

**CITY OF NEW BERN
BOARD OF ALDERMEN MEETING
FEBRUARY 22, 2022 – 6:00 P.M.
CITY HALL COURTROOM
300 POLLOCK STREET**

- 1. Meeting opened by Mayor Dana E. Outlaw. Prayer by Bishop Ron Scott of Refreshing Lives Ministry. Pledge of Allegiance.**

- 2. Roll Call.**

Present: Mayor Dana Outlaw, Alderman Sabrina Bengel, Alderwoman Jameesha Harris, Alderman Robert Aster, Alderman Johnnie Ray Kinsey, Alderman Barbara Best, and Alderman Jeffrey Odham. Absent: None. A quorum was present.

Also Present: Foster Hughes, City Manager; Marvin Williams, Assistant City Manager; Michael Scott Davis, City Attorney; and Brenda Blanco, City Clerk.

Consent Agenda

- 3. Consider Approving a Proclamation for Arbor Day 2022.**

On behalf of Parks and Recreation, Kari Warren, Interim Director of Parks and Recreation, requested a proclamation to recognize Arbor Day on Friday, March 18, 2022. The department will celebrate the day by planting several trees at Palace Point Commons beginning at 11 a.m.

- 4. Approve Minutes.**

Minutes from the January 11, 2022 and January 25, 2022 closed sessions and the February 8, 2022 regular meeting were presented for review and approval.

Alderman Odham made a motion to approve Items 3-4 of the Consent Agenda, seconded by Alderman Aster. The motion carried unanimously 7-0.

- 5. Discussion of Extraterritorial Jurisdiction.**

By motion of the Board, this item was tabled from the January 25, 2022 meeting. Alice Wilson, GIS Coordinator, displayed the existing extraterritorial jurisdiction (“ETJ”) areas on an overhead map. Mr. Davis reminded the Board that if it desired to remove the ETJ or any part thereof that a public hearing would be held to identify the area of removal and receive public input, after which the Board could remove that area from the ETJ. The area would then be a part of the county without any city regulation. Even if an ETJ area is removed, residents in that area can

voluntarily request annexation, although the Board is not required to approve the annexation. If a residence is not located in the city limits and requires city sewer or water, a condition of providing that service is that the property owner must ask to be annexed. Mayor Outlaw questioned if there was any information available as to what other cities have done since the General Assembly eliminated involuntary annexation. Mr. Davis did not know the answer.

An issue commonly encountered is subdivisions are approved by the county and later request annexation into the City, yet they have been built according to a different set of standards. The Mayor pointed out there are no revenues generated by ETJs, but the City annually uses its resources to address planning and zoning issues.

The Rocky Run ETJ was formed in the mid to late 1990's. Alderman Kinsey asked if there were less houses being built in the area and more businesses. Mr. Davis said that is what caused a bit of concern for the 17 South corridor. The area is clearly in transition. The matter of how to proceed is a political question for the Board. If New Bern eliminated the Rocky Run ETJ, River Bend could create an ETJ up to a certain distance.

Alderman Odham stated it was his understanding an ETJ was supposed to soften the difference of being outside of the City versus inside. Most properties along the MLK corridor are commercial, except for a couple of residential areas on the outskirts. If the philosophy behind an ETJ is to make the outside of the city mesh with the inside, Alderman Odham questioned whether that was being accomplished since most of the corridor inside the City was commercial.

Alderman Aster asked what would happen with the properties in the ETJ that have been zoned by the City. Mr. Davis confirmed that when an ETJ is removed, all regulation is removed, including zoning.

Noting the Rocky Run ETJ had been in place for about 32 years, Alderman Best felt if that area of ETJ was removed then all areas of ETJ needed to be removed. Aldermen Odham and Harris agreed. Alderman Bengel said her concern has been the staff time and resources that are provided to the ETJ, and she too concurred with Alderman Best. Aldermen Harris and Aster felt a public hearing needed to be held before the Board made a decision. Mr. Davis sought clarification that the public hearing would cover all ETJ areas, which the Board confirmed. Mayor Outlaw asked if anyone objected to that direction, and no one voiced objection.

6. Consider Adopting a Resolution Approving a Memorandum of Understanding with the Housing Authority of the City of New Bern.

The purpose of the Memorandum of Understanding ("MOU") is to enter into an agreement to work with the Housing Authority ("Authority") to develop an environmental review process to move forward with the demolition of the buildings at Trent Court. Tiffany Askew, Executive Director of the Housing Authority of New Bern, said while the Authority realized it should be further along in moving Trent

Court forward, several items have been identified that must be completed before progress can be seen. One of those items is the environmental review, which is required by HUD and FEMA. The City can act as the responsible entity for completing the environmental process. Afterwards, the Authority will work with the Historic Preservation Commission (“HPC”) in removing the structures. The next step would be to proceed with a Memorandum of Agreement (“MOA”).

Last night, the Authority unanimously approved the resolution for the MOU. Alderwoman Harris asked what initiated the MOU. Ms. Askew explained it was HUD’s recommendation that the City act as the responsible entity since the City receives HUD funds. Although the Authority receives HUD funds, the review must be performed by another party. Mr. Davis explained to qualify for funding, the Authority must go through this process and the process must be performed by an outside, responsible party. The MOU provides the Authority will cover all costs associated with the review, but the City will effectively be in charge of it and will receive the report. The HUD process is not the same as a FEMA process and is not as detailed. The review makes sure there are no adverse effects to the environment from demolishing the structures.

Alderman Best asked whether this action correlated with the implementation of the Choice Neighborhoods Initiative (“CNI”) grant. Jamie Norment, Attorney for the Authority, responded this was not part of the formal CNI implementation grant. This is a HUD environmental review process. The MOU provides the City will be the responsible entity for the review, and the Authority agrees to pay for it. The City is not approving the review or entering into any other contract.

Alderman Bengel explained the Authority had been trying to take down the buildings for three years. After her arrival and review of the matter, Ms. Askew found certain steps had not been taken, steps that are required by HUD to receive FEMA funding for the demolition. Alderwoman Harris asked about the plan for moving forward once the buildings are demolished, stating the community is under the assumption that the waterfront property will be developed. Alderwoman Harris expressed a need for transparency and expressed concern that she did not receive the MOU until 9:35 this morning and that the public did not get to see it. She felt the item should be tabled until the next meeting so there could be a true understanding as to what was transpiring. In response, Mr. Norment noted federal and state agencies were waiting on the Authority; time is of the essence, although there is no deadline. Alderman Best then questioned why there was such a rush. Noting citizens voiced concern about a recent MOU regarding Union Point Park, Alderman Best felt the same opportunity should be made available to citizens regarding this MOU.

Alderman Bengel felt there was a misunderstanding. Reggie Barner, CEO and Managing Partner of The Barner Group, LLC, explained he was working with the Authority. He described the actions up to this point, noting after the flood the Authority presented an application for demolition of the Trent Court structures, which HUD approved. But in the process of reviewing the application, the Authority and HUD realized the demolition had been approved without the environmental review being completed. For clarity, the environmental review is not affecting the

ability of the citizens to have input on what does or does not happen in the future. This is simply a check to make sure there are no environmental concerns about the site. Once HUD approves the demolition, nothing can be done until the Authority goes through the process with the HPC. Alderwoman Harris asked who had final approval of the process and checks off that everything is okay. Mr. Barner explained HUD is the final entity. However, HUD defers to the local government to be the responsible entity since it receives HUD funds.

Alderwoman Harris said it was the local approval that did not sit well with her. She said the Mayor appoints people to serve on the Housing Authority Board. The MOU will bring the City and Authority together to work on the environmental assessment, while the City is also the responsible party that will have a say as to whether there is an issue, and the consultant will have to go through the City. Mr. Norment clarified that the environmental review will ultimately be approved by HUD and FEMA before it reaches the City's board. The MOU is not approving development of the site but is literally relative to just the environmental review.

Alderwoman asked about the next steps. Mr. Barner said the goal is ultimately to redevelop the site with quality, affordable housing. Recognition was given to the work that had already been completed through the Five Points transformation plan. From his perspective and that of the Housing Authority board, there is no reason to reinvent the wheel. The desire is to build upon the existing plan. The redevelopment may have a component of mixed-use housing that is workforce related. Noting the plan was from 2016, Alderwoman Harris expressed a need for the community to be involved since some of the individuals who worked on the plan are no longer living and since the demographics have changed. She also asked about the plans for the units at Trent Court that were not damaged. Mr. Barner referred to the CNI plan and the fact that goals and objects were previously identified for the entire site. The goal will be to look for the highest and best use for the overall redevelopment of the entire site. Mr. Barner did not want to cloud the issue of the environmental review by discussing the redevelopment, as that requires a public hearing. He asked for reconsideration of the request to table the item, stating FEMA is waiting and a lot of money has been on the table since 2019. Alderman Odham confirmed with Mr. Barner the buildings that are substantially damaged must be demolished since they are uninhabitable, and the environmental process must be completed for that to happen.

Alderman Bengel made a motion to adopt a resolution approving a Memorandum of Understanding with the Housing Authority of the City of New Bern, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried 5-2 with Aldermen Harris and Best voting against it.

7. Conduct a Public Hearing and Consider Adopting an Ordinance to Annex 3436 Old Airport Road.

Eddie and Iris Teachey petitioned the City to annex a 1-acre parcel located at 3436 Old Airport Road (Tax Parcel ID 7-105-020) in Township 7. The petitioners plan to build a single-family residence on the property and recently entered into a Water

and Sewer Use Agreement with the City. This request for annexation is required under that agreement.

Alderman Aster questioned whether public safety had been involved in the request and agreed that the annexation would not be a burden on public safety, and Mr. Hughes confirmed that was correct. Alderman Aster requested all future annexation requests include input from public safety.

Mayor Outlaw opened the public hearing, but no one came forward to speak. Alderman Aster made a motion to close the public hearing, seconded by Alderman Odham. The motion carried unanimously 7-0.

Alderman Aster made a motion to adopt an ordinance to annex 3436 Old Airport Road, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

8. Consider Adopting a Resolution to Initiate the Upset Bid Process for 1106 Broad Street.

Kurtis Stewart submitted an offer of \$5,400 to purchase 1106 Broad Street. The tax value of the 0.060-acre parcel is \$10,800, and the offer represents 50% of that value. The property was acquired jointly by the City and Craven County in August 2017 through tax foreclosure. The unpaid taxes, interest, and penalties, due to the County at that time was \$1,051.77. Unpaid taxes, interest, and penalties due to the City was \$2,455.55, and the City also had attached a demolition lien for \$6,775.86. If the property is sold for the initial bid, the City is projected to receive \$3,513.90, and the County is projected to receive \$1,886.10 from the proceeds. The advertising costs will be reimbursed to the City.

The property is in the boundary of the Redevelopment Commission, which has reviewed the request and agreed to the submission of a bid for the Governing Board's consideration. Alderman Best asked how the bidder planned to use the property. Alderman Bengel shared that the bidder has an area for parking, and the Redevelopment Commission had suggested the lot be used for yard space since the house is so large. The Commission unanimously voted to approve the request.

Alderman Bengel made a motion to adopt a resolution to initiate the upset bid process for 1106 Broad Street, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

(Item 10 was voted on prior to Item 9 as Fire Chief Bobby Boyd had stepped out of the room to assist citizens down the stairs.)

10. Consider Adopting a Resolution Approving a Conflict-of-Interest Policy for Federal and State Grant Awards and Subawards.

The City was previously awarded a CAMA grant for a boardwalk extension project at Lawson Creek Park. As part of the process, CAMA informed the City that its

conflict-of-interest statement was no longer effective. Before funds can be disbursed, local government recipients across the state must adopt a policy to address conflicts of interest that may arise in the selection, award, and administration of contracts supported by state and federal funds.

Alderman Odham made a motion to adopt a resolution approving a conflict-of-interest policy for federal and state grant awards and subawards, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously 7-0.

9. Consider Adopting a Resolution Approving an Updated Strategic Plan for the Fire Department.

After seeking technical assistance from the North Carolina Fire Marshal's Office, input from peers, and compiling data from the City, local business leaders, citizens, and employees, the New Bern Fire-Rescue Department's first strategic plan was adopted in early 2017. That plan was for a five-year period from 2017 to 2022. Staff has now updated the plan to recognize both achieved goals and future goals.

Battalion Chief Dennis Tyndall explained the process for developing the updated plan. One of the top priorities was the health and mental wellness of the department's employees. The department was accredited in July of 2021, and the assessors recommended the department have a formal emergency medical services ("EMS") program.

Alderman Best said it was good to see the plan called for more interaction with the public and provided for diversity. Alderman Aster said when he retired from the department and Bobby Boyd was promoted to Chief, the position of Deputy Chief was left unfilled. He wanted the position to be funded in the upcoming year and noted the importance of having someone in that position who could transition to Chief when Chief Boyd decides to retire. He has 31 years of service and can retire at any time. Chief Boyd described the departmental hierarchy and confirmed many are cross trained.

Alderman Aster made a motion to adopt a resolution approving an updated strategic plan for the Fire Department, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

11. Appointment(s).

Alderman Bengel made a motion to appoint Al Cablay, Director of Public Works, to the Coastal Regional Solid Waste Management Authority's Municipal Committee, seconded by Alderman Odham. Upon a roll-call vote, the motion carried unanimously 7-0.

12. Attorney's Report.

There is some unfinished business to clean up on the MOU that was presented at the last meeting. Mr. Davis stated his office controls the flow of legal documents

once they are executed by the Mayor, and he had not yet forwarded that MOU to Kessler for signature. The Board was provided with a draft MOU that had been revised to remove all reference to Union Point Park. As of 5 p.m. today, Kessler's attorney has approved the draft. If the Board would like to move forward with the revised MOU, it would need to entertain a motion to rescind the last vote to authorize the Mayor to sign that MOU and adopt a resolution to approve the replacement MOU.

Alderman Aster made a motion to rescind the last vote authorizing the Mayor to sign the previous MOU and to adopt a resolution to authorize the Mayor to sign the replacement MOU presented at this meeting, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried 6-1 with Alderwoman Harris voting against it.

13. City Manager's Report.

- When the Board approved its 2022 meeting schedule, March 8th was removed from the roster since that was election day. Now that the City's election has been moved to May 17th, it is necessary to make a motion to add that meeting back to the roster, if desired.

Alderwoman Harris made a motion to amend the meeting roster to reinstate a meeting for March 8, 2022 at 6 p.m. in the City Hall Courtroom, seconded by Alderman Bengel. Upon a roll-call vote, the motion carried unanimously 7-0.

- The bid opening for the elevator project was held on February 17, 2022. Only two firms submitted a bid, so the project will be re-advertised, and another bid opening scheduled for February 24, 2022.
- On March 8, 2022, Comfort Air will be installing a new HVAC system at the old Baxter store on Pollock Street. There will be a temporary street closure from 6:30 a.m. until 7:30 a.m. to allow for the installation.
- The 911 Memorial will be installed on March 8, 2022 at the Firemen's Museum. A temporary closure of the southbound lane of Broad Street is necessary for a crane to position the memorial.
- Mayor Outlaw requested an update on Martin Marietta Park. Mr. Hughes said an announcement is likely next week regarding a grand opening. Phase one is pretty much complete except for installation of signs.

14. New Business.

Alderman Bengel

Thanks was expressed to those who have reached out to her with kind words. She appreciates those who do their homework and gets correction information.

Alderman Harris

Mr. Hughes was asked to explain the process for hiring the Executive Director of the Redevelopment Commission. In response, Mr. Hughes announced the recruitment brochure is almost finalized. The process will take several months, and a headhunter will be utilized to advertise and vet candidates. Alderman Harris asked if she, Alderman Bengel, and Alderman Best would be allowed to interact with the interview process. Mr. Hughes stated the consultant (headhunter) would be handling that and could take the aldermen's input and work with them on the process.

The possibility was raised about having the UNC School of Government ("SOG") attend a meeting to explain the Code of Ethics. Community members have reached out to Alderman Harris about potential violations associated with financial matters and ethics in general. Mr. Hughes stated he would contact the SOG to request a presentation. Alderman Harris asked the City Attorney to explain what would constitute an ethics violation. Mr. Davis said there are two general principles under NCGS §160A-75 that starts with a presumption that elected officials have a duty to vote. That makes it difficult for an official to avoid a topic and not vote. The exception is when the official has a direct financial interest in the matter on which a vote is being taken. He provided an example of a direct financial interest. NCGS §14-234 is a statute with criminal implications and requirements about the type of direct financial interest that would require disclosure and preclude an official from voting. Alderman Harris asked Mr. Davis for his legal definition of a conflict of interest, and he responded it would be those two statutes. She then asked for confirmation that there would be no other *legal* conflict of interest for a Board member when voting on items, which Mr. Davis confirmed. Alderman Harris announced an article was written about Alderman Bengel's purchase of land six days before Bengel emailed Kessler to consider purchasing land close to the property she had purchased. Alderman Harris questioned how that was not a financial gain for Alderman Bengel and unethical, as that to her demonstrated a lack of integrity. Alderman Harris stated she did not understand why the matter is not addressed and why the Board does not have a policy regarding integrity. Alderman Bengel told Alderman Harris she did not know all the facts. Alderman Bengel stated the Preservation Foundation approached her about buying the property almost a year prior, as her family owned the surrounding property. Alderman Harris publicized the purchase amount was \$20,000, although the property originally sold for \$200,000.

(Alderman Kinsey momentarily stepped out of the room at 7:20 p.m.)

Alderman Bengel said that was not correct. Although she would explain the transaction, she should not have to do that and said if Wendy Card had the decency to ask for information prior to posting the article then she could have directed Ms. Card to the people who could confirm the details. It took almost a year to close on the property because of Covid. It was coincidental that she closed on the property a week prior to sending the email to Kessler. The Kessler Group had asked about available waterfront property, which is why they were told about the Craven Street property. Alderman Bengel questioned how the property had anything to do with her job as an alderman. She stated her family has owned property in that

neighborhood for over 100 years, and she has done nothing illegal or immorally wrong. With respect to the article's mention of \$38,000 spent on a sidewalk, staff determined the sidewalks to be addressed. They were located near the Salvation Army, nowhere near her property. Alderman Bengel suggested Alderwoman Harris direct her energy toward public housing. Alderman Aster interjected that he was the one who called Kessler to tell him about the North Craven Street property. Alderwoman Harris said if these actions involved anyone else, it would be front-page news. There is no transparency.

(Alderman Kinsey returned to the room at 7:23 p.m.)

Alderwoman Harris said her energy is spent fighting for affordable housing and noted people are still living with tarps on their homes following Hurricane Florence. Alderman Bengel said she was being attacked and should be able to address the attack.

When talking about the Redevelopment Commission, the Commission was created and appointed so individuals could be placed on the commission to carry out the work that is needed for the Choice Neighborhoods Initiative. Wards 1, 2 and 5 serve as ex officios. As an ex officio, Alderwoman Harris stated she did not have to attend the meetings. The Commission must come before the Governing Board for the Board to vote on anything the Commission does or the majority of what they do. Mr. Davis said the Board would only vote on certain real estate projects. Alderwoman Harris said that is not what was previously stated. In earlier meetings, it was stated anything the Commission does would be voted on by the Governing Board. Mr. Davis explained if the Commission does not have money, it has to request money from the Governing Board. It also has to approach the Board about the sale of real property and approval of a redevelopment plan, the latter of which has already been done. Unless she is needed at a meeting, Alderwoman Harris again wanted to make it clear that she did not feel she had to attend the meetings. She announced that she received an email that two people resigned from the Commission, and she asked how the Board would be filling those positions and when that information would be made public. Alderman Bengel said a Redevelopment Commission meeting was scheduled for tomorrow night, and she suggested Alderwoman Harris speak with Chairman Theresa Lee. Mr. Davis confirmed the Governing Board has authority to appoint new members.

Alderman Best

Litter is a problem all over the City. Alderman Best asked if a sign could be placed along Hwy. 55 West. Mr. Hughes said the City may have to work with the NC Department of Transportation, but Public Works would start looking into it.

While she too is an ex officio member of the Redevelopment Commission and does not always attend the meetings, she does watch them. Alderman Best said she did not feel the need to be at every meeting since the Board had charged the Commission with doing a job. However, moving forward it may behoove her to attend some of the meetings.

15. Closed Session.

Alderman Aster made a motion to go into closed session pursuant to NCGS 143-318.11(a)(6) to discuss a personnel matter, seconded by Alderman Kinsey. The motion carried 6-1 with Alderman Odham voting against it, time being 7:30 p.m.

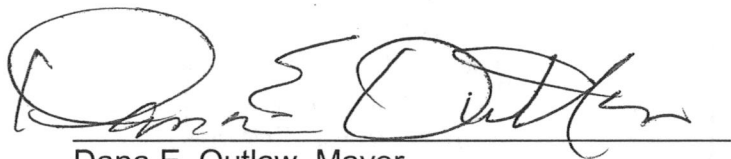
16. Adjourn.

Alderman Bengel made a motion to adjourn, seconded by Alderwoman Harris. The motion carried unanimously 7-0, time being 7:57 p.m.

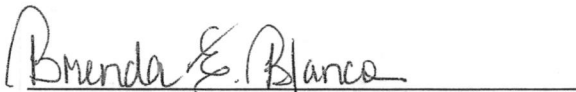
The attached documents are incorporated herewith and are hereby made a part of these minutes.

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 08, 2022



Dana E. Outlaw, Mayor



Brenda E. Blanco, City Clerk