made a motion to adopt a resolution to request local legislation to authorize the City of New Bern to charge a "fee in lieu of construction" for sidewalks required for new developments requiring site plan review, seconded by Alderman Bengel. Upon a roll-call vote, the motion carried 6-1 with Mayor Outlaw voting against it. Of note, Alderman Kinsey had stepped out of the room, thus technically yielding an affirmative vote.

13. Consider Adopting a Resolution Approving a Sewer-Use Agreement for 431 Riverside Drive.

The owners of 431 Riverside Drive have an existing single-family residence on the subject property, which is outside the municipal limits of New Bern. They desire to connect to the City's sewer collection system. The home has a calculated average daily sewer demand of 480 gallons per day, which would require a standard sewer service connection without the need for a main extension. Section 74-74 of the City's ordinances provides that a written water and sewer use agreement be entered into to outline the roles and responsibilities of both parties in establishing service for the proposed project.

(Alderman Kinsey returned to the room at 6:38 p.m.)

Alderman Bengel made a motion to adopt a resolution approving a sewer-use agreement for 431 Riverside Drive, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously 7-0.

Items 14-16 were voted on collaboratively as noted under Item 16.

14. Consider Adopting a Resolution Approving a Hazard Mitigation Grant Program – Project 4393-0015-R Sales Agreement and Contract for the Purchase of 821 Bloomfield Street.

The City is interested in voluntarily acquiring properties in flood-prone areas in the City under FEMA's Hazard Mitigation Grant Program ("HMGP"). The main purpose of the program is to mitigate the risk of loss of life and property from future disasters. The residence at 821 Bloomfield Street was selected through the HMGP 407 Expedited Acquisition Program under Hurricane Florence, and the homeowner will be allowed to relocate outside of the floodplain. The purchase price of the property is \$4,000, and the purchase is subject to and dependent upon HMGP funding. The City is not committed to nor obligated to purchase the property if the HMGP funding is not available.

15. Consider Adopting a Resolution Approving a Hazard Mitigation Grant Program – Project 4393-0015-R Sales Agreement and Contract for the Purchase of 1906 Alabama Avenue.

Like the previous item, the residence at 1906 Alabama Avenue was also selected through the HMGP 407 Expedited Acquisition Program under Hurricane Florence, and the homeowner will be allowed to relocate outside of the floodplain. The purchase price of the property is \$85,000, and the purchase is subject to and dependent upon HMGP funding. The City is not committed to nor obligated to purchase the property if the HMGP funding is not available.

16. Consider Adopting a Resolution Approving a Hazard Mitigation Grant Program – Project 4393-0015-R Sales Agreement and Contract for the Purchase of 204 Beech Street.

Similar to the two previous items, the residence at 204 Beech Street was selected through the HMGP 407 Expedited Acquisition Program under Hurricane Florence, and the homeowner will be allowed to relocate outside of the floodplain. The purchase price of the property is \$65,221, and the purchase is subject to and dependent upon HMGP funding. The City is not committed to nor obligated to purchase the property if the HMGP funding is not available.

Alderman Best expressed concern that more than two years after the hurricane, only three properties had been approved for purchase through the program. She questioned whether Development Services was adequately staffed to handle its needs. Mrs. Ohlensehlen explained staff originally submitted five properties for consideration under the HMGP 407 expedited program, two of which elected to withdraw from the program. Seventy-one properties were initially proposed for consideration under HMGP 404, and the State has not yet issued a decision on that program. Alderman Best expressed appreciation for the work that had been done, and again questioned whether additional staff was needed. Mr. Ruggieri responded it was not a matter of a staffing issue and explained the delay had been at the State level.

Alderman Best made a motion to adopt resolutions approving Hazard Mitigation Grant Program – Project 4393-0015-R Sales Agreement and Contracts for the purchase of 821 Bloomfield Street, 1906 Alabama Avenue, and 204 Beech Street, seconded by Alderman Bengel. Upon a roll-call vote, the motion carried unanimously 7-0.

17. Consider Adopting a Resolution Designating Agents for Hurricane Isaias.

FEMA requires the Governing Board designate authorized agents for the purpose of executing and filing applications for federal and/or state assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The proposed resolution names the City's primary and secondary agents for seeking assistance associated with Hurricane Isaias.

Alderman Best made a motion to adopt a resolution designating agents for Hurricane Isaias, seconded by Alderman Odham. Upon a roll-call vote, the motion carried unanimously 7-0.

18. Consider Adopting an Ordinance Amendment to Close the FEMA – Hurricane Irene Project Fund.

New Bern incurred damages following Hurricane Irene in August 2011. A project fund was established to recognize the cost of repairs and anticipated revenues from FEMA. FEMA has now officially closed out Hurricane Irene, and there remains

\$14,524.07 in unreimbursed costs. This budget ordinance amendment acknowledges a transfer from the General Fund for the costs not reimbursed by FEMA and closes out the project fund.

Alderman Odham made a motion to adopt an ordinance amendment to close the FEMA – Hurricane Irene Project Fund, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

19. Consider Adopting an Ordinance to Establish the Community Development Block Grant Coronavirus (“CDBG-CV”) Grant Fund.

The City was awarded Phase I CDBG-CV grant funds in the amount of \$152,252. The program is designed to address the impacts of the coronavirus, and New Bern intends to use the funds to help low and moderate-income individuals in the City with utility and rental assistance. A grant will be provided to a local nonprofit to administer the program. The City will also adhere to the CDBG Subrecipient Monitoring Plan approved by the Board at its last meeting to assure the program meets established criteria as well as HUD requirements and regulations. Mr. Stephens confirmed Religious Community Services (“RCS”) would be the subrecipient.

Alderman Bengel made a motion to adopt an ordinance to establish the Community Development Block Grant Coronavirus (“CDBG-CV”) Grant Fund, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

20. Consider Adopting an Ordinance Amendment for the Entitlement Cities Community Development Block Grant Fund.

After being deemed a CDBG Entitlement City, an Entitlement Cities CDBG Grant Fund Ordinance was established on August 12, 2014. The City receives annual funding from HUD for this program, and the award for FY2020 is \$258,775. This ordinance recognizes that award and appropriates the funds.

Alderman Best made a motion to adopt an ordinance amendment for the Entitlement Cities Community Development Block Grant Fund, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously 7-0.

21. Consider Adopting a Budget Ordinance Amendment for the FY2020-21 Operating Budget.

This budget ordinance reestablishes encumbrances for purchase orders outstanding as of June 30, 2020 that will be honored in Fiscal Year 2021. It also appropriates an additional \$25,000 for the assistant attorney who will be working under the City Attorney, \$23,963 in insurance proceeds for the replacement of a vehicle, and \$14,550 for the Hurricane Irene unfunded FEMA expenditures.

Alderman Odham made a motion to adopt a budget ordinance amendment for the FY2020-21 operating budget, seconded by Alderman Bengel. Upon a roll-call vote, the motion carried unanimously 7-0.

22. Appointment(s).

No appointments were made.

23. Attorney's Report.

The City Attorney had nothing to report.

24. City Manager's Report.

Noting the Board's retreat was scheduled for February 5, 2021, Mr. Stephens announced he had reached out to the DoubleTree and the Convention Center as potential locations. West New Bern Recreation Center is also a consideration, though it may pose some issues with sound quality. The cost to utilize the DoubleTree would be \$400 a day, and the Convention Center was more expensive. Alderman Best questioned why the meeting could not be held at City Hall, as Alderman Aster suggested at the last meeting.

Alderman Best made a motion to hold the retreat on February 5, 2021 at 1 p.m. at City Hall, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

25. New Business.

Mayor Outlaw

An update was requested on Martin Marietta Park. Foster Hughes, Director of Parks and Recreation, said staff was currently working on the new restrooms and shelter at the swim beach area. He announced the playground was scheduled for delivery on Monday, February 1, 2021. The first phase will have more than seven miles of walking trails. By April or May, the entrance and signage should be installed. At that time, staff will begin to work on phases two and three. Alderman Aster asked what phase would include the amphitheater, and Mr. Hughes stated the hope was to start work on the amphitheater and ropes course in phase two. Mr. Stephens noted Parks and Recreation had maximized funding and deferred costs that would have normally been spent on contractors by performing the work themselves. While he was at the podium, Alderman Bengel thanked Mr. Hughes for the cleanup his staff performed at the utility business office.

An update was also requested on the sidewalk project. Matt Montanye, Director of Public Works, stated the contractor was slated to begin February 15, 2021 with work starting on Country Club Road.

Alderman Harris

Mr. Hughes was requested to provide an update on the Stanley White Recreation Center's application with respect to the current location. Mr. Hughes said in July 2020, the Board of Alderman requested a change in the scope of work to look at locating the center on Third Avenue. The City contracted with CPL to perform an environmental assessment, which is almost complete. It is anticipated the assessment should be sent to FEMA within the next month. During the last SWRC Advisory Committee meeting, the committee asked if the square footage could be increased if the center were built at the Henderson Park location and what the process would be to change the scope of work request. FEMA responded that the City would have to make a written request to the State, which the State would have to review, and a process would be followed thereafter. That process would include the City requesting an improved project, which would require an environmental assessment on the Henderson Park site. Ultimately, thereafter, FEMA would make a decision. Alderman Harris said the SWRC Committee and community were requesting that the City submit an application to FEMA to request that the facility be built at the current location with a larger square footage. Alderman Aster said doing that would be at the City's expense. Alderman Harris recalled a conversation she had with the Mayor last year in which he indicated the City may be able to add some funding to the SWRC project, and she stated that additional funding could be used to increase the size of the facility in its current location. Alderman Aster felt the City was within 30 days of getting a response from FEMA, and he did not feel like the City should take any action until it received that response, as doing so would start the process over again and likely stop the current scope of work. He also stated he was not in favor of spending additional funds to build at the old location, especially knowing it was still in a flood zone. Alderman Harris reiterated the community wanted the facility rebuilt in the same location. Alderman Odham asked what triggered the request for an environmental assessment. Mr. Hughes responded FEMA required the environmental assessment once an alternative site was identified. Alderman Odham said he was not in favor of changing the scope of work since the City was so far into the process. Mr. Hughes clarified the response that was expected in 30 days would be from the consultant, not FEMA. Alderman Best also expressed a desire to wait for the anticipated response, stating she felt she needed adequate information to make a decision about building back better and in a location that was out of the floodplain. Alderman Harris said she did not understand why the Board would not do what the community was asking them to do, which from day one has been to rebuild in the current location. Alderman Best said at this point in the game, the Board needed to step back and wait for the decision. Alderman Harris reiterated the City only requested a change in the scope of work because of the thought that a facility could not be rebuilt at the existing location and the fact that an alternative site was identified. She recalled the Board adopted a resolution that it supported rebuilding the facility at its current location, based on FEMA's response. FEMA has advised the SWRC Advisory Committee that the facility could be rebuilt at the same location and that the City would need to fill out an application requesting this and asking for approval of a larger square footage. The City would be responsible to put more funding toward the project. She said if the City had known this earlier, it would have

submitted the proper application. She questioned whether the Board would stand by its word.

Alderman Bengel

An update was requested on the Suddenlink issue, and Alderman Bengel asked how long the City would continue to accept email complaints before forwarding them to the Attorney General. Mr. Stephens stated the emails could be collected for another week or through the end of the month, and staff would be glad to forward those to the Attorney General, if directed. Alderman Bengel suggested the emails be collected through January 31, 2021. Mayor Outlaw stated the Board was looking at other options and had spoken with an attorney at the NC League of Municipalities, among others.

(Alderman Best momentarily stepped out of the room at 7:26 p.m.)

Noting the misconception that the City may have some authority over Suddenlink, Alderman Odham reiterated the City had no control over Suddenlink. Noting several people had referenced a partnership that Greenville formed, Alderman Odham explained the route that Greenville had taken was to allow a company to use the City's right of way to install infrastructure. This did not include funding from Greenville or a public-private partnership.

(Alderman Best returned to the room at 7:29 p.m.)

At the Mayor's request, Charlie Bauschard, Director of Public Utilities, explained the City currently has an existing fiber infrastructure to serve municipal services and utility services. That infrastructure is being mapped in preparation of a Request for Qualifications ("RFQ") to find a consultant to advise the City on the existing system and to help examine ways to expand competition in the New Bern marketplace and bring services up to the community's level of expectation. Mr. Davis said a bill is pending from 2019 to allow local governments to install broadband fiber optics throughout their cities that private companies could "tap onto". Mayor Outlaw asked if the retreat would be a time to further discuss this topic. Mr. Stephens voiced a need to know immediately the items that the Board wanted to discuss at the retreat. Aside from the normal departmental presentations, the current plan is to discuss kiosks and cemeteries/mausoleums. Mayor Outlaw asked that internet services be added to the list.

26. Closed Session.

Alderman Odham made a motion to enter closed session pursuant to NCGS §143-318.11(a)(5) to discuss property acquisition and §143-318.11(a)(6) to discuss a personnel matter, seconded by Alderman Kinsey. The motion carried unanimously 7-0, time being 7:38 p.m.

27. Adjourn.

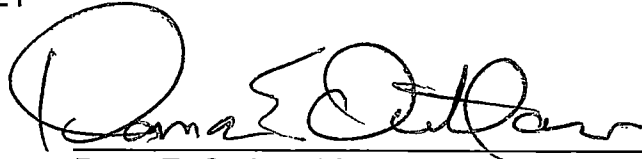
Alderwoman Harris made a motion to adjourn, seconded by Alderman Aster. The motion carried unanimously 7-0, time being 8:05 p.m.

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

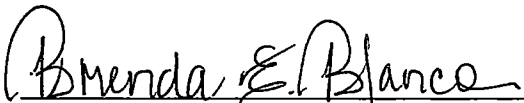
NOTE: For additional details and information on the Board of Aldermen meetings, please visit the City of New Bern's website at www.newbernnc.gov. Video and audio recordings of the meeting have been archived.

February 9, 2021

Minutes approved: ~~January 26, 2021~~



Dana E. Outlaw, Mayor



Brenda E. Blanco, City Clerk