

**CITY OF NEW BERN
BOARD OF ALDERMEN MEETING
JANUARY 9, 2018 – 6:00 P.M.
CITY HALL COURTROOM
300 POLLOCK STREET**

1. Meeting opened by Mayor Dana E. Outlaw. Prayer Coordinated by Alderman Bengel. Pledge of Allegiance.
2. Roll Call.
3. Request and Petition of Citizens.

Consent Agenda

4. Approve Minutes.

5. Recognition of Graduates from Citizens Police Academy.
6. Recognition of 2017 Badge, Faith and Fun Day Coordinators.
7. Presentation of and Conduct Public Hearing on Recommendations from Master Parking Plan Advisory Committee.
8. Presentation of Comprehensive Annual Financial Report and Fiscal Year 2016-17 Audit.
9. Discussion of Potential Lease of 408 Hancock Street.
10. Discussion of Possible Ordinance Amendment for Cul-de-sac Radius Requirements.
11. Consider Adopting a Resolution Approving a Policy for Naming of Fire Apparatus.
12. Consider Adopting a Resolution Approving an Agreement with East Carolina University for an Internship Training Program.
13. Consider Adopting a Resolution Approving a Transportation Improvement Project - Municipal Agreement with NC Department of Transportation Under Project 47112.3.1.
14. Consider Adopting a Resolution to Initiate the Upset Bid Process for 1111 Williams Street.
15. Consider Adopting a Resolution to Initiate the Upset Bid Process for 1112 Grace Street.

16. Consider Adopting a Resolution Approving a Code of Ethics for the Board of Aldermen.
17. Consider Adopting a Resolution Approving Rules of Procedure for the Board of Aldermen.
18. Consider Adopting an Ordinance Amending Section 2-41 of Chapter 2, Article II, Division 2 Regarding the Board of Aldermen's Regular Meetings.
19. Consider Adopting an Amendment to Part IV "Appearance Commission" of Article III, Appendix A of the "Land Use" Ordinance.
20. Appointment(s).
21. Attorney's Report.
22. City Manager's Report.
23. New Business.
24. Closed Session.
25. Adjourn.

INDIVIDUALS WITH DISABILITIES REQUIRING SPECIAL ASSISTANCE SHOULD CALL
639-7501 NO LATER THAN 3 P.M. THE DATE OF THE MEETING



NEW BERN
CITY OF NEW BERN

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham

Dana E. Outlaw
Mayor

Mark A. Stephens
City Manager

300 Pollock Street, P.O. Box 1129
New Bern, NC 28563-1129
(252) 636-4000

Memo to: Mayor and Board of Aldermen

From: Mark A. Stephens, City Manager

Date: January 3, 2018

Re: January 9, 2018 Agenda Explanations

1. **Meeting opened by Mayor Dana E. Outlaw. Prayer Coordinated by Alderman Bengel. Pledge of Allegiance.**
2. **Roll Call.**
3. **Request and Petition of Citizens.**

This section of the Agenda is titled Requests and Petitions of Citizens. This is an opportunity for public comment, and we thank you for coming to the Board of Aldermen meeting tonight to share your views. We value all citizen input.

Speaker comments are limited to a maximum of 4 minutes during the public comment period. At the conclusion of 4 minutes, each speaker shall leave the podium. Comments will be directed to the full board, not to an individual board member or staff member. Although the board is interested in hearing your comments, speakers should not expect any comments, action or deliberation from the board on any issue raised during the public comment period.

In the board's discretion, it may refer issues to the appropriate city officials or staff for further investigation. If an organized group is present to speak on a common issue, please designate one person to present the group's comment, which shall be limited to a maximum of 4 minutes.

Consent Agenda

4. **Approve Minutes.**

Minutes from the December 12, 2017 meeting are provided for review and approval.

5. Recognition of Graduates from Citizens Police Academy.

Graduates of the recent Citizens Police Academy will be in attendance to give an overview of their experience. The latest academy marked the 21st session that has been conducted.

6. Recognition of 2017 Badge, Faith and Fun Day Coordinators.

Badge, Faith and Fun Day was held on September 16, 2017 at Lawson Creek Park. The event was a one-day festival aimed at bringing the community together with the New Bern Police Department in a neutral, fun environment. Event coordinators will be recognized, which included the following: Copy and Print Warehouse, Chris Goodgin, Armstrong's Grocery, Piggly Wiggly, Three Guys Signs, Publix, Craven Coffee House, Cotton Funeral Home, the Sun Journal, CTV-10, KISS-FM 102, Civitans, Boy Scouts of America Troop 299, NBPB Volunteers, Inc., Bender Apparel, Bouncin' Time Rentals, New Bern Sporting Goods, Bear Towne Tents, Pastor Hazel Royal, Father Thomas Tully, Dana Tabbarini, Dr. James Herring, and Minges Bottling Group.

7. Presentation of and Conduct Public Hearing on Recommendations from Master Parking Plan Advisory Committee.

The Master Parking Plan Advisory Committee ("MPPAC") made a presentation before the Board of Aldermen at the Board's work session on November 21, 2017. The presentation included a list of recommendations relative to parking issues in the downtown area. One of the recommendations was for the Board of Aldermen to conduct a hearing for the purpose of obtaining public input on the subject of parking and the proposed recommendations. Members of the MPPAC will be in attendance to again share the presentation, after which the Board is asked to open the floor for public comment. A copy of the presentation is provided.

8. Presentation of Comprehensive Annual Financial Report and Fiscal Year 2016-17 Audit.

Copies of the Comprehensive Annual Financial Report ("CAFR") and Auditor's Discussion and Analysis will be distributed to the Board prior to the meeting on January 9th. A representative from Mauldin & Jenkins, the firm that performed the City's audit, will be present to discuss the findings of the CAFR and audit. This report will also be made available on the City's website on January 10, 2018.

9. Discussion of Potential Lease of 408 Hancock Street.

(Ward 1) At the December 12, 2017 meeting, the Board discussed the potential lease of 408 Hancock Street to Community Artist Will, Inc., a local nonprofit that sells art, offers classes, etc. Their initial offer proposed a base rent of \$1,200 monthly for a three-year term with conditions that the City complete specific alterations to the building. A later discussion evolved around a 5-year lease at a rate of \$500.00 month with the lessee maintaining the interior of the building and

the City maintaining the exterior and HVAC system. It was also suggested a public component be included to provide for the nonprofit to work with Craven Arts Council to promote and educate the arts to school-age children, provide programming and space for the City's Parks and Recreation summer youth program, and promote the building as a community arts center.

At the December 12th meeting, the Board voted to form an ad hoc group consisting of Aldermen Bengel, Harris and Aster to meet with Community Artist Will, Craven Arts Council & Gallery, and Foster Hughes, Director of Parks and Recreation. The outcome of those meetings was to be reported to the Board at its January 9th meeting.

As a reminder, NC General Statute §160A-272 requires a 30-day notice be provided on any leases with a term greater than one year.

10. Discussion of Possible Ordinance Amendment for Cul-de-sac Radius Requirements.

Previous ordinances allowed for a cul-de-sac radius to be 63' in cases where an island is not provided and 80' in cases where a planting island is placed in the center of the cul-de-sac. The Board since adopted Appendix D of the NC Fire Prevention Code, which provides for a recommended cul-de-sac radius of 96'. Some developers have expressed concerns regarding the newly-required size for cul-de-sacs and associated costs. The intent of the 96' radius was to allow for a fire apparatus to make turnarounds in the cul-de-sac without having to back up; thus, reducing response times. Fire Chief Boyd and Jeff Ruggieri, Director of Development Services, will be available to discuss this further and answer any questions.

11. Consider Adopting a Resolution Approving a Policy for Naming of Fire Apparatus.

Beginning in 1879, New Bern's fire engines were traditionally named for the Mayor seated in office at the time the purchase of an engine was approved. The proposed resolution will establish a policy to carry this tradition forward. The resolution does provide an option for the Mayor to respectfully decline the honor, if so desired. In such event, the apparatus would remain unnamed.

12. Consider Adopting a Resolution Approving an Agreement with East Carolina University for an Internship Training Program.

The City desires to enrich its internship training program through an educational relationship with East Carolina University ("ECU") and its students by providing appropriate learning experiences to students who are enrolled in ECU's internship programs. Internship opportunities will be consistent with the City's existing internship policy. A memo from Sonya Hayes, Director of Human Resources, is attached.

13. Consider Adopting a Resolution Approving a Transportation Improvement Project - Municipal Agreement with NC Department of Transportation Under Project 47112.3.1.

(Wards 1 and 3) This agreement is for the First Street Road Diet project. The terms of the agreement provide for NCDOT to design and construct the entirety of the road diet, which will reduce four travel lines to three and will add bike lanes and sidewalks along First Street from Neuse Boulevard to Pembroke Avenue. Upon completion of the project, the City will reimburse DOT \$260,000.00 of the cost. Additionally, the City will assume maintenance of the sidewalks and will relocate and adjust all City-owned utilities that conflict with the project. A memo from Jeff Ruggieri, Director of Development Services, is attached.

14. Consider Adopting a Resolution to Initiate the Upset Bid Process for 1111 Williams Street.

(Ward 5) Amanda Hurst has submitted an offer of \$1,000.00 for the purchase of a vacant lot at 1111 Williams Street. The offer represents 25% of the tax value, which is \$4,000.00. The property was acquired by the City and Craven County in March 2008 through tax foreclosure. At the time of foreclosure, taxes were due to the County in the amount of \$3,850.42 and \$3,726.69 to the City. The foreclosure costs totaled \$2,273.83, and the City also incurred \$3,200.00 in demolition costs.

If no other bids are received and the property is sold for the initial offer, the County will receive \$528.63 and the City will receive \$471.37. The City will also be reimbursed the cost to advertise the offer. Attached is a breakdown of the anticipated proceeds as provided by the City Attorney and a memo from the City Clerk.

15. Consider Adopting a Resolution to Initiate the Upset Bid Process for 1112 Grace Street.

(Ward 5) Amanda Hurst has submitted an offer of \$1,000.00 for the purchase of a vacant lot at 1112 Grace Street. The offer represents 25% of the tax value, which is \$4,000.00. The property was acquired by the City and Craven County in March 2008 through tax foreclosure. Foreclosure costs totaled \$2,098.71. At the time of foreclosure, taxes were due in the amount of \$1,810.41 to the County and \$6,849.70 to the City, of which \$4,750.00 represents a demolition lien.

If no other bids are received and the property is sold for the initial offer, the County will receive \$543.10 and the City will receive \$456.90. The City will also be reimbursed the cost to advertise the offer. Attached is a breakdown of the anticipated proceeds as provided by the City Attorney and a memo from the City Clerk.

16. Consider Adopting a Resolution Approving a Code of Ethics for the Board of Aldermen.

NC General Statute §160A-86 requires local governing boards to adopt a resolution or policy approving a code of ethics. The proposed code of ethics is the same as one previously adopted by the City and meets with the City Attorney's approval.

17. Consider Adopting a Resolution Approving Rules of Procedure for the Board of Aldermen.

At its December 12, 2017 meeting, the Board voted to begin its regular meetings at 6 p.m. instead of 7 p.m. As a result, the Board's Rules of Procedure must be amended to reflect this change.

18. Consider Adopting an Ordinance Amending Section 2-41 of Chapter 2, Article II, Division 2 Regarding the Board of Aldermen's Regular Meetings.

Similar to the previous item, this amendment will revise the existing ordinance to reflect the change in time from 7 p.m. to 6 p.m. for the Board's regular meetings.

19. Consider Adopting an Amendment to Part IV "Appearance Commission" of Article III, Appendix A of the "Land Use" Ordinance.

The ordinance pertaining to the Appearance Commission currently requires five members be appointed to the commission. To comply with state statute, the proposed amendment will increase the number of members to seven. All members shall be residents of the City's planning and zoning jurisdiction at the time of appointment. For reference, attached are copies of state statutes pertaining to appearance commissions. The City Attorney will answer any questions the Board may have.

20. Appointment(s).

- a) As reflected in the previous item, the Appearance Commission will now consist of seven members instead of five. As a result, two additional appointments are needed. Appointees shall be residents of the City's planning and zoning jurisdiction and shall, when possible, have had special training or experience in a design field such as architecture, landscape design, horticulture, city planning, or a closely-related field. Members of the Appearance Commission serve a three-year term.
- b) Victor Taylor represented the Board of Aldermen on the New Bern-Craven County Public Library Board of Trustees. The Board is asked to make an appointment to replace Mr. Taylor. The new appointee shall serve as a trustee for the duration of their term of office. The Library Board meets the first Tuesday of alternate months beginning with February. The meetings begin at 7:30 p.m. and are held at the library. Any Board member who is absent for more than three consecutive meetings during the year will be removed from the Board.

- 21. Attorney's Report.**
- 22. City Manager's Report.**
- 23. New Business.**
- 24. Closed Session.**
- 25. Adjourn.**

INDIVIDUALS WITH DISABILITIES REQUIRING SPECIAL ASSISTANCE SHOULD CALL
639-7501 NO LATER THAN 3 P.M. THE DATE OF THE MEETING

AGENDA ITEM COVER SHEET

Agenda Item Title:

Recognition of Graduates of Citizens Police Academy

Date of Meeting 1/9/2018

Ward # if applicable N/A

Department Police

Person Submitting Item: Chief Summers

Call for Public Hearing No

Date of Public Hearing

Explanation of Item:

Introduction of the Session 21 of New Bern Police Department Citizens Police Academy participants to the Board Of Aldermen. Participants were invited to learn about the department and interact with various members of the agency through various sessions including canine demonstrations, communications center tour, use of force policies and ride along.

Actions Needed by Board:

None

Is item time sensitive? No

Will there be advocates/opponents at the meeting? No

Backup Attached:

Cost of Agenda Item: N/A

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : No

Additional notes:

Citizens Police Academy Attendees were:

Carol Zink Pamela Roberts Adeline Hovius Roger Janson Theresa Jones Sheri Zerbi Kimberly Hackett Bobby Garriss Brenda Kent Kirt McAden

AGENDA ITEM COVER SHEET

Agenda Item Title:

Recognition of persons or groups responsible for the successful coordination of the 2017 Badge, Faith and Fun Day.

Date of Meeting 1/9/2018

Ward # if applicable N/A

Department Police

Person Submitting Item: Chief Summers

Call for Public Hearing No

Date of Public Hearing

Explanation of Item:

Recognition of those persons or groups responsible for the successful coordination of the 2017 Badge, Faith and Fun Day.

Actions Needed by Board:

None

Is item time sensitive? No

Will there be advocates/opponents at the meeting? Select...

Backup Attached:

Cost of Agenda Item: N/A

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : No

Additional notes:

Copy and Print Warehouse; Chris Goodgin; Armstrong's; Piggly Wiggly; Three Guys Signs; Publix; Craven Coffee House; Cotton Funeral Home; Sun Journal; CTV-10; KISS-FM 102; Civitans; BSA Troop 299; NBPB Volunteers, Inc; Bender Apparel; Bouncin' Time Rentals; New Bern Sporting Goods; Bear Towne Tents; Pastor Hazel Royal; Father Thomas Tully; Dana Tabbarini; Dr. James Herring; Minges Bottling Group

AGENDA ITEM COVER SHEET

Agenda Item Title:

Conduct Public Hearing on Recommendations from Master Parking Plan Advisory Committee

Date of Meeting 01/09/18

Ward # if applicable N/A

Department Administration

Person Submitting Item: Mark Stephens

Call for Public Hearing ☐ Yes ☒ No

Date of Public Hearing

Explanation of Item:

Recommendations from the Master Parking Plan Advisory Committee were submitted to the Board of Aldermen at its November 21, 2017 work session. One of the recommendations was to conduct a public hearing, which was announced for January 9th.

Actions Needed by Board:

Conduct public hearing.

Is item time sensitive? ☒ Yes ☐ No

Will there be advocates/opponents at the meeting? ☒ Yes ☐ No

Backup Attached:

Copy of presentation made at November 21, 2017 work session.

Cost of Agenda Item:

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : ☐ Yes ☐ No

Additional notes:



Master Parking Plan Advisory Committee

Recommendations to the Board of Aldermen

Nov 21, 2017

Master Parking Plan Advisory Committee Charter

Charged with making recommendations to the Board of Aldermen on the following:

- 1) On-Street two-hour parking enforcement plan
- 2) Prohibition of on-street parking meters
- 3) New parking rates for downtown city parking lots
- 4) Designated off-street parking for downtown employees
- 5) Recommendations for sale, or use of New Street parking lot such as weekly rates, weekend availability, and reserved parking for neighboring public facilities
- 6) Recommendations to enlist assistance of Craven County in the development of a mixed use parking deck project

1

Committee Members

- Alderman Dallas Blackiston, 1st Ward
- Alderman E.T. Mitchell, 3rd Ward
- Alderman Jeffrey Odham, 6th Ward
- Mark Stephens, City Manager
- Brenda Blanco, City Clerk
- John Bircher, Swiss Bear President/Chair
- Buddy Bengel, Swiss Bear Appointee
- Kevin Roberts, President NB Chamber of Commerce
- Danny Batten, Downtown Merchants Council Appointee
- Carolina Smith, TDA Appointee
- Maria Cho, HDRA Government Liaison
- Leanna Tyson, Young Professionals Group Appointee

2

NEW BERN
NORTH CAROLINA

Meeting Schedule

- Has met as a public body on a weekly basis beginning September 5, 2017 and continued through November 14, 2017
- Agendas and minutes available at www.newbern-nc.org/departments/parkingplancommittee

3

NEW BERN
NORTH CAROLINA

Committee Recommendations – On Street Parking

1. Two-Hour Parking

- a. Two-hour on-street parking enforcement shall be re-instituted for an area bound by Broad Street to the Trent River (excluding Broad Street and Union Point Park)
- b. Such enforcement shall take place between 8 a.m. and 4 p.m. Monday through Friday, with the exception of holidays and the areas identified as 15-minute parking spaces
- c. Additionally, such enforcement will be phased in over a 45-day period and will be accomplished by uniformed, sworn officers of the New Bern Police Department

4

NEW BERN
NORTH CAROLINA

Committee Recommendations – On Street Parking

2. New and enhanced signage shall be implemented and installed by staff to direct privately-operated vehicles to free parking lots (example: Bicentennial, New Street)
3. Parking fines shall be increased to \$25.00 and automatically doubled to \$50.00 if not paid within 30 days

5

NEW BERN
NORTH CAROLINA

Potential Parking Zones



6

Recommended Traffic Flow and Sign Locations



7

Proposed Signage



8

Proposed Signage

Sign with iron bracket



9

Committee Recommendations – Leased Spaces

4. Monthly leased parking rates in designated city-owned lots be increased to \$35.00 per month commencing January 1, 2018, and \$50.00 a month commencing January 1, 2019
5. The Board of Aldermen shall direct staff to investigate and determine the most cost-effective and time-efficient way to enforce parking violations in leased spaces in city-owned lots
6. There shall be no further leasing of parking spaces in the three identified City-owned lots; should any current leases not be renewed, those spaces shall become free public parking spaces

10

NEW BERN
NORTH CAROLINA

Committee Recommendations – Other Items

7. Residential owners/leasees within the central business district may purchase up to two residential permits for on-street parking at an annual cost to be determined by the Board of Aldermen
8. The Board of Aldermen shall allow the City Manager and City Attorney to work with the MSD and Swiss Bear to continue finalization of a development plan for "Trash Plaza", as well as drafting of necessary legal easements to work toward improvements to "Trash Plaza"

11

NEW BERN
NORTH CAROLINA

Committee Recommendations – Moving Forward

9. A public hearing shall be held on January 9, 2018 to discuss the Committee's recommendations and obtain public input
10. The Board of Aldermen shall investigate and implement additional handicap parking spots where feasible and determine the number of designated spaces needed

12

NEW BERN
NORTH CAROLINA

Questions?

13

NEW BERN
NORTH CAROLINA

AGENDA ITEM COVER SHEET

Agenda Item Title:

Presentation of the Comprehensive Annual Financial Report and Audit for Fiscal Year Ending June 30, 2017

Date of Meeting 01/09/2018

Ward # if applicable N/A

Department Finance

Person Submitting Item: Joseph R. Sabatelli, CPA

Call for Public Hearing ☐ Yes ☒ No

Date of Public Hearing

Explanation of Item:

A representative from Mauldin & Jenkins will discuss the CAFR and Audit for fiscal year ending June 30, 2017.

Actions Needed by Board:

None - Informational Purpose Only

Is item time sensitive? ☐ Yes ☒ No

Will there be advocates/opponents at the meeting? ☐ Yes ☒ No

Backup Attached:

The Comprehensive Annual Financial Report and Auditor's Discussion & Analysis will be handed out to the Board Members prior to the meeting and will be posted to the City's website on January 10, 2018.

Cost of Agenda Item: N/A

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : ☐ Yes ☐ No

Additional notes:

AGENDA ITEM COVER SHEET

Agenda Item Title:

Discussion of Potential Lease of 408 Hancock Street

Date of Meeting 1/9/2018

Ward # if applicable Ward 1

Department Administration

Person Submitting Item: Mark Stephens

Call for Public Hearing ☐ Yes ☒ No

Date of Public Hearing

Explanation of Item:

This item was discussed at the December 12, 2017 meeting, at which time an ad hoc group was established to further review the lease request. That group is to report to the Board its findings after meeting with Community Artist Will, Inc., the Craven Arts Council & Gallery, and the City's Director of Parks and Recreation.

Actions Needed by Board:

Discuss potential lease

Is item time sensitive? ☐ Yes ☒ No

Will there be advocates/opponents at the meeting? ☐ Yes ☐ No

Backup Attached:

Copy of initial lease offer and letters of reference

Cost of Agenda Item:

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : ☐ Yes ☐ No

Additional notes:

OFFER TO LEASE A COMMERCIAL PROPERTY

This offer to lease is made on October 17, 2017 by Community Artist Will, Inc. (*the Tenant*) of 415 Broad Street, New Bern, NC 28562 to the City of New Bern (*Landlord*) in care of Brenda E. Blanco, City Clerk, 300 Pollock Street, New Bern, NC 28563.

The *Tenant* hereby offers to lease from the *Landlord* commercial property located at 408 Hancock Street, New Bern, NC. This property is the Former Firemen's Museum. The square footage is 5,790 sf, including the back storage room. A City owned parking lot is adjacent.

TERM OF THE LEASE shall commence on January 1, 2018 and end on December 31, 2020, a 3 year term.

RENT The Tenant will pay a base rent of \$1200.00 monthly and will pay the monthly heating/cooling expense.

DEPOSIT The Tenant will pay a security deposit in the amount of \$500 to be returned at the end of tenancy within 30 days to 60 days.

FORMAL LEASE A formal lease agreement shall be prepared by the City attorney.

USE OF PREMISES Community Artist Will, Inc. is a nonprofit, 501(c)3 organization. Our mission is:

- . provide affordable gallery and studio space in support of developing new and experienced artists;

- Cultivate artist-to-artist mentoring opportunities, and

- . encourage and promote interactive, educational, creative opportunities for artists, audiences, and the community.

Our gallery and studios will be operated by the member artists on a volunteer basis.

We will be open to public for viewing and sales on Wednesday thru Saturday from 9:00 am to 4:00 pm (subject to change). We will also be open on the second Friday of each month for ArtWalk until 8:00 pm. We have on occasion had live music for ArtWalk from 5:00-8:00 pm. Our members will have access to their studios and the conference room at any time.

ALTERATIONS The following alterations/repairs would be completed by the Landlord prior to commencement of Lease.

1. Removal of all personal property belonging to the Firemen's Museum.
2. The interior walls of the main room as well as the batten board in the alcove and including the office and the conference room need a fresh coat of paint.'
3. New carpet installed in the foyer, alcove area and the office.
4. Eight, approximately 10'x10'x8' studios (non-permanent) installed each including one electrical outlet along back wall. Two, 8'x10'x8' studios and one, 8'x15'x8' installed. See Addendum 1 for layout and cost estimate.
5. Removal of front barn-like doors and installation of insulated wall with non-opening windows to conform to architecture of the building, OR install temporary wall with insulation in front of current doors to be fully glazed, for the light.
6. Installation of insulated wall to close off storage area.
7. Install utility sink on outside wall of lavatory for cleaning paint brushes.
8. Remove firemens pole construction in foyer and close off ceiling.
9. Outside of building to be painted to cover Firemen's Museum signage.
10. Entrance front doors show signs of wood rot, should be replaced for securing the building
11. Removal of large shrub and wide hedging at entrance and install brick or paving stones to open up access to main entrance and provide space for possible outdoor sculpture.

SIGNAGE It will be vital to the success of our gallery to have good signage. We would provide the City with a visual of **Community Artist Gallery** and would expect the City to use their improvement funds to have such signage created and installed on the building in the same location and approximate size as the former Firemens Museum signage to insure all City requirements and codes are adhered to.

ADDITIONAL PROVISIONS

Tenant will not be responsible for maintenance or repair of heating/cooling system, leaks, or natural wear and tear of the building.

This offer will be irrevocable until such time as the Board of Alderman can reasonably respond. If not accepted or extended for further negotiation, will become null and void. **TIME IS OF THE ESSENCE.**

Sandy Bruno
Sandy Bruno, President
BY:

Oct. 17, 2017
October 17, 2017
DATE

Addendum 1

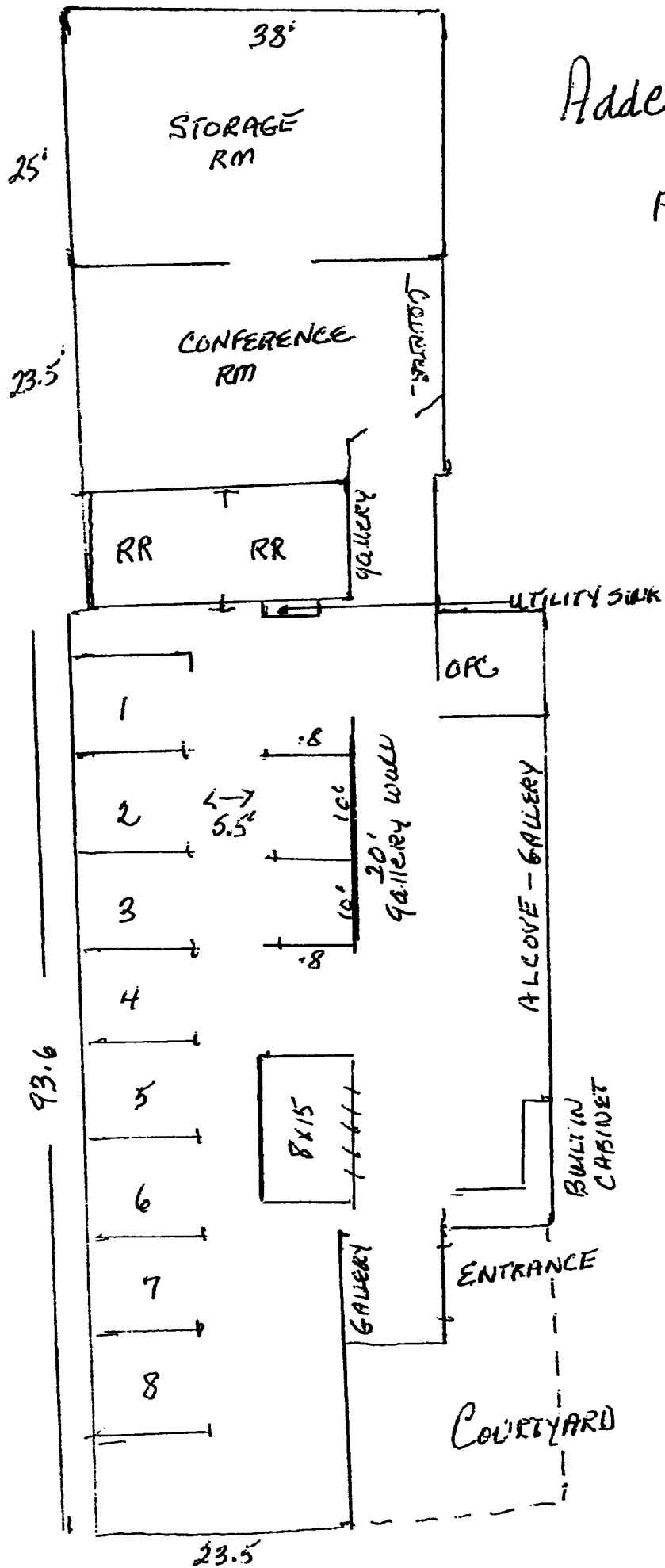
Floor Plan

Studios

8 - 10x10x8

2 - 10x8x8

1 - 15x8x8



For Reference Only

10' x 10'
w/ 8' walls
high

STUDIO COST - Comparative cost of one studio based on the concept model. This would be for the inside finish as well as the ends (outside). The cost per unit drops because of common wall space of abutting units and the purchase of materials in bulk. (LOWES prices)

Framing:

19 - 2" x 4" x 8' @ 3.65	22.65
4 - 2" x 4" x 10' @ 4.85	19.40
2 - 2" x 4" x 12' @ 5.82	11.64
1 - 5 lb 3" screws @ 16.97	16.97
5 - 4 pack - 1/2" x 2 1/4" masonry anchors @ 11.98	59.90
4 - 1' x 1' x 8' outside corner moulding @ 13.84	<u>55.36</u>
st	185.92

Walls:

7 - 4' x 8' x 1/2" sheetrock @ 9.98	69.86	NOTE BELOW
1 - 1 lb box # 6 screws @ 6.47	6.47	
1 - drywall compound (60 lbs) @ 13.61	13.61	
1 - joint tape 2" x 50' @ 4.32	<u>4.32</u>	
st	94.36	

Alternate Wall material

7 - 19/32 (5/8") Const. plywood @ 24.07	168.49
1 - lb. box 1 1/2" nails @ 2.97	2.97
or # 6 screws @ 6.47 (better)	_____
st	171.46

SUMMARY:

Framing and sheetrock walls would average \$ 280.28 each.

Framing and plywood walls would average \$ 357.38 each.

**** Both would need to be primed and painted: est. 2 gallons of Valspar All in One Paint and Primer @ \$ 31.98 = \$ 63.96.

Note: Doubling the purchase of materials for one studio gives us materials for three (3) studios. The cost/studio is reduced to @ \$ 187.00 each.

~~280.28 x 3 = 840.84~~
~~changing material~~

John E. and Elizabeth D. Sprague
Gull Harbor Associates
415 Broad Street
New Bern, NC 28560

October 24, 2006

Ms. Brenda E. Blanco, CMC
City Clerk, City of New Bern
PO Box 1129
New Bern, NC 28563

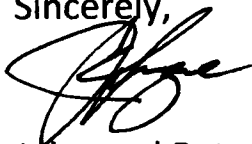
Dear Ms. Blanco,

As owners of the building located at 415 Broad Street in New Bern and landlords for the Community Artists Will (CAW) organization occupying the commercial space in the first floor of our building for the past nearly two years, we would like to affirm that they have been superior tenants. We regret that, due to extensive water damage to the space that CAW was renting from floors above their area, they were forced to end their tenancy and look for alternative gallery/studio space.

We are pleased to highly recommend CAW to any landlord who might have appropriate and available space for their organization.

If you should have any questions, please feel free to contact us at the numbers noted below.

Sincerely,

A handwritten signature in black ink, appearing to read 'John and Betsy Sprague', written over the word 'Sincerely,'.

John and Betsy Sprague
Home: 252-635-1289 Cell 252-671-5141



November 15, 2017

Coastal Photo Club
P.O. Box 585
New Bern, NC 28560

Board of Aldermen, City of New Bern
c/o Brenda Blanco, City Clerk
300 Pollock St.
New Bern, NC 28560

Dear Board of Aldermen:

Having learned that the CAW Center for the Arts is proposing to lease the former Firemen's Museum on Hancock Street, the Coastal Photo Club recognizes the positive potential of this plan.

While bringing an unused property back to life, this use would allow their gallery and studios to continue to contribute to the downtown arts scene.

Moreover, the CPC Board of Directors understands that a larger space for the CAW Center could mean new opportunities for collaboration between our two arts-related nonprofits. Possibilities include multi-media creative projects as well as photography workshops and presentations for the community. We also envision our members gaining practice with their photography skills by providing images of artwork or documenting events at the proposed new gallery, as we have done for other charitable organizations such as Merci Clinic and the new Firemen's Museum.

Thank you for the opportunity to communicate our support for the CAW Center for the Arts lease proposal.

Sincerely,

John B. Steady
President, Coastal Photo Club

AGENDA ITEM COVER SHEET

Agenda Item Title:

Discussion of Possible Ordinance Amendment for Cul-de-sac Radius Requirements

Date of Meeting 1/9/18**Ward # if applicable** N/A**Department** Administration**Person Submitting Item:** Mark Stephens**Call for Public Hearing** ☐ Yes ☒ No**Date of Public Hearing****Explanation of Item:**

Previous ordinances allowed for a cul-de-sac radius to be 63' in cases where an island is not provided and 80' in cases where a planting island is placed in the center of the cul-de-sac. The Board has since adopted Appendix D of the NC Fire Prevention Code which recommends a cul-de-sac radius of 96'. Some developers have expressed concerns regarding the newly-required size for cul-de-sacs and associated costs. The intent of the 96' radius was to allow for a fire apparatus to make turnarounds in the cul-de-sac without having to back up; thus, reducing response times. Fire Chief Boyd and Jeff Ruggieri, Director of Development Services, will be available to discuss this further and answer any questions.

Actions Needed by Board:

Staff direction on whether to move forward with amending the Code of Ordinances to require a 96' cul-de-sac radius.

Is item time sensitive? ☐ Yes ☒ No**Will there be advocates/opponents at the meeting?** ☐ Yes ☐ No**Backup Attached:**

Copy of Ordinance adopted on 11/28/17

Cost of Agenda Item:

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : ☐ Yes ☐ No

Additional notes:

AN ORDINANCE TO AMEND ARTICLE VI. STOPPING, STANDING AND PARKING" OF CHAPTER 70 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Fire Department of the City of New Bern recommends that certain amendments be made to Article VI. "Stopping, Standing and Parking" of Chapter 70 "Traffic and Vehicles" of the Code of Ordinances of the City of New Bern; and

WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect said revisions to Article VI. "Stopping, Standing and Parking" of Chapter 70 "Traffic and Vehicles" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Article VI. "Stopping, Standing and Parking" of Chapter 70 "Traffic and Vehicles" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by adding Division 4. "Fire Lanes and Fire Apparatus Access Roads" as follows:

"DIVISION 4. – FIRE LANES AND FIRE APPARATUS ACCESS ROADS

Sec. 70-290. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fire apparatus access road and *Fire lane* shall have such meaning as defined in the most recent edition of the North Carolina Fire Prevention Code, specifically including appendix D, as adopted and published by the North Carolina Building Code Council, as the same may be amended from time to time.

Sec. 70-291. Establishment of fire lanes on private property.

The city's fire code official shall establish fire lanes (also referred to as "fire apparatus access roads") on private property as required and specified by the North Carolina Fire Prevention Code, as the same may be amended from time to time.

Sec. 70-292. Establishment of fire lanes on public right-of-ways.

The board of aldermen may establish fire lanes (also referred to as "fire apparatus access roads") on public right-of-ways, for the protection of life, safety, and property. All such fire lanes on public right-of-ways shall be identified and designated in this chapter.

Sec. 70-293. Fire lanes to be marked.

Areas designated as fire lanes (or fire apparatus access roads) where parking is prohibited shall be clearly marked with yellow or another suitable color of paint with the words "No Parking - Fire Lane," and the boundaries, borders, or curbs shall be clearly visible. The person or legal entity in possession of the property on which a fire lane is marked or signed shall be responsible for installation and maintenance of the required signs or pavement markings.

Sec. 70-294. Obstruction of fire lanes unlawful.

It shall be unlawful for any person or persons to park or leave a motor vehicle or to place any other object, structure, or obstruction in a fire lane (or fire apparatus access road) which has been established and properly marked under the provisions of this division; provided, however, persons loading or unloading supplies or merchandise may park temporarily in a fire lane located in a shopping center or mall parking lot as long as the vehicle is not left unattended. It shall be lawful for governmental vehicles, including public transit vehicles, or nongovernmental emergency vehicles, including rescue squad vehicles, to stop, stand or travel within such fire lanes when required to do so in the performance of their official duties.

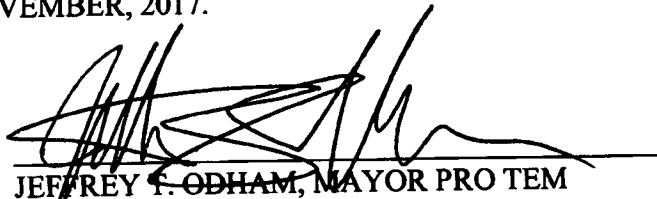
Sec. 70-295. Conflict with North Carolina Fire Prevention Code.

To the extent any provision of this division conflicts with the North Carolina Fire Prevention Code, the terms and requirements of the North Carolina Fire Prevention Code shall control."

State Law reference – G.S. 160A-301; G.S. 20-162; North Carolina Fire Prevention Code Chapter 5 and Appendix D.

SECTION 2. This ordinance shall be effective from and after the date of its adoption.

ADOPTED THIS 28th DAY OF NOVEMBER, 2017.


JEFFREY F. ODHAM, MAYOR PRO TEM


BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution Establishing a Policy to Name City Fire Engines

Date of Meeting 01/09/18

Ward # if applicable N/A

Department Administration

Person Submitting Item: Mark Stephens

Call for Public Hearing ☐ Yes ☒ No

Date of Public Hearing

Explanation of Item:

Beginning in 1879, New Bern's fire engines have traditionally been named for the Mayor seated in office at the time the purchase of an engine is approved. The proposed resolution will establish a policy to carry this tradition forward. The resolution does provide an option for the Mayor to respectfully decline the honor, if so desired. In such event, the engine would remain unnamed.

Actions Needed by Board:

Consider adopting resolution

Is item time sensitive? ☐ Yes ☒ No

Will there be advocates/opponents at the meeting? ☐ Yes ☐ No

Backup Attached:

Proposed resolution

Cost of Agenda Item:

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : ☐ Yes ☐ No

Additional notes:

RESOLUTION ESTABLISHING A POLICY TO NAME CITY FIRE ENGINES

THAT WHEREAS, the history of the City of New Bern Fire-Rescue, as it is known today, is both rich and unique. Originally it was comprised of three companies: the Atlantic Fire & Hook & Ladder Company, the New Bern Steam Fire Engine Company No. 1, and the New Bern Fire Company No. 1. The first chartered fire-fighting organization was the Atlantic Fire & Hook & Ladder Company formed on May 14, 1845. However, this company became inactive due to the members volunteering for military service at the break of a war between the states.

AND WHEREAS, during the occupation of New Bern, the New Bern Fire and Steam Engine Company, No. 1 was organized on January 1, 1865 by Union soldiers, who later remained after the war. During this time, the Union troops received a hand pump from the North. This contraption reached its maximum output when eight men exerted their weight on each end of the pump's cross-beam lever. A 16-man crew pulled the vehicle to the scene of the blaze. Depending on the location of the fire, the pump drew water from one of New Bern's strategically-located wells or from the Neuse or Trent River. After pulling and pumping the Yankee apparatus for about three years, the firemen persuaded the Town Council to purchase them a steam fire engine. Later in 1879, the Atlantic Fire & Hook & Ladder Company received a new Silsby steam fire engine, and for the first time, a Mayor's name was placed on the apparatus. Since that time, fire engines have traditionally been named for the Mayor seated in office at the time the purchase of the engine is approved.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

1. That a policy is hereby established to continue the tradition of naming fire engines for the Mayor seated in office at the time the acquisition of the engine is approved; and
2. Said Mayor shall have the option to respectfully decline the honor of having an engine named after him or her; in such event, the fire engine shall remain unnamed.

ADOPTED this the 9th day of January, 2018.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution Approving an Agreement with East Carolina University for an Internship Training Program

Date of Meeting January 9, 2018

Ward # if applicable N/A

Department Human Resources

Person Submitting Item: Sonya Hayes

Call for Public Hearing ☐ Yes ☒ No

Date of Public Hearing

Explanation of Item:

In order for the City of New Bern to work with East Carolina University on providing internship opportunities, the University is requiring execution of an Agreement between the City of New Bern and East Carolina University.

Actions Needed by Board:

Consider approval of resolution

Is item time sensitive? ☒ Yes ☐ No

Will there be advocates/opponents at the meeting? ☐ Yes ☒ No

Backup Attached:

Agreement Between the City of New Bern and East Carolina University; Memo from Sonya Hayes, Director of Human Resources

Cost of Agenda Item:

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : ☐ Yes ☐ No

Additional notes:



NEW BERN

NORTH CAROLINA

303 First Street, P.O. Box 1129

New Bern, NC 28563

(252) 639-7571

TO: Mayor and Board of Aldermen

FROM: Sonya H. Hayes
Director of Human Resources

DATE: January 9, 2018

SUBJECT: Agreement Between City of New Bern and East Carolina University

The City of New Bern desires to enrich the internship training program through an educational relationship with East Carolina University (ECU) and its students by providing appropriate learning experiences to students enrolled in University internship programs.

In order for the City of New Bern to work with ECU on providing internship opportunities, the University is requiring execution of an Agreement between the City of New Bern and East Carolina University. Internship opportunities will be consistent with the City of New Bern Internship Policy.

If you have questions, please do not hesitate to contact me.

Everything comes together here

RESOLUTION

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the Agreement dated January 9, 2018 by and between the City of New Bern and East Carolina University, a copy of which is attached hereto and incorporated herein by reference, be and the same is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute the same for and on behalf of the City.

ADOPTED THIS 9th DAY OF JANUARY, 2018.

DANA E. OUTLAW, Mayor

BRENDA E. BLANCO, City Clerk

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

AGREEMENT

THIS AGREEMENT is made and entered into this 9th day of January, 2018, by and between the CITY OF NEW BERN, a municipal corporation (hereinafter referred to as "the Agency") and EAST CAROLINA UNIVERSITY (hereinafter referred to as "the University").

W I T N E S S E T H:

THAT WHEREAS, the Agency desires to enrich its internship training program through an educational relationship with the University and its students; and

WHEREAS, the University desires to provide appropriate learning experiences to its students enrolled in the Human Development and Family Science internship program.

NOW, THEREFORE, the agency and the University hereby agree as follows:

1. MUTUAL RESPONSIBILITIES:

- a. The University and the Agency shall mutually agree to a schedule of student assignments to the Agency, including the number of students and the time periods of assignment. The maximum number of students accepted at the Agency for assignment to an area shall be determined by the Agency. The University will provide information to the Agency prior to the initiation of the education experience, including but not limited to, dates of assignment, number of students, names and other pertinent information about each student, the University's objectives for the education experience, suggested curriculum outlines, and prior experiences of the students, if any.
- b. The University and the Agency shall each appoint a designated representative to coordinate the education experience and to work with the University's instructors and students to facilitate a meaningful learning experience.
- c. Each party shall keep the other informed of changes in curriculum, program, and staff which may affect the education experience.
- d. The Agency shall have the right to remove and/or exclude a student or faculty member from the Agency in the event that the Agency determines that individual is not performing satisfactorily or is interfering with the Agency's operations; provided, however, that the person has been made aware of the intent to release him/her and has been given the opportunity to respond prior to the release. In the event the Agency elects to exclude a student or faculty member, it shall immediately notify the University.
- e. There shall be no discrimination on the basis of race, religion, age, color, creed, sex, national origin, or physical disability in either the selection of students for practice or as to any aspect of the practice experience; provided, however, that with respect to

disability, the disability must not be such as would, even with reasonable accommodation, in and of itself preclude the student's effective participation in the program.

- f. Students assigned to the Agency under this Agreement shall not be deemed employees or agents of the Agency or the University by reason of such assignment. Neither the Agency nor the University shall be responsible for payment to students of any salary, wages or employment-related benefits, including but not limited to workers compensation benefits.
- g. The costs of first aid or emergency care provided by the Agency to any of the University's students for illness or accidents occurring to those persons while on the property of the Agency shall not be the responsibility of the Agency or the University, but rather, shall be the responsibility of the student. The costs of first aid or emergency care provided to the University's faculty members shall be the responsibility of the faculty member and shall not be borne by the Agency, and shall not be borne by the University except as required by law.

2. UNIVERSITY RESPONSIBILITIES:

- a. The University shall retain responsibility for a student's education and appropriate disciplinary measures and for arranging for the student an appropriate learning experience.
- b. Insurance. During the term of any student's participation in an educational experience under this Agreement, the University shall secure and maintain or cause such students to secure and maintain, professional liability insurance of at least \$2,000,000 per occurrence and \$4,000,000 aggregate.
- c. Evidence of Insurance. The University shall provide or cause the student to provide the Agency with certificates of insurance evidencing the coverage required in (b) prior to the education experience. This certificate shall be mailed to:

Agency Contact: Sonya Hayes, Director of Human Resources
300 Pollock Street (28560)
Post Office Box 1129 (28563)
New Bern, North Carolina
Telephone: (252) 639-7570

- d. The University shall periodically provide, upon request by the Agency, written communication to the Agency regarding the Agency's performance in providing education experiences, and such communication shall include information on the student's evaluations of their experiences at the Agency.
- e. The University shall keep on file and make available upon request to all assigned students a copy of this Agreement.

- f. The University shall inform the student of the need to obtain a third party resource for a criminal background check at the student's expense. The student is responsible for providing evidence of such reports.
- g. The University shall be responsible for informing the student of the need to complete a drug screening prior to the first day of affiliation. It is the responsibility of the student to work with the agency to provide documentation that such provisions have been completed.

3. AGENCY RESPONSIBILITIES:

- a. The Agency shall provide the premises and equipment (including conference room space to the extent possible) necessary for the student's educational experience.
- b. The Agency shall provide the student and faculty member access to first aid and emergency care for illness or accidents occurring to these persons while on the property of the Agency. The Agency shall be entitled to make a reasonable charge to the student for such first aid and emergency care services; faculty may be charged in accordance with section 1 g., above.
- c. The Agency will provide to the designated University's representative, a risk assessment following reported exposures to communicable diseases.
- d. The Agency will provide the University a mid-term and final evaluation of student performance and progress.
- e. The Agency will provide the University with appropriate written orientation materials and relevant Agency policies and procedures it wishes the University to bring to the attention of the students, including but not limited to, the Agency's blood-borne pathogens policy, prior to the commencement of the program .
- f. The Agency shall maintain responsibility for patient care while cooperating with the University faculty in making selected learning experiences available to students.
- g. If University provided Agency with personal identifiers as listed in N.C.G.S. §§132-1.10 and 14-133.20(b) or any other legally confidential information, Agency hereby certifies that the collection of this information from University is necessary for the performance of AGENCY's duties and responsibilities under this Agreement. Agency further certifies that it shall maintain the confidential and exempt status of any social security number information, as required by N.C.G.S. §132-1.10(c)(1), and that it shall not re-disclose personally identifiable information as directed by State and Federal laws. Failure to abide by legally applicable security measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with Agency for a period of at least five (5) years from the date of the violation. If Agency experiences a security breach, as defined in N.C.G.S. §75.61(14),

relating to this information, in addition to Agency's responsibilities under the North Carolina Identity Theft Protection Act, AGENCY shall immediately notify University with the information listed in N.C.G.S. §75-65(d)(1-4) and shall fully cooperate with University. To the extent allowed by law, Agency shall indemnify University for any breach of confidentiality or failure of its responsibilities to protect confidential information. Specifically, these costs may include, but are not limited to, the cost of notification of affected persons as a result of its unauthorized release of University data provided to Agency pursuant to this Agreement.

University has determined that Agency is a school official with a legitimate educational interest under the Family Educational Rights and Privacy Act ("FERPA"). If University provides Agency with "personally identifiable information" from a student's education record as defined by FERPA, 34 CFR §99.3, Agency hereby certifies that collection of this information from University is necessary for Agency's duties and responsibilities under this Agreement. AGENCY further certifies that it shall maintain the confidential status of the education records in their custody, and that it shall maintain the personally identifiable information as directed by FERPA. Failure to abide by legally applicable University measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with Agency for a period of at least five (5) years from the date of the violation. If AGENCY experiences a breach relating to this information or if Agency re-discloses this information, Agency shall immediately notify University. To the extent allowed by law, AGENCY shall indemnify University for any breach of confidentiality or failure of its responsibilities to protect confidential information. Specifically, these costs may include, but are not limited to, the cost of notification of affected persons as a result of its unauthorized release of University data provided to Agency pursuant to this Agreement

- h. The Agency will provide the University information concerning the Agency's policy regarding the hepatitis B vaccine. The purpose of providing this information is to enable appropriate University officials to educate themselves in order to advise their faculty and students with respect to hepatitis B vaccine before participating in certain educational experiences within the Agency. The Agency shall not be responsible for administering the vaccine to faculty and students.
- i. The Agency shall inform all assigned students of any other policies and procedures the Agency has established. The students shall comply with these rules, regulations, and policies at all times during the educational experience.
- j. The Agency shall inform the student to be assigned to the Agency of the requirement to complete a health screening before beginning practice in the Agency, and shall inform the student of the requirement to provide the Agency with the individual's immunity history for varicella, pertussis, and hepatitis B. If previous rubella vaccine is not in the history, and titer is negative, rubella vaccine is required, except when medically contraindicated.

IN WITNESS WHEREOF, the parties, acting through their duly authorized officials, have executed this Agreement on the date first hereinabove written.

For the Agency:

CITY OF NEW BERN

By:

DANA E. OUTLAW, Mayor

ATTEST:

BRENDA E. BLANCO, City Clerk

For the University:

EAST CAROLINA UNIVERSITY

By:

Title: _____

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

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WHEREAS, the University desires to provide appropriate learning experiences to its students enrolled in the Human Development and Family Science internship program.

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- b. The University and the Agency shall each appoint a designated representative to coordinate the education experience and to work with the University's instructors and students to facilitate a meaningful learning experience.
- c. Each party shall keep the other informed of changes in curriculum, program, and staff which may affect the education experience.
- d. The Agency shall have the right to remove and/or exclude a student or faculty member from the Agency in the event that the Agency determines that individual is not performing satisfactorily or is interfering with the Agency's operations; provided, however, that the person has been made aware of the intent to release him/her and has been given the opportunity to respond prior to the release. In the event the Agency elects to exclude a student or faculty member, it shall immediately notify the University.
- e. There shall be no discrimination on the basis of race, religion, age, color, creed, sex, national origin, or physical disability in either the selection of students for practice or as to any aspect of the practice experience; provided, however, that with respect to

disability, the disability must not be such as would, even with reasonable accommodation, in and of itself preclude the student's effective participation in the program.

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2. UNIVERSITY RESPONSIBILITIES:

- a. The University shall retain responsibility for a student's education and appropriate disciplinary measures and for arranging for the student an appropriate learning experience.
- b. Insurance. During the term of any student's participation in an educational experience under this Agreement, the University shall secure and maintain or cause such students to secure and maintain, professional liability insurance of at least \$2,000,000 per occurrence and \$4,000,000 aggregate.
- c. Evidence of Insurance. The University shall provide or cause the student to provide the Agency with certificates of insurance evidencing the coverage required in (b) prior to the education experience. This certificate shall be mailed to:

Agency Contact: Sonya Hayes, Director of Human Resources
300 Pollock Street (28560)
Post Office Box 1129 (28563)
New Bern, North Carolina
Telephone: (252) 639-7570

- d. The University shall periodically provide, upon request by the Agency, written communication to the Agency regarding the Agency's performance in providing education experiences, and such communication shall include information on the student's evaluations of their experiences at the Agency.
- e. The University shall keep on file and make available upon request to all assigned students a copy of this Agreement.

- f. The University shall inform the student of the need to obtain a third party resource for a criminal background check at the student's expense. The student is responsible for providing evidence of such reports.
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- d. The Agency will provide the University a mid-term and final evaluation of student performance and progress.
- e. The Agency will provide the University with appropriate written orientation materials and relevant Agency policies and procedures it wishes the University to bring to the attention of the students, including but not limited to, the Agency's blood-borne pathogens policy, prior to the commencement of the program .
- f. The Agency shall maintain responsibility for patient care while cooperating with the University faculty in making selected learning experiences available to students.
- g. If University provided Agency with personal identifiers as listed in N.C.G.S. §§132-1.10 and 14-133.20(b) or any other legally confidential information, Agency hereby certifies that the collection of this information from University is necessary for the performance of AGENCY's duties and responsibilities under this Agreement. Agency further certifies that it shall maintain the confidential and exempt status of any social security number information, as required by N.C.G.S. §132-1.10(c)(1), and that it shall not re-disclose personally identifiable information as directed by State and Federal laws. Failure to abide by legally applicable security measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with Agency for a period of at least five (5) years from the date of the violation. If Agency experiences a security breach, as defined in N.C.G.S. §75.61(14),

relating to this information, in addition to Agency's responsibilities under the North Carolina Identity Theft Protection Act, AGENCY shall immediately notify University with the information listed in N.C.G.S. §75-65(d)(1-4) and shall fully cooperate with University. To the extent allowed by law, Agency shall indemnify University for any breach of confidentiality or failure of its responsibilities to protect confidential information. Specifically, these costs may include, but are not limited to, the cost of notification of affected persons as a result of its unauthorized release of University data provided to Agency pursuant to this Agreement.

University has determined that Agency is a school official with a legitimate educational interest under the Family Educational Rights and Privacy Act ("FERPA"). If University provides Agency with "personally identifiable information" from a student's education record as defined by FERPA, 34 CFR §99.3, Agency hereby certifies that collection of this information from University is necessary for Agency's duties and responsibilities under this Agreement. AGENCY further certifies that it shall maintain the confidential status of the education records in their custody, and that it shall maintain the personally identifiable information as directed by FERPA. Failure to abide by legally applicable University measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with Agency for a period of at least five (5) years from the date of the violation. If AGENCY experiences a breach relating to this information or if Agency re-discloses this information, Agency shall immediately notify University. To the extent allowed by law, AGENCY shall indemnify University for any breach of confidentiality or failure of its responsibilities to protect confidential information. Specifically, these costs may include, but are not limited to, the cost of notification of affected persons as a result of its unauthorized release of University data provided to Agency pursuant to this Agreement

- h. The Agency will provide the University information concerning the Agency's policy regarding the hepatitis B vaccine. The purpose of providing this information is to enable appropriate University officials to educate themselves in order to advise their faculty and students with respect to hepatitis B vaccine before participating in certain educational experiences within the Agency. The Agency shall not be responsible for administering the vaccine to faculty and students.
- i. The Agency shall inform all assigned students of any other policies and procedures the Agency has established. The students shall comply with these rules, regulations, and policies at all times during the educational experience.
- j. The Agency shall inform the student to be assigned to the Agency of the requirement to complete a health screening before beginning practice in the Agency, and shall inform the student of the requirement to provide the Agency with the individual's immunity history for varicella, pertussis, and hepatitis B. If previous rubella vaccine is not in the history, and titer is negative, rubella vaccine is required, except when medically contraindicated.

4. GENERAL PROVISIONS

- a. This Agreement shall last no more than three (3) years and shall remain in effect until it terminates or is cancelled at any time by either party upon not less than ninety (90) days' written notice.
- b. Any written communication or notice pursuant to this Agreement shall be made to the following representative of the respective parties at the following addresses:

For the University:

Contact: Kelly D. Taylor, Internship Coordinator
East Carolina University
101 Rivers West
Greenville, NC 27858
Telephone No: 252-737-5108

Contact: Dr. Eboni Baugh, Program Coordinator
East Carolina University
336 Rivers West
Greenville, 27858
Telephone No: 252-328-5714

For the Agency:

Contact: Sonya Hayes, Director of Human Resources
300 Pollock Street (28560)
Post Office Box 1129 (28563)
New Bern, North Carolina
Telephone: (252) 639-7570

- c. This Agreement contains the entire understanding of the parties and shall not be altered, amended or modified, except by an agreement in writing executed by the duly authorized officials of both the University and the Agency.
- d. This Agreement shall be governed by the laws of the State of North Carolina.
- e. To the extent that it may legally do so, the Agency shall indemnify and hold University, its trustees, officers, employees and agents harmless for any and all claims, loss, liability, demands, or damages including attorney fees and court costs, due to the negligent acts of its employees or agents in the performance of this Agreement.
- f. The State of North Carolina or the ECU auditor shall have access to persons and records as a result of all agreements entered into by ECU in accordance with N.C.G.S. §147-64.7 and Session Law 2010-194. Section 21.

IN WITNESS WHEREOF, the parties, acting through their duly authorized officials, have executed this Agreement on the date first hereinabove written.

For the Agency:

CITY OF NEW BERN

By:

DANA E. OUTLAW, Mayor

ATTEST:

BRENDA E. BLANCO, City Clerk

For the University:

EAST CAROLINA UNIVERSITY

By:

Title: _____

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution Approving a Transportation Improvement Project - Municipal Agreement with NC Department of Transportation Under Project 47112.3.1.

Date of Meeting

Ward # if applicable Multiple Wards

If multiple, list:

Department Develop. Services

Person Submitting Item:

Call for Public Hearing No

Date of Public Hearing

Explanation of Item:

NCDOT is requesting the City enter into the attached *Transportation Improvement Project - Municipal Agreement* for the First Street Road Diet Project. The executed agreement will be the final approval needed before construction can begin.

Actions Needed by Board:

Consider Adopting a Resolution Approving a Transportation Improvement Project - Municipal Agreement with NC Department of Transportation Under Project 47112.3.1.

Is item time sensitive? Y / N

Will there be advocates/opponents at the meeting? Select...

Backup Attached:

municipal agreement, memo

Cost of Agenda Item:

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : Select...

Additional notes:

Aldermen


Sabrina Bengel
Jameesha S. Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129
New Bern, NC 28563-1129
(252) 636-4000

Dana E. Outlaw
Mayor

Mark A. Stephens
City Manager

TO: Mayor Dana Outlaw, City of New Bern Board of Aldermen
FROM: Jeff Ruggieri, Director Development Services 
DATE: 10/13/17
SUBJECT: Municipal Agreement with NCDOT for First Street Road Diet Project

NCDOT is requesting the City enter into the attached *Transportation Improvement Project - Municipal Agreement* for the First Street Road Diet Project. The executed agreement will be the final approval needed before construction can begin.

The NCDOT responsibilities will be:

1. Design and construct the entirety of the road diet project to include reducing four travel lanes to three and adding bike lanes and sidewalks along First Street from Neuse Boulevard to Pembroke Avenue.

The City's responsibility will be:

1. Upon Completion of work, reimburse NCDOT \$260,000 towards the cost of the project. The payment will be considered the City's full and complete payment for project completion.
2. The City will assume all maintenance responsibilities for the new sidewalks.
3. The City agrees to relocate and adjust all municipally owned utilities in conflict with the project.

NORTH CAROLINA

**TRANSPORTATION IMPROVEMENT PROJECT –
MUNICIPAL AGREEMENT**

CRAVEN COUNTY

DATE: 1/2/2018

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: U-5992

AND

WBS Elements: 47112.1.1 PE
47112.2.1 ROW
47112.3.1 CON

CITY OF NEW BERN

THIS MUNICIPAL AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the City of New Bern, a local government entity, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, the Department has plans to make certain street and highway constructions and improvements within the Municipality under Project 47112.3.1, in Craven County; and,

WHEREAS, the Department and the Municipality have agreed that the municipal limits, as of the date of the awarding of the contract for the construction of the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the parties hereto for the purposes of this Agreement; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly, including but not limited to, the following legislation: General Statutes of North Carolina (NCGS), Section 136-66.1, Section 160A-296 and 297, Section 136-18, and Section 20-169, to participate in the planning and construction of a Project approved by the Board of Transportation for the safe and efficient utilization of transportation systems for the public good; and,

WHEREAS, the parties to this Agreement have approved the construction of said Project with cost participation and responsibilities for the Project as hereinafter set out.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

SCOPE OF THE PROJECT

1. The Project consists of a road diet on NC 55 (First Street/ Country Club Road) including reducing four travel lanes to three lanes and adding bike lanes and sidewalk from NC 55 (Neuse Boulevard) to Pembroke Avenue.

PLANNING AND DESIGN

2. The Department shall prepare the environmental and/or planning document, and obtain any environmental permits needed to construct the Project, and prepare the Project plans and specifications needed to construct the Project. All work shall be done in accordance with departmental standards, specifications, policies and procedures.

RIGHT OF WAY

3. The Department shall be responsible for acquiring any needed right of way required for the Project. Acquisition of right of way shall be accomplished in accordance with the policies and procedures set forth in the North Carolina Right of Way Manual.
4. It is understood by both parties that all work shall be performed within the existing right of way. However, should it become necessary, the Municipality, at no expense or liability whatsoever to the Department, shall provide any municipal-owned right of way and or construction easements needed for the construction of the project, and remove from said rights of way all obstructions and encroachments of any kind or character.
5. Acquisition of any needed right of way shall be performed in accordance with the following state and federal policies and procedures, "Right of Way Acquisition Policy and Land Acquisition Policy, contained in the Federal-Aid Policy Guide, Part 712, Subpart B", and the North Carolina Right of Way Manual (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970). The Department shall be indemnified and held harmless from any and all damages and claims for damages associated with the acquisition of any construction easements and/or right of way.

UTILITIES

6. The Municipality, without any cost or liability whatsoever to the Department, shall relocate and adjust all municipally-owned utilities in conflict with the Project and shall exercise any rights which it may have under any franchise to effect all necessary changes, adjustments, and relocations of

telephone, telegraph, and electric power lines; underground cables, gas lines, and other pipelines or conduits; or any privately- or publicly-owned utilities.

- A. Said work shall be performed in a manner satisfactory to the Department prior to the Department beginning construction of the Project. The Municipality shall make every effort to promptly relocate said utilities in order that the Department will not be delayed in the construction of the Project.
- B. The Municipality shall make all necessary adjustments to house or lot connections or services lying within the right of way or construction limits, whichever is greater, of the Project.
- C. The Department, where necessitated by construction, will make vertical adjustments of two (2) feet or less to the existing manholes, meter boxes, and valve boxes at no expense to the Municipality.
- D. If applicable, the Department shall reimburse the Municipality in accordance with the Municipally Owned Utility Policy of the Department approved by the Board of Transportation.
- E. If the Municipality requests the Department to include the relocation and/or adjustment of municipally owned utilities in its construction contract provisions, the Municipality shall reimburse the Department all costs associated with said relocation. Reimbursement will be based on final project plans and actual costs of relocation. If a request is received from the Municipality, a separate Utility Agreement will be prepared to determine the reimbursement terms and an updated cost estimate.

CONSTRUCTION

- 7. The Department shall construct, or cause to be constructed, the Project in accordance with the plans and specifications of said Project as filed with, and approved by, the Department. The Department shall administer the construction contract for said Project.

MAINTENANCE

- 8. Upon completion of the Project:
 - A. The Department shall be responsible for all traffic operating controls and devices which shall be established, enforced, and installed and maintained in accordance with the North Carolina General Statutes, the latest edition of the Manual on Uniform Traffic Control Devices for

Streets and Highways, the latest edition of the "Policy on Street and Driveway Access to North Carolina Highways", and departmental criteria.

- B. The improvement(s) shall be a part of the State Highway System and owned and maintained by the Department.
9. The Municipality, at no expense to the Department, shall assume all maintenance responsibilities for the sidewalk and release the Department from all liability relating to such maintenance.

FUNDING

10. The Municipality shall participate in the costs of the Project as follows:

- A. Upon completion of the work, the Municipality shall reimburse the Department \$260,000 towards the cost of the Project. The payment shall be considered the Municipality's full and complete payment for its participation in the Project.
- B. Reimbursement to the Department shall be made in one final payment upon completion of the work and within sixty days of invoicing by the Department.
- C. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment herein above provided, North Carolina General Statute 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by the General Statutes of North Carolina, Section 136-41.1 until such time as the Department has received payment in full under the reimbursement terms set forth in this Agreement. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with G.S. 147-86.23.

ADDITIONAL PROVISIONS

11. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency.
12. To the extent authorized by state and federal claims statutes, each party shall be responsible for its respective actions under the terms of this agreement and save harmless the other party from any claims arising as a result of such actions.

13. All terms of this Agreement are subject to available departmental funding and fiscal constraints.
14. This Agreement contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth herein.
15. The parties hereby acknowledge that the individual executing the Agreement on their behalf is authorized to execute this Agreement on their behalf and to bind the respective entities to the terms contained herein and that he has read this Agreement, conferred with his attorney, and fully understands its contents.
16. A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.
17. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IT IS UNDERSTOOD AND AGREED upon that the approval of the Project by the Department is subject to the conditions of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST: CITY OF NEW BERN

BY: _____ BY: _____

TITLE: _____ TITLE: _____

DATE: _____ DATE: _____

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by _____ of the local governing body of the City of New Bern
as attested to by the signature of Clerk of said governing body on _____ (Date)

This Agreement has been pre-audited in the manner
required by the Local Government Budget and
Fiscal Control Act.

(SEAL)

BY: _____
(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:
City of New Bern

DEPARTMENT OF TRANSPORTATION

BY: _____
(CHIEF ENGINEER)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (Date)

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution to Initiate the Upset Bid Process for 1111 Williams Street

Date of Meeting 1/9/18**Ward # if applicable** Ward 5**Department** City Clerk**Person Submitting Item:** Brenda Blanco**Call for Public Hearing** ☐ Yes ☒ No**Date of Public Hearing****Explanation of Item:**

An offer of \$1,000.00 has been received from Amanda Hurst for the purchase of 1111 Williams Street. The offer represents 25% of the tax value, which is \$4,000.00 on the vacant lot. The property was acquired by the City and Craven County in March 2008 through tax foreclosure. At the time of foreclosure, taxes were due in the amount of \$3,850.42 to the County and \$3,726.69 to the City. In addition to the taxes, the City also incurred \$3,200.00 in demolition costs, and the County and City incurred a total of \$2,273.83 in foreclosure costs. If no other bids are received and the property is sold for the initial offer, the County will receive \$528.63 and the City will receive \$471.37. The City will also be reimbursed the cost to advertise the offer.

Actions Needed by Board:

Consider adopting resolution

Is item time sensitive? ☐ Yes ☒ No**Will there be advocates/opponents at the meeting?** ☐ Yes ☒ No**Backup Attached:**

Memo, resolution, copy of offer to purchase, maps of property, tax card, and breakdown of anticipated proceeds

Cost of Agenda Item:

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : ☐ Yes ☐ No

Additional notes:

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129
New Bern, NC 28563-1129
(252) 636-4000

Dana E. Outlaw
Mayor

Mark A. Stephens
City Manager

Memorandum

TO: Mayor and Board of Aldermen
FROM: Brenda Blanco, City Clerk *BB*
DATE: January 2, 2018
SUBJECT: Offer to Purchase 1111 Williams Street

An offer in the amount of \$1,000.00 has been received from Amanda Hurst for the purchase of 1111 Williams Street. The offer represents 25% of the tax value, which is \$4,000.00. The property was acquired by the City and Craven County in March 2008 through tax foreclosure. Foreclosure costs totaled \$2,273.83. At the time of foreclosure, taxes were due in the amount of \$3,850.42 to the County and \$3,726.69 to the City. In addition to the taxes, the City also incurred \$3,200.00 in demolition costs.

If no other bids are received and the property is sold for the initial offer, the County will receive \$528.63 and the City will receive \$471.37. The City will also be reimbursed the cost to advertise the offer.

/beb

RESOLUTION

THAT WHEREAS, the City of New Bern and Craven County own certain real property identified as 1111 Williams Street, Craven County parcel identification number 8-014-241; and

WHEREAS, North Carolina General Statute § 160A-269 permits the City to sell property by upset bid after receipt of an offer for the property; and

WHEREAS, the City and Craven County have received an offer to purchase the above described property in the amount of \$1,000.00, submitted by Amanda Hurst; and

WHEREAS, Amanda Hurst has paid the required five percent (5%) deposit on the offer.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. The Board of Aldermen of the City of New Bern authorizes the sale of its interest in the property described above through the upset bid procedure of North Carolina General Statute § 160A-269.

Section 2. The City Clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.

Section 3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the City Clerk within ten (10) days after the notice of sale is published. At the conclusion of the 10-day period, the City Clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.

Section 4. If a qualifying higher bid is received, the City Clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the Board of Aldermen.

Section 5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.

Section 6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check or

certified check. The City will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset bid if a qualifying higher bid is received. If the City and County accept the final high bid, the deposit of the final high bidder will be applied to the purchase price at closing.

Section 7. The terms of the final sale are:

(a) The Board of Aldermen must approve the final high offer before the sale is closed, which it may do within thirty (30) days after the final upset bid period has passed; and

(b) The buyer must pay with cash at the time of closing.

Section 8. The City reserves the right to withdraw the property from sale at any time before the final high bid is accepted, and the right to reject all bids at any time, specifically including the initial offer.

Section 9. If no qualifying upset bid is received after the initial public notice, and if the offer set forth above has not been subsequently rejected, the offer set forth above is hereby accepted, and the appropriate city officials are authorized to execute the instruments necessary to convey the property to Amanda Hurst.

ADOPTED THIS 9th DAY OF JANUARY, 2018.

DANA E. OUTLAW, Mayor

BRENDA E. BLANCO, City Clerk

NORTH CAROLINA

OFFER TO PURCHASE AND CONTRACT

CRAVEN COUNTY

Amanda Hurst, as Buyer, hereby offers to purchase and **CRAVEN COUNTY and the CITY OF NEW BERN**, collectively as Seller, upon acceptance of said offer, agrees to sell and convey, all of that plot, piece or parcel of land described below (hereafter referred to as the "Property"), upon the following terms and conditions:

1. REAL PROPERTY: Located in or near the City of New Bern, Craven County, North Carolina, being known as and more particularly described as:

Street Address: 1111 Williams Street

Subdivision Name: _____

Tax Parcel ID No.: 8-014-241

Plat Reference: _____

Being all of that property more particularly described in Deed Book 2704, Page 843 in the Craven County Registry.

2. PURCHASE PRICE: The purchase price is \$ 1,000.00 and shall be paid as follows:

(a) \$ 50.00, EARNEST MONEY DEPOSIT with this offer by ☒ cash ☐ bank check ☐ certified check to be held by Seller until the sale is closed, at which time it will be credited to Buyer, or until this contract is otherwise properly terminated. In the event this offer is not accepted, then all earnest monies shall be refunded to Buyer. In the event of breach of this contract by Seller, all earnest monies shall be refunded to Buyer upon Buyer's request. In the event of breach of this contract by Buyer, then all earnest monies shall be forfeited to Seller upon Seller's request, but such forfeiture shall not affect any other remedies available to Seller for such breach.

(b) \$ 950.00, BALANCE of the purchase price in cash or readily available funds at Closing.

3. CONDITIONS:

(a) This contract is not subject to Buyer obtaining financing.

(b) The Property must be in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted.

(c) The Property is being sold subject to all liens and encumbrances of record, if any.

(d) Other than as provided herein, the Property is being conveyed "as is".

(e) This contract is subject to the provisions of G.S. §160A-269. Buyer acknowledges that this contract is subject to certain notice provisions and the rights in others to submit upset bids in accordance therewith.

(f) Title shall be delivered at Closing by QUITCLAIM DEED

4. SPECIAL ASSESSMENTS: Seller makes no warranty or representation as to any pending or confirmed governmental special assessments for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, or pending or confirmed owners' association special assessments. Buyer shall take title subject to all pending assessments, if any.

5. PAYMENT OF TAXES: Any ad valorem taxes to which the Property is subject shall be paid in their entirety by Buyer.

6. EXPENSES: Buyer shall be responsible for all costs with respect to any title search, title insurance, recording of the deed, and its legal fees. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this agreement, and for any excise tax (revenue stamps) required by law.

7. EVIDENCE OF TITLE: Not Applicable.

8. CLOSING: Closing shall be defined as the date and time of recording of the deed. All parties agree to execute any and all documents and papers necessary in connection with Closing and transfer of title within thirty (30) days of the granting of final approval of the sale by Craven County's Board of Commissioners and the City of New Bern's Board of Aldermen pursuant to G.S. §160A-269. The deed is to be made to Amanda Hurst.

9. POSSESSION: Unless otherwise provided herein, possession shall be delivered at Closing.

10. PROPERTY INSPECTION, APPRAISAL, INVESTIGATION:

(a) This contract is not subject to inspection, appraisal or investigation, as the Property is being bought "as is." Seller makes no representation as to water, sewer, conditions, title, access, or fitness for any intended use.

(b) **CLOSING SHALL CONSTITUTE ACCEPTANCE OF THE PROPERTY IN ITS THEN EXISTING CONDITION.**

11. RIGHT OF ENTRY, RESTORATION AND INDEMNITY: Buyer and Buyer's agents and contractors shall not have the right to enter upon the Property for any purpose without advance written permission of the Seller. If such permission is given, Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of Buyer and Buyer's agents and contractors relating to the Property. This indemnity shall survive this contract and any termination hereof.

12. OTHER PROVISIONS AND CONDITIONS: (ITEMIZE ALL ADDENDA TO THIS CONTRACT AND ATTACH HERETO.): None.

Buyer Initials AH Seller Initials _____

13. RISK OF LOSS: The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller.

14. ASSIGNMENTS: This contract may not be assigned without the written consent of all parties, but if assigned by agreement, then this contract shall be binding on the assignee and the assignee's heirs, successors or assigns (as the case may be).

15. PARTIES: This contract shall be binding upon and shall inure to the benefit of the parties, i.e., Buyer and Seller and their heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

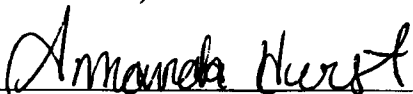
16. SURVIVAL: If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

17. ENTIRE AGREEMENT: This contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties.

18. NOTICE AND EXECUTION: Any notice or communication to be given to a party herein may be given to the party or to such party's agent. This offer shall become a binding contract (the "Effective Date") when signed by both Buyer and Seller and such signing is communicated to the offering party. This contract is executed under seal in signed multiple originals, all of which together constitute one and the same instrument, with a signed original being retained by each party, and the parties adopt the word "SEAL" beside their signatures below.

BUYER:

(If an individual)

 (SEAL)

Name: Amanda Hurst

Date: 12/22/17

Address: 417 Rocky Run Road
New Bern, NC 28562

Phone: 252-671-1794

SELLER

CRAVEN COUNTY

By: _____ (SEAL)

Its: _____

Date: _____

(If a business entity)

CITY OF NEW BERN

By: _____ (SEAL)

Its: _____

Date: _____

Address: _____

Phone: _____

By: _____ (SEAL)

Its: _____

Date: _____

Buyer Initials ah Seller Initials _____

Craven County Geographic Information System

Craven County does NOT warrant the information shown on this page and should be used ONLY for tax assessment purposes.

This report was created by Craven County GIS reporting services on 12/21/2017 3:19:20 PM

Parcel ID : 8-014 -241
Owner : CRAVEN COUNTY & NEW BERN-CITY OF
Mailing Address : PO BOX 1128 NEW BERN NC 28563
Property Address : 1111 WILLIAMS ST
Description : LOT 1111 WILLIAMS ST
Lot Description :



Subdivision :

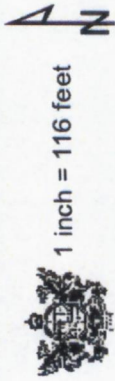
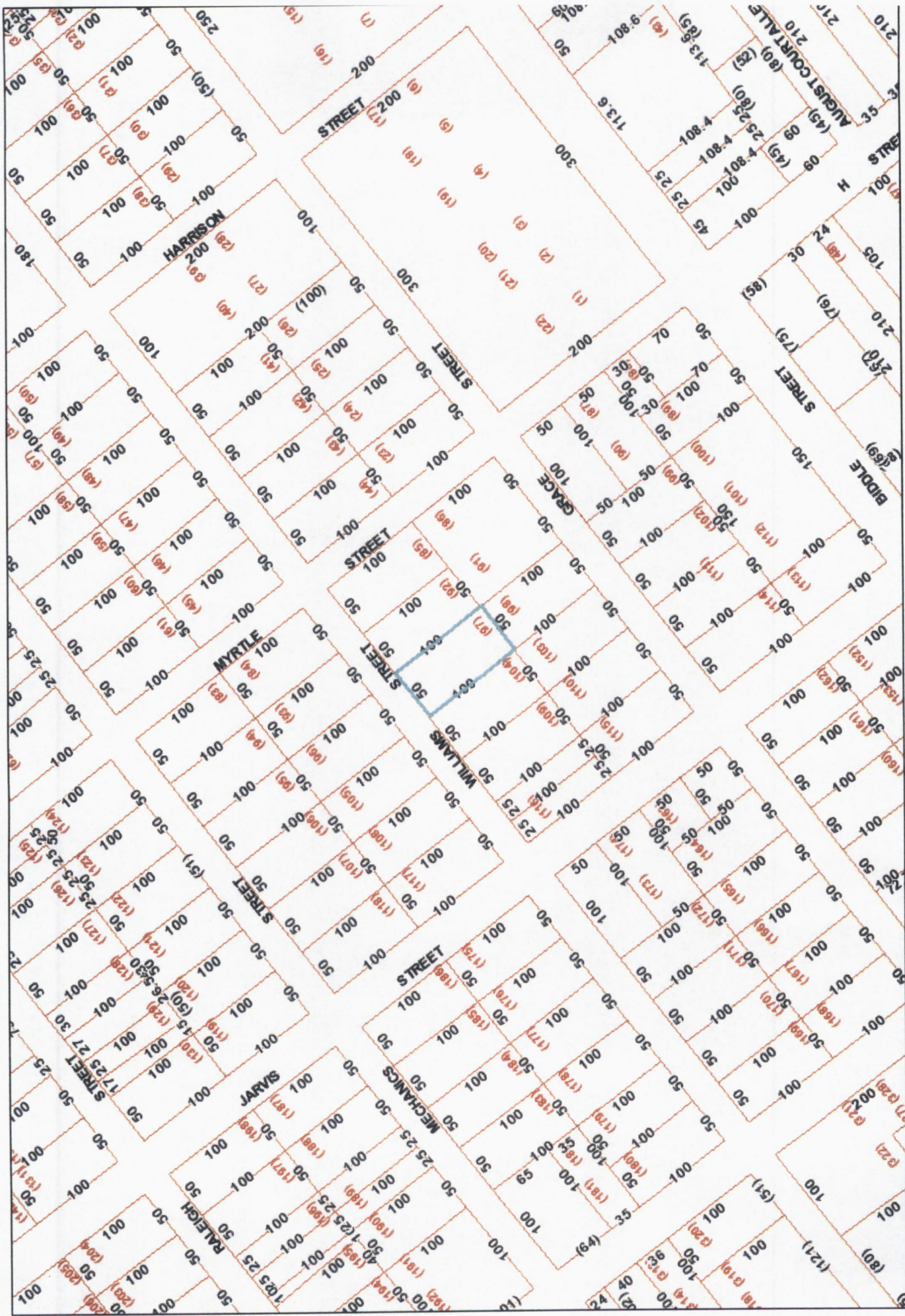
Assessed Acreage : 0.122 **Calculated Acreage :** 0.120
Deed Reference : 2704-0843 **Recorded Date :** 3 18 2008
Recorded Survey :
Estate Number :
Land Value : \$4,000 **Tax Exempt :** Yes
Improvement Value : \$0 **# of Improvements :** 0
Total Value : \$4,000
City Name : NEW BERN **Fire tax District :**
Drainage District : **Special District :**
Land use : VACANT-RESIDENTIAL TRACT

Recent Sales Information

SALE DATE	Sellers Name	Buyers Name	Sale Type	Sale Price
3/18/2008	GOODING, EDDIE HRS	CRAVEN COUNTY & NEW BERN-CITY OF	STRAIGHT TRANSFER	\$13,500

List of Improvements to Site

No improvements listed for this parcel



Craven County GIS 1111 Williams Street

Craven County does NOT warrant the information shown on this map and should be used ONLY for tax assessment purposes. Printed on December 21, 2017 at 3:20:35 PM



1111 WILLIAMS STREET

Ownership: City of New Bern & Craven Co.
Size: 0.07 Acres
Zoning: R-6. Residential
Land Use: Vacant Residential Lot
Flood Hazard: AE (SFHA)
Tax Values
Land: \$4,000
Buildings: \$0
Total: \$4,000
Tax ID: 8-014 -241



1 inch = 50 feet

0 20 40 80 Feet



1210

1122

ESTIMATE OF DIVISION OF PROCEEDS

Property: 1111 Williams Street

Offer Amount		\$	1,000.00
Less: Reimb to City for publication of notice of offer (approx.)		\$	205.00
Balance		\$	795.00

Foreclosure cost reimbursement:			
County	\$	1,511.96	66.494% \$ 528.63
City	\$	761.87	33.506% \$ 266.37
Total Costs	\$	2,273.83	

County Total	\$	528.63
City Total	\$	471.37

For information purposes:

County taxes at Foreclosure	\$	3,850.42
City taxes/liens at Foreclosure (incl. \$3200.00 demo lien)	\$	6,926.69

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution to Initiate the Upset Bid Process for 1112 Grace Street

Date of Meeting 1/9/18**Ward # if applicable** Ward 5**Department** City Clerk**Person Submitting Item:** Brenda Blanco**Call for Public Hearing** ☐ Yes ☒ No**Date of Public Hearing****Explanation of Item:**

An offer in the amount of \$1,000.00 has been received from Amanda Hurst for the purchase of 1112 Grace Street. The offer represents 25% of the tax value, which is \$4,000.00 on the vacant lot. The property was acquired by the City and Craven County in December 2006 through tax foreclosure. Foreclosure costs totaled \$2,098.71. At the time of foreclosure, taxes were due in the amount of \$1,810.41 to the County, and the City was due \$6,849.70, of which \$4,750.00 was a demolition lien. If no other bids are received and the property is sold for the initial offer, the County will receive \$543.10 and the City will receive \$456.90. The City will also be reimbursed the cost to advertise the offer.

Actions Needed by Board:

Consider adopting resolution

Is item time sensitive? ☐ Yes ☒ No**Will there be advocates/opponents at the meeting?** ☐ Yes ☒ No**Backup Attached:**

Memo, resolution, copy of offer to purchase, maps of property, tax card, and breakdown of anticipated proceeds

Cost of Agenda Item:

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : ☐ Yes ☐ No

Additional notes:

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129
New Bern, NC 28563-1129
(252) 636-4000

Dana E. Outlaw
Mayor

Mark A. Stephens
City Manager

Memorandum

TO: Mayor and Board of Aldermen
FROM: Brenda Blanco, City Clerk *BB*
DATE: January 2, 2018
SUBJECT: Offer to Purchase 1112 Grace Street

An offer in the amount of \$1,000.00 has been received from Amanda Hurst for the purchase of 1112 Grace Street. The offer represents 25% of the tax value, which is \$4,000.00 on the vacant lot. The property was acquired by the City and Craven County in December 2006 through tax foreclosure. Foreclosure costs totaled \$2,098.71. At the time of foreclosure, taxes were due in the amount of \$1,810.41 to the County, and the City was due \$6,849.70, of which \$4,750.00 was a demolition lien.

If no other bids are received and the property is sold for the initial offer, the County will receive \$543.10 and the City will receive \$456.90. The City will also be reimbursed the cost to advertise the offer.

/beb

RESOLUTION

THAT WHEREAS, the City of New Bern and Craven County own certain real property identified as 1112 Grace Street, Craven County parcel identification number 8-014-246; and

WHEREAS, North Carolina General Statute § 160A-269 permits the City to sell property by upset bid after receipt of an offer for the property; and

WHEREAS, the City and Craven County have received an offer to purchase the above described property in the amount of \$1,000.00, submitted by Amanda Hurst; and

WHEREAS, Amanda Hurst has paid the required five percent (5%) deposit on the offer.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. The Board of Aldermen of the City of New Bern authorizes the sale of its interest in the property described above through the upset bid procedure of North Carolina General Statute § 160A-269.

Section 2. The City Clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.

Section 3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the City Clerk within ten (10) days after the notice of sale is published. At the conclusion of the 10-day period, the City Clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.

Section 4. If a qualifying higher bid is received, the City Clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the Board of Aldermen.

Section 5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.

Section 6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check or

certified check. The City will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset bid if a qualifying higher bid is received. If the City and County accept the final high bid, the deposit of the final high bidder will be applied to the purchase price at closing.

Section 7. The terms of the final sale are:

(a) The Board of Aldermen must approve the final high offer before the sale is closed, which it may do within thirty (30) days after the final upset bid period has passed; and

(b) The buyer must pay with cash at the time of closing.

Section 8. The City reserves the right to withdraw the property from sale at any time before the final high bid is accepted, and the right to reject all bids at any time, specifically including the initial offer.

Section 9. If no qualifying upset bid is received after the initial public notice, and if the offer set forth above has not been subsequently rejected, the offer set forth above is hereby accepted, and the appropriate city officials are authorized to execute the instruments necessary to convey the property to Amanda Hurst.

ADOPTED THIS 9th DAY OF JANUARY, 2018.

DANA E. OUTLAW, Mayor

BRENDA E. BLANCO, City Clerk

NORTH CAROLINA

OFFER TO PURCHASE AND CONTRACT

CRAVEN COUNTY

Amanda Hurst, as Buyer, hereby offers to purchase and **CRAVEN COUNTY and the CITY OF NEW BERN**, collectively as Seller, upon acceptance of said offer, agrees to sell and convey, all of that plot, piece or parcel of land described below (hereafter referred to as the "Property"), upon the following terms and conditions:

1. **REAL PROPERTY:** Located in or near the City of New Bern, Craven County, North Carolina, being known as and more particularly described as:

Street Address: 1112 Grace Street

Subdivision Name: _____

Tax Parcel ID No.: 8-014-246

Plat Reference: _____

Being all of that property more particularly described in Deed Book 2543, Page 585 in the Craven County Registry.

2. **PURCHASE PRICE:** The purchase price is \$ 1,000.00 and shall be paid as follows:

(a) \$ 50.00, EARNEST MONEY DEPOSIT with this offer by ☒ cash ☐ bank check ☐ certified check to be held by Seller until the sale is closed, at which time it will be credited to Buyer, or until this contract is otherwise properly terminated. In the event this offer is not accepted, then all earnest monies shall be refunded to Buyer. In the event of breach of this contract by Seller, all earnest monies shall be refunded to Buyer upon Buyer's request. In the event of breach of this contract by Buyer, then all earnest monies shall be forfeited to Seller upon Seller's request, but such forfeiture shall not affect any other remedies available to Seller for such breach.

(b) \$ 950.00, BALANCE of the purchase price in cash or readily available funds at Closing.

3. **CONDITIONS:**

(a) This contract is not subject to Buyer obtaining financing.

(b) The Property must be in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted.

(c) The Property is being sold subject to all liens and encumbrances of record, if any.

(d) Other than as provided herein, the Property is being conveyed "as is".

(e) This contract is subject to the provisions of G.S. §160A-269. Buyer acknowledges that this contract is subject to certain notice provisions and the rights in others to submit upset bids in accordance therewith.

(f) Title shall be delivered at Closing by QUITCLAIM DEED

4. **SPECIAL ASSESSMENTS:** Seller makes no warranty or representation as to any pending or confirmed governmental special assessments for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, or pending or confirmed owners' association special assessments. Buyer shall take title subject to all pending assessments, if any.

5. **PAYMENT OF TAXES:** Any ad valorem taxes to which the Property is subject shall be paid in their entirety by Buyer.

6. **EXPENSES:** Buyer shall be responsible for all costs with respect to any title search, title insurance, recording of the deed, and its legal fees. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this agreement, and for any excise tax (revenue stamps) required by law.

7. **EVIDENCE OF TITLE:** Not Applicable.

8. **CLOSING:** Closing shall be defined as the date and time of recording of the deed. All parties agree to execute any and all documents and papers necessary in connection with Closing and transfer of title within thirty (30) days of the granting of final approval of the sale by Craven County's Board of Commissioners and the City of New Bern's Board of Aldermen pursuant to G.S. §160A-269. The deed is to be made to Amanda Hurst.

9. **POSSESSION:** Unless otherwise provided herein, possession shall be delivered at Closing.

10. **PROPERTY INSPECTION, APPRAISAL, INVESTIGATION:**

(a) This contract is not subject to inspection, appraisal or investigation, as the Property is being bought "as is." Seller makes no representation as to water, sewer, conditions, title, access, or fitness for any intended use.

(b) **CLOSING SHALL CONSTITUTE ACCEPTANCE OF THE PROPERTY IN ITS THEN EXISTING CONDITION.**

11. **RIGHT OF ENTRY, RESTORATION AND INDEMNITY:** Buyer and Buyer's agents and contractors shall not have the right to enter upon the Property for any purpose without advance written permission of the Seller. If such permission is given, Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of Buyer and Buyer's agents and contractors relating to the Property. This indemnity shall survive this contract and any termination hereof.

12. **OTHER PROVISIONS AND CONDITIONS:** (ITEMIZE ALL ADDENDA TO THIS CONTRACT AND ATTACH HERETO.): None.

Buyer Initials AM Seller Initials _____

13. RISK OF LOSS: The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller.

14. ASSIGNMENTS: This contract may not be assigned without the written consent of all parties, but if assigned by agreement, then this contract shall be binding on the assignee and the assignee's heirs, successors or assigns (as the case may be).

15. PARTIES: This contract shall be binding upon and shall inure to the benefit of the parties, i.e., Buyer and Seller and their heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

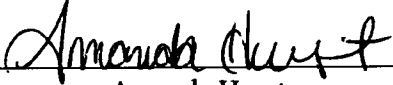
16. SURVIVAL: If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

17. ENTIRE AGREEMENT: This contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties.

18. NOTICE AND EXECUTION: Any notice or communication to be given to a party herein may be given to the party or to such party's agent. This offer shall become a binding contract (the "Effective Date") when signed by both Buyer and Seller and such signing is communicated to the offering party. This contract is executed under seal in signed multiple originals, all of which together constitute one and the same instrument, with a signed original being retained by each party, and the parties adopt the word "SEAL" beside their signatures below.

BUYER:

(If an individual)

 (SEAL)
Name: Amanda Hurst
Date: 12/22/17
Address: 417 Rocky Run Road
New Bern, NC 28562
Phone: 252-671-1794

SELLER

CRAVEN COUNTY

By: _____ (SEAL)
Its: _____
Date: _____


(If a business entity)

CITY OF NEW BERN

By: _____ (SEAL)
Its: _____
Date: _____
Address: _____

Phone: _____

By: _____ (SEAL)
Its: _____
Date: _____

Buyer Initials  _____ Seller Initials _____

Craven County Geographic Information System

Craven County does NOT warrant the information shown on this page and should be used ONLY for tax assessment purposes.

This report was created by Craven County GIS reporting services on 12/21/2017 3:16:12 PM

Parcel ID : 8-014 -246
Owner : CRAVEN COUNTY & NEW BERN-CITY OF
Mailing Address : PO BOX 1128 NEW BERN NC 28563
Property Address : 1112 GRACE ST
Description : LOT 98 MECHANICSVILLE
Lot Description :



Subdivision :

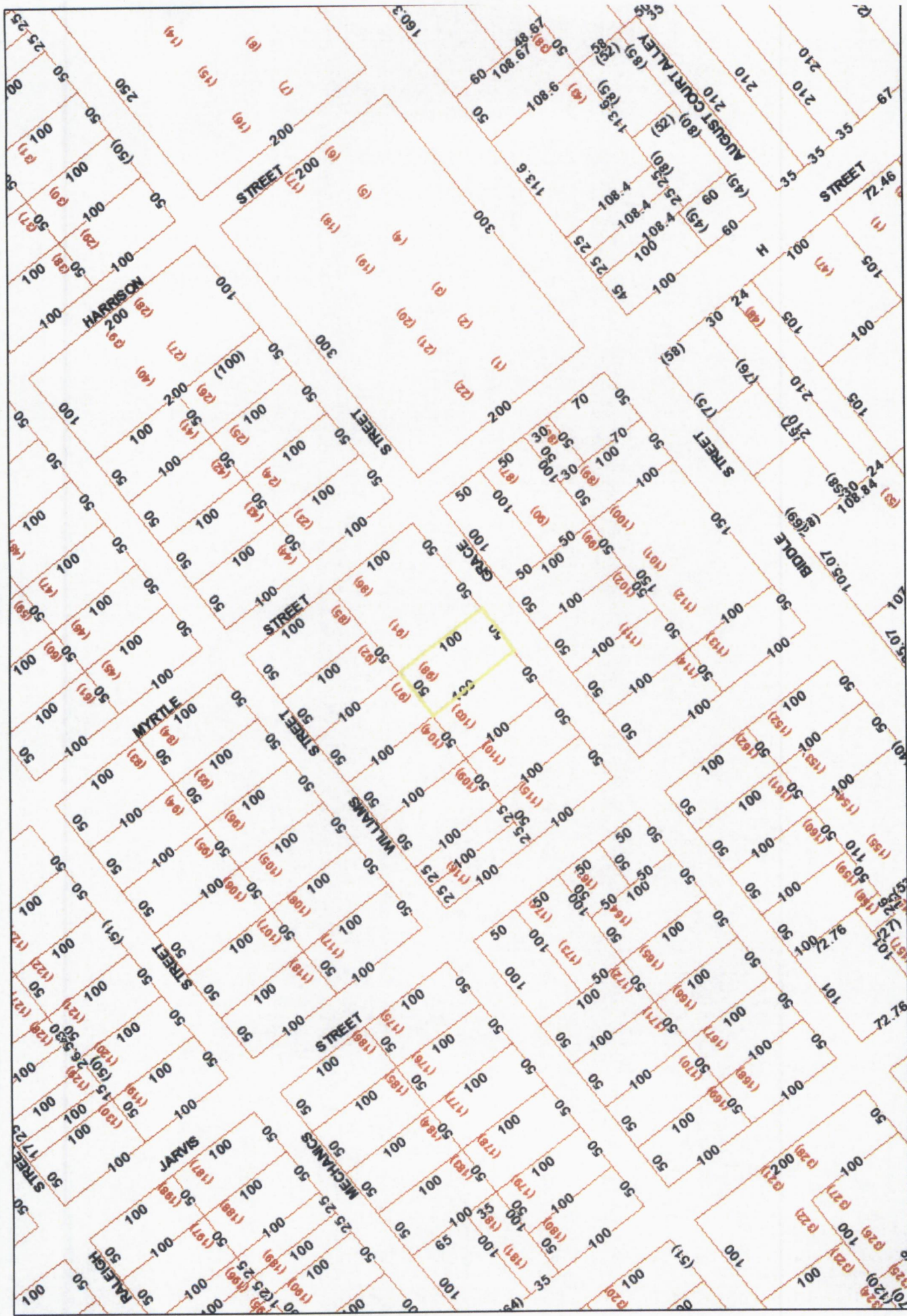
Assessed Acreage : 0.117 **Calculated Acreage :** 0.120
Deed Reference : 2543-0585 **Recorded Date :** 12 14 2006
Recorded Survey :
Estate Number :
Land Value : \$4,000 **Tax Exempt :** Yes
Improvement Value : \$0 **# of Improvements :** 0
Total Value : \$4,000
City Name : NEW BERN **Fire tax District :**
Drainage District : **Special District :**
Land use : VACANT-RESIDENTIAL TRACT

Recent Sales Information

SALE DATE	Sellers Name	Buyers Name	Sale Type	Sale Price
12/14/2006	ANDREWS, OSSIE SR HRS	CRAVEN COUNTY & NEW BERN-CITY OF	STRAIGHT TRANSFER	\$11,000

List of Improvements to Site

No improvements listed for this parcel



Craven County GIS 1112 Grace St

Craven County does NOT warrant the information shown on this map and should be used ONLY for tax assessment purposes. Printed on December 21, 2017 at 3:18:11 PM



1 inch = 116 feet



1112 GRACE STREET

Ownership: New Bern & Craven County
Size: 0.12 Acres
Zoning: R-6 Residential
Land Use: Vacant Residential Lot
Flood Hazard: AE
Tax Values
Land: \$4,000
Buildings: \$0
Total: \$4,000
Tax ID: 8-014 -246



1 inch = 50 feet

0 20 40 80 Feet



ESTIMATE OF DIVISION OF PROCEEDS

Property: 1112 Grace Street

Offer Amount	\$	1,000.00
Less: Reimb to City for publication of notice of offer (approx.)	\$	205.00
Balance	\$	795.00

Foreclosure cost reimbursement:

County	\$	1,433.71	68.314%	\$	543.10
City	\$	665.00	31.686%	\$	251.90
Total Costs	\$	2,098.71			

County Total	\$	543.10
City Total	\$	456.90

For information purposes:

County taxes at Foreclosure	\$	1,810.41
City taxes/liens at Foreclosure (incl. \$4750.00 demo lien)	\$	6,849.70

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution Approving a Code of Ethics for the Board of Aldermen

Date of Meeting 01/09/18

Ward # if applicable N/A

Department City Clerk

Person Submitting Item: Brenda Blanco

Call for Public Hearing ☐ Yes ☒ No

Date of Public Hearing

Explanation of Item:

NCGS Section 160A-86 requires local governing boards to adopt a resolution approving a code of ethics. The proposed Code of Ethics is the same as one previously adopted by the City and meets with the City Attorney's approval.

Actions Needed by Board:

Consider adopting a resolution approving a Code of Ethics

Is item time sensitive? ☒ Yes ☐ No

Will there be advocates/opponents at the meeting? ☐ Yes ☒ No

Backup Attached:

Resolution with Code of Ethics
Copy of NCGS 160A-86\$0

Cost of Agenda Item:

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : ☐ Yes ☐ No

Additional notes:

RESOLUTION

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the Code of Ethics for the Board of Aldermen of The City of New Bern, North Carolina, a copy of which is attached hereto and incorporated herein by reference, be and the same is hereby approved, and the Mayor and the City Clerk are hereby authorized and directed to execute the same on behalf of the City.

ADOPTED THIS 9TH DAY OF JANUARY, 2018.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

CODE OF ETHICS FOR THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN, NORTH CAROLINA

Preamble

THAT WHEREAS, the Constitution of North Carolina, Article I, Section 35, reminds us that a “frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty”; and

WHEREAS, a spirit of honesty and forthrightness is reflected in North Carolina’s state motto, *Esse quam videri*, “To be rather than to seem”; and

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards and councils to adopt a code of ethics; and

WHEREAS, as public officials, we are charged with upholding the trust of the citizens of the City of New Bern and with obeying the law.

NOW, THEREFORE, in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens of the City of New Bern, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the Board of Aldermen of the City of New Bern do hereby adopt the following to guide the Board of Aldermen in its lawful decision making:

General Principles Underlying the Code of Ethics

- The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- Board members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.
- Board members must always remain aware that at various times they play different roles:

- As advocates, who strive to advance the legitimate needs of their citizens.
- As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions.
- As decision makers, who arrive at fair and impartial quasi-judicial and administrative determinations.
- Board members must know how to distinguish among these roles, to determine when each role is appropriate and to act accordingly.
- Board members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of the constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

Code of Ethics

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for the Board of Aldermen and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a board member's best judgment.

Section 1. Board members should obey all laws applicable to their official actions as members of the Board. Board members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To declare that a board member is behaving unethically because of disagreeing with that board member on a question of policy (and not because of the board member's behavior) is unfair, irresponsible, and itself unethical.

Board members should endeavor to keep up to date, through the board's attorney and other sources, about new or ongoing legal or ethical issues they may face in their official positions. This educational function is in addition to the day-to-day legal advice the board may receive concerning specific situations that arise.

Section 2. Board members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values.
- Behaving consistently and with respect toward everyone with whom they interact.
- Exhibiting trustworthiness.
- Living as if they are on duty as elected officials regardless of where they are or what they are doing.
- Using their best independent judgment to pursue the common good as they see it, presenting their opinion to all in a reasonable, forthright, consistent manner.
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others.
- Disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves.
- Treating other board members and the public with respect and honoring the opinions of others even while the board members disagree with those opinions.
- Not reaching conclusions on issues until all sides have been heard.
- Showing respect for their offices and not behaving in ways that reflect poorly on those offices.
- Recognizing that they are a part of a larger group and acting accordingly.
- Recognizing that individual board members are not generally allowed to act on behalf of the board, but may only do so if the board specifically authorizes it, and that the board must take official action as a body.
- Avoiding conflicts of interest.

Section 3. Board members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this board will consider impropriety in terms of whether a reasonable person who is aware of all the relevant facts and circumstances surrounding the board member's action would conclude that the action was inappropriate.

If a board member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the board's attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it.

Section 4. Board members should faithfully perform the duties of their offices. They should act as especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Board members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, mindful of the need not to engage in communications outside the meeting in quasi-judicial matters. They should demand full accountability from those over whom the board has authority.

Board members should be willing to bear their fair share of the board's workload. To the extent appropriate, they should be willing to put the board's interest ahead of their own.

Section 5. Board members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should also remember that local government records belong to the public and not to board members or their employees.

In order to ensure strict compliance with the laws concerning openness, board members should make clear that an environment of transparency and candor is to be maintained at all times in the government unit. They should prohibit unjustified delay in fulfilling public record requests. They should take deliberate steps to make certain that any closed sessions held by the board are lawfully conducted and that such sessions do not stray from the purpose for which they are called.

ADOPTED this 9th day of January, 2018.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

Part 3A. Ethics Codes and Education Programs.

§ 160A-86. Local governing boards' code of ethics.

(a) Governing boards of cities, counties, local boards of education, unified governments, sanitary districts, and consolidated city-counties shall adopt a resolution or policy containing a code of ethics to guide actions by the governing board members in the performance of the member's official duties as a member of that governing board.

(b) The resolution or policy required by subsection (a) of this section shall address at least all of the following:

- (1) The need to obey all applicable laws regarding official actions taken as a board member.
- (2) The need to uphold the integrity and independence of the board member's office.
- (3) The need to avoid impropriety in the exercise of the board member's official duties.
- (4) The need to faithfully perform the duties of the office.
- (5) The need to conduct the affairs of the governing board in an open and public manner, including complying with all applicable laws governing open meetings and public records.
(2009-403, s. 1.)

AGENDA ITEM COVER SHEET

Agenda item title:

Resolution to approve amended Rules of Procedure

Date of Meeting/Work Session January 9, 2018 **Ward # if applicable** N/A

Department City Attorney **Person submitting item** Scott Davis

Call for Public Hearing _____ **Date of Public Hearing** _____

Explanation of the item:

Resolution to approve the amended Rules of Procedure to change the time of the regular and organizational meetings from 7:00 p.m. to 6:00 p.m. at the Board's direction

Actions needed by Board:

Approve Resolution approving the amended Rules of Procedure

Is item time sensitive? Yes

Will there be advocates/opponents at the meeting? _____

Backup attached:

Resolution
Revised Rules of Procedure – redline and final

Cost of Agenda Item N/A

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? _____

Additional notes:

MEMORANDUM

TO: Mayor and Members of the Board
City Manager

FROM: Michael Scott Davis, City Attorney

RE: Amended Rules of Procedure Governing Board of Aldermen Meetings

DATE: January 2, 2018

The Rules of Procedure adopted by the Board of Aldermen on August 12, 2014 are being amended to change the meeting time for regular and organizational meetings from 7:00 p.m. to 6:00 p.m. in accordance with the Board's direction. No other changes are being made to the Rules of Procedure as previously adopted.

RESOLUTION

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the amended Rules of Procedure of the Board of Aldermen of the City of New Bern, a copy of which is attached hereto and incorporated herein by reference, be and the same are hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute the same for and on behalf of the City.

ADOPTED THIS 9th DAY OF JANUARY, 2018.

DANA E. OUTLAW, Mayor

BRENDA E. BLANCO, City Clerk

Board of Aldermen

of the

City of New Bern

Rules of Procedure

I. Applicability

These rules apply to all meetings of the Board of Aldermen of the City of New Bern at which the board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

II. Regular, Special and Emergency Meetings

Rule 1. Regular Meetings

The board of aldermen shall adopt a schedule of its regular monthly meetings prior to the commencement of each calendar year. Regular meetings of the board of aldermen shall be held at city hall, located at 300 Pollock Street, New Bern, North Carolina, and shall begin at 6:00 p.m. A current copy of the board's regular meeting schedule shall be filed with the city clerk, and available on the city's official website.

Rule 2. Special, Emergency, and Recessed Meetings

(a) Special Meetings. The mayor, or two members of the board of aldermen may at any time call a special meeting of the board. At least forty-eight hours before a special meeting called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be (1) given to each board member; (2) posted on the board's principal bulletin board or, if none, at the door of the board's usual meeting room; and (3) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the city clerk.

A special meeting may also be called or scheduled by vote of the board in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place, and purpose. At least forty-eight hours before a special meeting called in this manner, notice of the time, place, and purpose of the meeting shall be (1) posted on the board's principal bulletin board or, if none, at the door of the board's usual meeting room and (2) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the city clerk. Only those items of business specified in the notice may be discussed or transacted at a special meeting, unless (1) all members are present; and (2) the board determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

(b) Emergency Meetings. The mayor, or two members of the board of aldermen may at any time call an emergency meeting of the board by signing a written notice stating the time and place of the meeting and the subjects to be considered. Written or oral notice of the meeting shall be given to each board member and to each local newspaper, local wire service, local radio station, and local television station that has filed a written emergency meeting notice request with the city clerk, and whose request includes the newspaper's, wire service's, or station's telephone number. Notice to the news media shall be given at the expense of the party notified.

Emergency meetings may be called only because of generally unexpected circumstances that require immediate consideration by the board. Only business connected with the emergency may be considered at an emergency meeting.

(c) Recessed Meetings. A properly called regular, special, or emergency meeting may be recessed to a time and place certain by a procedural motion made and adopted as provided in Rule 16(b), Motion 2, in open session during the regular, special, or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of such a recessed session of a properly called regular, special, or emergency meeting.

(d) Cancellations. Any regular, special, or recessed meeting of the board of aldermen shall be cancelled upon a declaration of a state of emergency by the Craven County Department of Emergency Services. In the event of such a cancellation, the city shall notify the local media of the cancellation, and to the extent possible, cause a notice of the cancellation to be posted at the door of the board's usual meeting room.

III. Organization of the Board

Rule 3. Organizational Meeting

The board shall hold an organizational meeting at its regular meeting place at 6:00 p.m. on the second Tuesday in December following a regular municipal election, and quadrennially thereafter. Initially, the previous board shall convene, at which time it shall approve any prior minutes and may consider any unfinished business it desires to complete. It shall then adjourn *sine die*. Immediately following, the newly elected board shall convene and take and subscribe the oath of office as the first order of business. As the second order of business, the board shall elect a mayor pro tem, using one of the nomination and voting procedures set out in Rule 25. The mayor pro tem shall act as mayor whenever the mayor shall be absent from the city or be prevented by sickness or other cause from attending to the duties of his office, and he shall possess all the rights and powers of the mayor during the continuance of such vacancy, absence or disability. The mayor shall preside at meetings of the board of aldermen and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina, by the City Charter, and the ordinances of the city. The mayor shall have the right to vote on any question before the board of aldermen.

IV. Agenda

Rule 4. Agenda

(a) **Agenda.** The city manager shall cause to be prepared an agenda and agenda package for each meeting. A request to have an item of business placed on the agenda may be raised by any board member as ‘new business’ on the agenda, and upon receiving a majority vote, shall be placed on a future agenda as directed. An agenda package shall include, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce, and shall contain a copy of all proposed resolutions and ordinances as may appear on the agenda. Each board member shall receive a copy of the proposed agenda and agenda package no later than three (3) days prior to each regular meeting in either digital or hard copy form, as requested by each board member. The proposed agenda and agenda package shall also be available for public inspection and appear on the city’s official website no later than three (3) days prior to each regular meeting, or as soon as possible if three (3) days is not practical. Nothing in this section shall preclude the city manager from modifying the proposed agenda and agenda package at any time prior to a board meeting as the city’s business dictates.

(b) **Adoption of the Agenda.** As its first order of business at each meeting, the board shall, as specified in Rule 6, discuss and revise the proposed agenda and adopt an agenda for the meeting. The board may by majority vote add items to or subtract items from the proposed agenda, except that the board may not add items to the agenda of a special meeting unless (a) all members are present and (b) the board determines in good faith at the meeting that it is essential to discuss or act on the item immediately. If items are proposed to be added to the agenda, the board may, by majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all board members.

The board may designate certain agenda items “for discussion and possible action.” Such designation means that the board intends to discuss the general subject area of that agenda item before making any motion concerning that item.

(c) **Open Meetings Requirements.** The board shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the board to understand what is being deliberated, voted, or acted on. However, the board may deliberate, vote, or otherwise take action by reference to an agenda, if copies of the agenda—sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on—are available for public inspection at the meeting.

Rule 5. Petition of Citizens.

The board shall provide at least one period for public comment per month at its first regular monthly meeting of the board. In compliance with N.C.G.S. §160A-81.1, the board establishes the following policy for monthly public comments at the first regular meeting of the board of

aldermen each month. The clerk shall provide sign-up forms at the entry to the city hall meeting room prior to each meeting for persons who desire to address the board. Forms shall be available until the commencement of the board meeting. The purpose of the time for informal public comments is to allow for public input to the board on issues germane to the city. It is not intended to compel board members or staff to answer questions in an impromptu manner.

Each speaker will speak from the podium, and begin their remarks by giving their name, stating whether or not they are residents of the city, and stating the topic about which they intend to speak. Comments will be directed to the full board, not to an individual board member, staff members, or the audience. Speaker comments are limited to a maximum of 4 minutes during the public comment period. At the conclusion of 4 minutes, each speaker shall leave the podium. Speakers may not yield any of his or her time to another speaker.

Speakers must be courteous in their language and presentation. Personal attacks will not be tolerated. Speakers may leave written comments and/or supporting documents, if any, with the clerk to the board.

If at the beginning of the public comment period, the mayor determines that the time required to hear all speakers on the sign-up sheet would unduly disrupt the conduct of city business or cause undue inconvenience to citizens in attendance for other items on the agenda, the mayor may require the designation of spokesman, or the selection of delegates, for groups of persons supporting or opposing the same positions, whose time shall be limited to a maximum of 4 minutes. The mayor may also move the period for public comment to some time later in the meeting.

Notwithstanding the mayor's prerogatives under this Rule 5, any decision of the mayor may be appealed and overruled by a majority of the Board.

Rule 6. Order of Business

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

1. Discussion and revision of the proposed agenda; adoption of an agenda
2. Public hearings
3. Administrative reports
4. Approval of minutes
5. Appointments
6. Attorney's report
7. City manager's report
8. New Business
9. Closed session, if any

By general consent of the board, items may be considered out of order.

V. Conduct of Debate

Rule 7. Presiding Officer

The mayor shall preside at board meetings if he or she is present, unless he or she becomes actively engaged in debate on a particular matter. In order to address the board, a member must be recognized by the mayor.

If the mayor is absent, the mayor pro tem shall preside. If both the mayor and mayor pro tem are absent, another member designated by majority vote of the board shall preside. The mayor pro tem, or another member who is temporarily presiding retains all of his or her rights as a member, including the right to make motions and the right to vote.

If the presiding officer becomes actively involved in debate on a particular matter, he or she may designate another board member to preside over the debate. The presiding officer shall resume presiding as soon as action on the matter is concluded.

The presiding officer shall have the following powers:

To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;

To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;

To entertain and answer questions of parliamentary law or procedure;

To call a brief recess at any time;

To adjourn in an emergency.

A decision by the presiding officer under any of the first three powers listed may be appealed to the board upon motion of any member, pursuant to Rule 16, Motion 1. Such a motion is in order immediately after a decision under those powers is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion, if timely made, may not be ruled out of order.

Rule 8. Action by the Board

(a) The board shall proceed by motion, except as otherwise provided for in Rules 3, 4, and 25. Any member, including the mayor, may make a motion

(b) Attendance via Simultaneous and/or Electronic Communication. In order to participate in a meeting via simultaneous and/or electronic communication, the following criteria

must be met:

1. The official meeting was properly noticed under G.S. 143-318.12 and under any other requirement for notice applicable to the board.
2. The member or members participating from a remote location by simultaneous communication can fully participate in the deliberations.
3. The member or members of the board participating from a remote location by simultaneous communication can be heard by the other members of the board and any other individual in attendance at the official meeting.
4. The vote of the member or members of the board participating from a remote location by simultaneous communication is not by electronic mail or facsimile.
5. If the Mayor is participating from a remote location by simultaneous communication, the mayor pro temp or some other member of the board who is physically present shall preside at the official meeting. The Mayor or presiding officer of the board participating from a remote location by simultaneous communication shall retain the same voting rights he or she has when presiding.
6. The official meeting, or part of an official meeting with a member or members of the board participating from a remote location by simultaneous communication is not allowed in any quasi-judicial proceeding.
7. No written ballots may be taken at the official meeting with a member or members of the board participating from a remote location by simultaneous communication.
8. If the official meeting involves a member of the board participating from a remote location by simultaneous communication by which the member or members cannot be physically seen by the public body, that member must comply with all of the following:
 - (i) The participation of the member or members must be announced when the meeting is commenced or at the beginning of participation.
 - (ii) The member identifies himself or herself prior to participating in the deliberations during the official meeting.
 - (iii) The member identifies himself or herself prior to voting.
9. The member or members participating from a remote location by simultaneous communication shall have been provided with any documents to be considered during the official meeting.

Rule 9. Second Required

A motion requires a second before the board may proceed with discussion or action on the motion.

Rule 10. One Motion at a Time

A member may make only one motion at a time.

Rule 11. Substantive Motions

A substantive motion is out of order while another substantive motion is pending.

Rule 12. Adoption by Majority Vote

(a) A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 22 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

(b) A roll call vote shall be required for the following actions:

1. Adoption of an ordinance;
2. Adoption of a written resolution; and
3. Upon the request of the mayor, or at least two (2) other members of the board

Rule 13. Voting by Written Ballot

The board may choose by majority vote to use written ballots in voting on a motion. Such ballots shall be signed, and the minutes of the board shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the city clerk immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Rule 14. Debate

The mayor shall state the motion and then open the floor to debate. The mayor shall preside over the debate according to the following general principles:

1. The maker of the motion is entitled to speak first;
2. A member who has not spoken on the issue shall be recognized before someone who has already spoken;
3. To the extent possible, the debate shall alternate between proponents and opponents of the measure.

Rule 15. Ratification of Actions

To the extent permitted by law, the board may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

Rule 16. Procedural Motions

(a) Certain Motions Allowed. In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

(b) Order of Priority of Motions. In order of priority (if applicable), the procedural motions are:

Motion 1. To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the board, as specified in Rule 7. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

Motion 2. To Adjourn. This motion may be made only at the conclusion of action on a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to recess to a time and place certain shall also comply with the requirements of Rule 2(c).

Motion 3. To Take a Brief Recess. This motion allows the board to pause briefly in its proceedings rather than to recess to a time and place certain.

Motion 4. Call to Follow the Agenda. The motion must be made at the first reasonable opportunity or it is waived.

Motion 5. To Suspend the Rules. The board may not suspend provisions of the rules that state requirements imposed by law on the board. For adoption, the motion requires an affirmative vote equal to a majority of the entire membership of the board rather than of a quorum present.

Motion 6. To Go into Closed Session. The board may go into closed session only for one or more of the permissible purposes listed in G.S. 143-318.11(a):

(1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning

of Chapter 132 of the General Statutes;

(2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award;

(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded;

(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session;

(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract;

(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting;

(7) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct;

(8) To formulate plans by a local board of education relating to emergency response to

incidents of school violence or to formulate and adopt the school safety components of school improvement plans by a local board of education or a school improvement team; or

(9) To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity.

The motion to go into closed session shall cite one or more of these purposes and shall be adopted at an open meeting. A motion based on G.S. 143-318.11(a)(1) shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on G.S. 143-318(a)(3) shall identify the parties in each existing lawsuit concerning which the board expects to receive advice during the closed session, if in fact such advice is to be received.

Motion 7. To Leave Closed Session. This motion is made to return from a closed session to an open meeting.

Motion 8. To Divide a Complex Motion and Consider It by Paragraph. The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

Motion 9. To Defer Consideration (also, To Table). The board may defer a substantive motion for later consideration at an unspecified time. A substantive motion the consideration of which has been deferred expires one hundred (100) days thereafter unless a motion to revive consideration is adopted. If consideration of a motion has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending (has not expired). A person who wishes to revisit the matter during that time must take action to revive consideration of the original motion [Rule 16(b), Motion 14], or else move to suspend the rules [Rule 16(b), Motion 5].

Motion 10. Motion for the Previous Question. The motion is not in order until there have been at least twenty (20) minutes of debate and every member has had an opportunity to speak once.

Motion 11. To Postpone to a Certain Time or Day. If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A person who wishes to revisit the matter must either wait until the specified time or move to suspend the rules [Rule 16(b), Motion 5].

Motion 12. To Refer a Motion to a Committee. The board may vote to refer a substantive motion to a committee for its study and recommendations. Sixty (60) days or more after a substantive motion has been referred to a committee, the introducer of the substantive motion may compel consideration of the measure by the entire board, whether or not the committee has reported the matter to the board.

Motion 13. To Amend.

(a) An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend.

(b) A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote.

(c) Any amendment to a proposed ordinance or resolution shall be reduced to writing before the vote on the amendment.

Motion 14. To Revive Consideration. The board may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 9 of Rule 16(b). The motion is in order at any time within one hundred (100) days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires one hundred (100) days after the deferral unless a motion to revive consideration is adopted.

Motion 15. To Reconsider. The board may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority, except in the case of a tie; in that case the “nos” prevail) and only at the meeting during which the original vote was taken, including any continuation of that meeting through recess to a time and place certain. The motion cannot interrupt deliberation on a pending matter but is in order at any time before final adjournment of the meeting.

Motion 16. To Rescind or Repeal. The board may vote to rescind actions it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of an action is forbidden by law.

Motion 17. To Prevent Reintroduction for Six Months. The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires for adoption a vote equal to a majority of the entire membership of the board, rather than of a quorum. If adopted, the restriction imposed by the motion remains in effect for six months or until the next organizational meeting of the board, whichever occurs first.

Rule 17. Renewal of Motion

A motion that is defeated may be renewed at any later meeting unless a motion to prevent reconsideration has been adopted.

Rule 18. Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before it is amended or before the chair puts the motion to a vote, whichever occurs first.

Rule 19. Duty to Vote

Every member must vote unless excused by the remaining members of the board. A member who wishes to be excused from voting shall so inform the presiding official, who shall take a vote of the remaining members. No member shall be excused from voting except in cases involving conflicts of interest, as defined by the board or by law, or the member's official conduct, as defined by the board. In all other cases, a failure to vote by a member who is physically present in the board chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

Rule 20. Conflicts of Interest

(a) Implicit in the operations and conduct of city government is the constant expectation that the board recognize that in all their transactions and at all times they are subject to the duty of undivided loyalty to the city. The nature of their obligations is such that it demands positive action on their part to affirmatively protect and promote the interest of the city committed to their care, and at all times to avoid situations where their self-interests, actual or apparent, may be of such nature or extent as to conflict with performance of that primary responsibility.

(b) The scope of human activity is so broad that it is unadvisable to attempt to enumerate here all possible areas in which a conflict of interest might arise. Consequently, the following is an illustrative list only, and is not intended to proscribe all aspects of the conduct of the board in their capacity as city elected officials:

1. No member of the board should use their positions or the knowledge gained therein in such manner that a conflict between the city's interests and their personal interests arise. Both the fact and the appearance of the conflicting interests are to be avoided.

2. Members of the board should refrain from transmitting any knowledge of city considerations or decisions or any other information which might be prejudicial to the interest of the city to any person other than in connection with the discharge of their responsibility.

3. If any applicable statutes or laws exist, strict compliance with the provisions of such statutes or laws is expected, whether local, state or federal.

4. Whenever a board member has a personal interest, whether individually or through another party that has or may have business dealings with the city, he or she shall disclose that interest to the city manager for proper consideration and action.

5. Whenever a board member has an opportunity to engage in a transaction in which the city would otherwise wish to engage in, he or she shall disclose that interest to the city manager chair for proper consideration and action.

6. If a board member is in a position where access to the city's confidential information may materially influence his or her decisions in another party engaged in business with the city, he or she shall decline that information.

7. If a board member is in a position where access to the city's confidential information may materially influence his or her personal financial or investment decisions, he or she shall decline that information.

8. Board members shall at all times fully comply with the board's code of ethics.

(c) Members of the board shall comply with all laws and requirements governing conflicts of interest, self-benefiting, gifts and favors, and misuse of confidential information, as required by N.C.G.S. §§14-234, 14-234.1, and 133-32.

(d) If at any time an elected official finds that they are in doubt as to the proper application of the city's policy on conflicts of interest with respect to any particular situation, or they find that they might have a financial interest or outside relationship which might involve a conflict of interest, they should immediately make all the facts known to the city manager for proper consideration and action.

Rule 21. Closed Sessions

The board may hold closed sessions as provided by law. The board shall commence a closed session only after a motion to go into closed session has been made and adopted during an open meeting. The motion shall state the purpose of the closed session. The motion to go into closed session must be approved by the vote of a majority of those present and voting. The board shall terminate the closed session by a majority vote, using Motion 7 of Rule 16(b).

Only those actions authorized by statute may be taken in closed session. A motion to adjourn shall not be in order during a closed session.

Rule 22. Quorum

(a) A majority of the actual membership of the board, excluding vacant seats shall constitute a quorum. A majority is more than half. The mayor shall be considered a member of the board in determining the number on which a majority is based and in counting the number of members actually present. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

(b) A member or members of the board participating from a remote location by simultaneous communication shall be counted as present for quorum purposes, and all votes of members of the board made during an official meeting with simultaneous communication shall be counted as if the member were physically present in the place of the official meeting, provided all of criteria outlined in this Rule 22, and Rule 20 above, are met.

Rule 23. Public Hearings

Public hearings required by law or deemed advisable by the board shall be organized by a resolution that sets forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted for each speaker, and other pertinent matters. The resolution shall be adopted by a majority vote. Its specifications may include, but are not limited to, rules fixing the maximum time allotted to each speaker; providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made, in the case of hearings subject to the open meetings law, for those excluded from the hall to listen to the hearing); and providing for the maintenance of order and decorum in the conduct of the hearing.

All notice and other requirements of the open meetings law applicable to board meetings shall also apply to public hearings at which a majority of the board is present; such a hearing is considered to be part of a regular or special meeting of the board. These requirements also apply to hearings conducted by appointed or elected committees of board members, if a majority of the committee is present. A public hearing for which any required notices have been given may be continued to a time and place certain without further advertisement. The requirements of Rule 2(c) shall be followed in continuing a hearing at which a majority of the board, or of a board committee, as applicable, is present.

At the time appointed for the hearing, the presiding official or his or her designee shall call the hearing to order and then preside over it. When the allotted time expires, or earlier, if no one wishes to speak who has not done so, the presiding officer shall entertain a motion to end the hearing.

Rule 24. Minutes

Full and accurate minutes of the board proceedings, including closed sessions, shall be kept. The board shall also keep a general account of any closed session so that a person not in attendance would have a reasonable understanding of what transpired. These minutes and general accounts shall be open to inspection of the public, except as otherwise provided in this rule. The exact wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the board, the entire board shall be polled by name on any vote.

Members' and other persons' comments may be included in the minutes if the board approves.

General accounts of closed sessions are sealed upon approval by the board. Such sealed general accounts shall be withheld from public inspection until the city attorney makes a determination that public inspection of such general accounts would frustrate the purpose of the closed session, at which point they shall be unsealed by the city clerk.

Rule 25. Appointments

(a) The board may consider and make appointments to other bodies, including its own committees, if any, only in open session. The board may not consider or fill a vacancy among its own membership except in open session. Appointments will be made according to the North Carolina General Statutes, when applicable.

(b) The board shall at all times comply with the North Carolina Constitutional and statutory prohibitions on dual-office holding.

(c) If an appointee has unexcused absences which constitute more than 25% of the Board meetings in any calendar year which he or she is required to attend pursuant to his or her appointment, he or she may be asked to resign by majority vote of the board, commission or committee. Excused absences are defined as absences caused by events beyond one's control. If the individual refuses to resign when asked he or she may be dismissed by action of the Board of Aldermen subject to state or local law. A calendar year is to be defined as a 12-month period beginning on the date of appointment.

(d) Appointees must uphold city policies pertaining to the board, commission, or committee on which he or she serves.

(e) The city shall cause the following appointment information to be published on the city's official website for each board, commission or committee where the city has an official appointment:

1. The name.
2. A brief summary of its function.
3. The total number of members and terms of office.
4. The requirements for office and duties of each appointed position.
5. The current members, including names and terms served.
6. The regular meeting day, time, and location, if available.
7. The method by which each appointment is made.

(f) The board shall use the following procedure to make appointments to various other boards and committees:

1. Notification of available appointments. A list of available positions stating terms of office, requirement for office, and duties of positions shall be available for public inspection in the

office of the city clerk, and published on the city's official website at the beginning of each calendar year.

2. Selection Process.

(i) Individuals interested in applying for appointment shall submit a written application on a form provided by the city to the city clerk and available on the city's official website.

(ii) The city clerk shall provide the board with written notification that vacancies exist on the various boards, commissions and committees appointed by the board or its members. This notification along with applications of interested citizens shall be provided to the board at a regular meeting.

(iii) Nominations for vacancies may be made at the same meeting at which the vacancy is considered; provided, however, that upon a motion and second, nominations may be delayed until a subsequent meeting upon a simple majority vote. Once the floor is opened for nominations, the member or members shall put forth nominations with no second required, and debate such nominations where necessary. When the debate has ended, and if only one nomination is made, the appointment shall be approved by a voice vote of a majority of the board. If more than one nomination is made, the city clerk shall call the roll of the members and each member shall cast a vote. The nominee who receives the highest votes shall be the nominee appointed.

3. Applications. All applications for appointments shall remain active and on file with the city clerk for a period of one (1) year.

Rule 26. Committees and Boards

(a) Establishment and Appointment. The board may establish and appoint members for such temporary and standing committees and boards as are required by law or needed to help carry on the board's work. Any specific provisions of law relating to particular committees and boards shall be followed.

(b) Open Meetings Law. The requirements of the open meetings law shall apply to all elected or appointed authorities, boards, commissions, councils, or other bodies of a local governmental unit that are composed of two or more members and that exercise or are authorized to exercise legislative, policy-making, quasi-judicial, administrative, or advisory functions. However, the law's requirements shall not apply to a meeting solely among the city's professional staff.

Rule 27. Amendment of the Rules

These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting, unless a statute or a rule of the board provides otherwise. Adoption of an amendment shall require an affirmative vote equal to a quorum.

Rule 28. Reference to *Robert's Rules of Order*

The board shall refer to the current edition of *Robert's Rules of Order Newly Revised* to answer procedural questions not resolved in these rules so long as *RONR* does not conflict with North Carolina law or with the spirit of these rules.

Board of Aldermen

of the

City of New Bern

Rules of Procedure

I. Applicability

These rules apply to all meetings of the Board of Aldermen of the City of New Bern at which the board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

II. Regular, Special and Emergency Meetings

Rule 1. Regular Meetings

The board of aldermen shall adopt a schedule of its regular monthly meetings prior to the commencement of each calendar year. Regular meetings of the board of aldermen shall be held at city hall, located at 300 Pollock Street, New Bern, North Carolina, and shall begin at ~~7:00~~ 6:00 p.m. A current copy of the board's regular meeting schedule shall be filed with the city clerk, and available on the city's official website.

Rule 2. Special, Emergency, and Recessed Meetings

(a) Special Meetings. The mayor, or two members of the board of aldermen may at any time call a special meeting of the board. At least forty-eight hours before a special meeting called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be (1) given to each board member; (2) posted on the board's principal bulletin board or, if none, at the door of the board's usual meeting room; and (3) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the city clerk.

A special meeting may also be called or scheduled by vote of the board in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place, and purpose. At least forty-eight hours before a special meeting called in this manner, notice of the time, place, and purpose of the meeting shall be (1) posted on the board's principal bulletin board or, if none, at the door of the board's usual meeting room and (2) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the city clerk. Only those items of business specified in the notice may be discussed or transacted at a special meeting, unless (1) all members are present; and (2) the board determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

(b) Emergency Meetings. The mayor, or two members of the board of aldermen may at any time call an emergency meeting of the board by signing a written notice stating the time and place of the meeting and the subjects to be considered. Written or oral notice of the meeting shall be given to each board member and to each local newspaper, local wire service, local radio station, and local television station that has filed a written emergency meeting notice request with the city clerk, and whose request includes the newspaper's, wire service's, or station's telephone number. Notice to the news media shall be given at the expense of the party notified.

Emergency meetings may be called only because of generally unexpected circumstances that require immediate consideration by the board. Only business connected with the emergency may be considered at an emergency meeting.

(c) Recessed Meetings. A properly called regular, special, or emergency meeting may be recessed to a time and place certain by a procedural motion made and adopted as provided in Rule 16(b), Motion 2, in open session during the regular, special, or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of such a recessed session of a properly called regular, special, or emergency meeting.

(d) Cancellations. Any regular, special, or recessed meeting of the board of aldermen shall be cancelled upon a declaration of a state of emergency by the Craven County Department of Emergency Services. In the event of such a cancellation, the city shall notify the local media of the cancellation, and to the extent possible, cause a notice of the cancellation to be posted at the door of the board's usual meeting room.

III. Organization of the Board

Rule 3. Organizational Meeting

The board shall hold an organizational meeting at its regular meeting place at ~~7:00~~ 6:00 p.m. on the second Tuesday in December following a regular municipal election, and quadrennially thereafter. Initially, the previous board shall convene, at which time it shall approve any prior minutes and may consider any unfinished business it desires to complete. It shall then adjourn *sine die*. Immediately following, the newly elected board shall convene and take and subscribe the oath of office as the first order of business. As the second order of business, the board shall elect a mayor pro tem, using one of the nomination and voting procedures set out in Rule 25. The mayor pro tem shall act as mayor whenever the mayor shall be absent from the city or be prevented by sickness or other cause from attending to the duties of his office, and he shall possess all the rights and powers of the mayor during the continuance of such vacancy, absence or disability. The mayor shall preside at meetings of the board of aldermen and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina, by the City Charter, and the ordinances of the city. The mayor shall have the right to vote on any question before the board of aldermen.

IV. Agenda

Rule 4. Agenda

(a) **Agenda.** The city manager shall cause to be prepared an agenda and agenda package for each meeting. A request to have an item of business placed on the agenda may be raised by any board member as ‘new business’ on the agenda, and upon receiving a majority vote, shall be placed on a future agenda as directed. An agenda package shall include, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce, and shall contain a copy of all proposed resolutions and ordinances as may appear on the agenda. Each board member shall receive a copy of the proposed agenda and agenda package no later than three (3) days prior to each regular meeting in either digital or hard copy form, as requested by each board member. The proposed agenda and agenda package shall also be available for public inspection and appear on the city’s official website no later than three (3) days prior to each regular meeting, or as soon as possible if three (3) days is not practical. Nothing in this section shall preclude the city manager from modifying the proposed agenda and agenda package at any time prior to a board meeting as the city’s business dictates.

(b) **Adoption of the Agenda.** As its first order of business at each meeting, the board shall, as specified in Rule 6, discuss and revise the proposed agenda and adopt an agenda for the meeting. The board may by majority vote add items to or subtract items from the proposed agenda, except that the board may not add items to the agenda of a special meeting unless (a) all members are present and (b) the board determines in good faith at the meeting that it is essential to discuss or act on the item immediately. If items are proposed to be added to the agenda, the board may, by majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all board members.

The board may designate certain agenda items “for discussion and possible action.” Such designation means that the board intends to discuss the general subject area of that agenda item before making any motion concerning that item.

(c) **Open Meetings Requirements.** The board shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the board to understand what is being deliberated, voted, or acted on. However, the board may deliberate, vote, or otherwise take action by reference to an agenda, if copies of the agenda—sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on—are available for public inspection at the meeting.

Rule 5. Petition of Citizens.

The board shall provide at least one period for public comment per month at its first regular monthly meeting of the board. In compliance with N.C.G.S. §160A-81.1, the board establishes the following policy for monthly public comments at the first regular meeting of the board of

aldermen each month. The clerk shall provide sign-up forms at the entry to the city hall meeting room prior to each meeting for persons who desire to address the board. Forms shall be available until the commencement of the board meeting. The purpose of the time for informal public comments is to allow for public input to the board on issues germane to the city. It is not intended to compel board members or staff to answer questions in an impromptu manner.

Each speaker will speak from the podium, and begin their remarks by giving their name, stating whether or not they are residents of the city, and stating the topic about which they intend to speak. Comments will be directed to the full board, not to an individual board member, staff members, or the audience. Speaker comments are limited to a maximum of 4 minutes during the public comment period. At the conclusion of 4 minutes, each speaker shall leave the podium. Speakers may not yield any of his or her time to another speaker.

Speakers must be courteous in their language and presentation. Personal attacks will not be tolerated. Speakers may leave written comments and/or supporting documents, if any, with the clerk to the board.

If at the beginning of the public comment period, the mayor determines that the time required to hear all speakers on the sign-up sheet would unduly disrupt the conduct of city business or cause undue inconvenience to citizens in attendance for other items on the agenda, the mayor may require the designation of spokesman, or the selection of delegates, for groups of persons supporting or opposing the same positions, whose time shall be limited to a maximum of 4 minutes. The mayor may also move the period for public comment to some time later in the meeting.

Notwithstanding the mayor's prerogatives under this Rule 5, any decision of the mayor may be appealed and overruled by a majority of the Board.

Rule 6. Order of Business

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

1. Discussion and revision of the proposed agenda; adoption of an agenda
2. Public hearings
3. Administrative reports
4. Approval of minutes
5. Appointments
6. Attorney's report
7. City manager's report
8. New Business
9. Closed session, if any

By general consent of the board, items may be considered out of order.

V. Conduct of Debate

Rule 7. Presiding Officer

The mayor shall preside at board meetings if he or she is present, unless he or she becomes actively engaged in debate on a particular matter. In order to address the board, a member must be recognized by the mayor.

If the mayor is absent, the mayor pro tem shall preside. If both the mayor and mayor pro tem are absent, another member designated by majority vote of the board shall preside. The mayor pro tem, or another member who is temporarily presiding retains all of his or her rights as a member, including the right to make motions and the right to vote.

If the presiding officer becomes actively involved in debate on a particular matter, he or she may designate another board member to preside over the debate. The presiding officer shall resume presiding as soon as action on the matter is concluded.

The presiding officer shall have the following powers:

To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;

To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;

To entertain and answer questions of parliamentary law or procedure;

To call a brief recess at any time;

To adjourn in an emergency.

A decision by the presiding officer under any of the first three powers listed may be appealed to the board upon motion of any member, pursuant to Rule 16, Motion 1. Such a motion is in order immediately after a decision under those powers is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion, if timely made, may not be ruled out of order.

Rule 8. Action by the Board

(a) The board shall proceed by motion, except as otherwise provided for in Rules 3, 4, and 25. Any member, including the mayor, may make a motion

(b) **Attendance via Simultaneous and/or Electronic Communication.** In order to participate in a meeting via simultaneous and/or electronic communication, the following criteria

must be met:

1. The official meeting was properly noticed under G.S. 143-318.12 and under any other requirement for notice applicable to the board.
2. The member or members participating from a remote location by simultaneous communication can fully participate in the deliberations.
3. The member or members of the board participating from a remote location by simultaneous communication can be heard by the other members of the board and any other individual in attendance at the official meeting.
4. The vote of the member or members of the board participating from a remote location by simultaneous communication is not by electronic mail or facsimile.
5. If the Mayor is participating from a remote location by simultaneous communication, the mayor pro temp or some other member of the board who is physically present shall preside at the official meeting. The Mayor or presiding officer of the board participating from a remote location by simultaneous communication shall retain the same voting rights he or she has when presiding.
6. The official meeting, or part of an official meeting with a member or members of the board participating from a remote location by simultaneous communication is not allowed in any quasi-judicial proceeding.
7. No written ballots may be taken at the official meeting with a member or members of the board participating from a remote location by simultaneous communication.
8. If the official meeting involves a member of the board participating from a remote location by simultaneous communication by which the member or members cannot be physically seen by the public body, that member must comply with all of the following:
 - (i) The participation of the member or members must be announced when the meeting is commenced or at the beginning of participation.
 - (ii) The member identifies himself or herself prior to participating in the deliberations during the official meeting.
 - (iii) The member identifies himself or herself prior to voting.
9. The member or members participating from a remote location by simultaneous communication shall have been provided with any documents to be considered during the official meeting.

Rule 9. Second Required

A motion requires a second before the board may proceed with discussion or action on the motion.

Rule 10. One Motion at a Time

A member may make only one motion at a time.

Rule 11. Substantive Motions

A substantive motion is out of order while another substantive motion is pending.

Rule 12. Adoption by Majority Vote

(a) A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 22 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

(b) A roll call vote shall be required for the following actions:

1. Adoption of an ordinance;
2. Adoption of a written resolution; and
3. Upon the request of the mayor, or at least two (2) other members of the board

Rule 13. Voting by Written Ballot

The board may choose by majority vote to use written ballots in voting on a motion. Such ballots shall be signed, and the minutes of the board shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the city clerk immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Rule 14. Debate

The mayor shall state the motion and then open the floor to debate. The mayor shall preside over the debate according to the following general principles:

1. The maker of the motion is entitled to speak first;
2. A member who has not spoken on the issue shall be recognized before someone who has already spoken;
3. To the extent possible, the debate shall alternate between proponents and opponents of the measure.

Rule 15. Ratification of Actions

To the extent permitted by law, the board may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

Rule 16. Procedural Motions

(a) Certain Motions Allowed. In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

(b) Order of Priority of Motions. In order of priority (if applicable), the procedural motions are:

Motion 1. To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the board, as specified in Rule 7. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

Motion 2. To Adjourn. This motion may be made only at the conclusion of action on a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to recess to a time and place certain shall also comply with the requirements of Rule 2(c).

Motion 3. To Take a Brief Recess. This motion allows the board to pause briefly in its proceedings rather than to recess to a time and place certain.

Motion 4. Call to Follow the Agenda. The motion must be made at the first reasonable opportunity or it is waived.

Motion 5. To Suspend the Rules. The board may not suspend provisions of the rules that state requirements imposed by law on the board. For adoption, the motion requires an affirmative vote equal to a majority of the entire membership of the board rather than of a quorum present.

Motion 6. To Go into Closed Session. The board may go into closed session only for one or more of the permissible purposes listed in G.S. 143-318.11(a):

(1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning

of Chapter 132 of the General Statutes;

(2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award;

(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded;

(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session;

(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract;

(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting;

(7) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct;

(8) To formulate plans by a local board of education relating to emergency response to

incidents of school violence or to formulate and adopt the school safety components of school improvement plans by a local board of education or a school improvement team; or

(9) To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity.

The motion to go into closed session shall cite one or more of these purposes and shall be adopted at an open meeting. A motion based on G.S. 143-318.11(a)(1) shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on G.S. 143-318(a)(3) shall identify the parties in each existing lawsuit concerning which the board expects to receive advice during the closed session, if in fact such advice is to be received.

Motion 7. To Leave Closed Session. This motion is made to return from a closed session to an open meeting.

Motion 8. To Divide a Complex Motion and Consider It by Paragraph. The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

Motion 9. To Defer Consideration (also, To Table). The board may defer a substantive motion for later consideration at an unspecified time. A substantive motion the consideration of which has been deferred expires one hundred (100) days thereafter unless a motion to revive consideration is adopted. If consideration of a motion has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending (has not expired). A person who wishes to revisit the matter during that time must take action to revive consideration of the original motion [Rule 16(b), Motion 14], or else move to suspend the rules [Rule 16(b), Motion 5].

Motion 10. Motion for the Previous Question. The motion is not in order until there have been at least twenty (20) minutes of debate and every member has had an opportunity to speak once.

Motion 11. To Postpone to a Certain Time or Day. If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A person who wishes to revisit the matter must either wait until the specified time or move to suspend the rules [Rule 16(b), Motion 5].

Motion 12. To Refer a Motion to a Committee. The board may vote to refer a substantive motion to a committee for its study and recommendations. Sixty (60) days or more after a substantive motion has been referred to a committee, the introducer of the substantive motion may compel consideration of the measure by the entire board, whether or not the committee has reported the matter to the board.

Motion 13. To Amend.

- (a) An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend.
- (b) A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote.
- (c) Any amendment to a proposed ordinance or resolution shall be reduced to writing before the vote on the amendment.

Motion 14. To Revive Consideration. The board may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 9 of Rule 16(b). The motion is in order at any time within one hundred (100) days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires one hundred (100) days after the deferral unless a motion to revive consideration is adopted.

Motion 15. To Reconsider. The board may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority, except in the case of a tie; in that case the “nos” prevail) and only at the meeting during which the original vote was taken, including any continuation of that meeting through recess to a time and place certain. The motion cannot interrupt deliberation on a pending matter but is in order at any time before final adjournment of the meeting.

Motion 16. To Rescind or Repeal. The board may vote to rescind actions it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of an action is forbidden by law.

Motion 17. To Prevent Reintroduction for Six Months. The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires for adoption a vote equal to a majority of the entire membership of the board, rather than of a quorum. If adopted, the restriction imposed by the motion remains in effect for six months or until the next organizational meeting of the board, whichever occurs first.

Rule 17. Renewal of Motion

A motion that is defeated may be renewed at any later meeting unless a motion to prevent reconsideration has been adopted.

Rule 18. Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before it is amended or before the chair puts the motion to a vote, whichever occurs first.

Rule 19. Duty to Vote

Every member must vote unless excused by the remaining members of the board. A member who wishes to be excused from voting shall so inform the presiding official, who shall take a vote of the remaining members. No member shall be excused from voting except in cases involving conflicts of interest, as defined by the board or by law, or the member's official conduct, as defined by the board. In all other cases, a failure to vote by a member who is physically present in the board chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

Rule 20. Conflicts of Interest

(a) Implicit in the operations and conduct of city government is the constant expectation that the board recognize that in all their transactions and at all times they are subject to the duty of undivided loyalty to the city. The nature of their obligations is such that it demands positive action on their part to affirmatively protect and promote the interest of the city committed to their care, and at all times to avoid situations where their self-interests, actual or apparent, may be of such nature or extent as to conflict with performance of that primary responsibility.

(b) The scope of human activity is so broad that it is unadvisable to attempt to enumerate here all possible areas in which a conflict of interest might arise. Consequently, the following is an illustrative list only, and is not intended to proscribe all aspects of the conduct of the board in their capacity as city elected officials:

1. No member of the board should use their positions or the knowledge gained therein in such manner that a conflict between the city's interests and their personal interests arise. Both the fact and the appearance of the conflicting interests are to be avoided.

2. Members of the board should refrain from transmitting any knowledge of city considerations or decisions or any other information which might be prejudicial to the interest of the city to any person other than in connection with the discharge of their responsibility.

3. If any applicable statutes or laws exist, strict compliance with the provisions of such statutes or laws is expected, whether local, state or federal.

4. Whenever a board member has a personal interest, whether individually or through another party that has or may have business dealings with the city, he or she shall disclose that interest to the city manager for proper consideration and action.

5. Whenever a board member has an opportunity to engage in a transaction in which the city would otherwise wish to engage in, he or she shall disclose that interest to the city manager chair for proper consideration and action.

6. If a board member is in a position where access to the city's confidential information may materially influence his or her decisions in another party engaged in business with the city, he or she shall decline that information.

7. If a board member is in a position where access to the city's confidential information may materially influence his or her personal financial or investment decisions, he or she shall decline that information.

8. Board members shall at all times fully comply with the board's code of ethics.

(c) Members of the board shall comply with all laws and requirements governing conflicts of interest, self-benefiting, gifts and favors, and misuse of confidential information, as required by N.C.G.S. §§14-234, 14-234.1, and 133-32.

(d) If at any time an elected official finds that they are in doubt as to the proper application of the city's policy on conflicts of interest with respect to any particular situation, or they find that they might have a financial interest or outside relationship which might involve a conflict of interest, they should immediately make all the facts known to the city manager for proper consideration and action.

Rule 21. Closed Sessions

The board may hold closed sessions as provided by law. The board shall commence a closed session only after a motion to go into closed session has been made and adopted during an open meeting. The motion shall state the purpose of the closed session. The motion to go into closed session must be approved by the vote of a majority of those present and voting. The board shall terminate the closed session by a majority vote, using Motion 7 of Rule 16(b).

Only those actions authorized by statute may be taken in closed session. A motion to adjourn shall not be in order during a closed session.

Rule 22. Quorum

(a) A majority of the actual membership of the board, excluding vacant seats shall constitute a quorum. A majority is more than half. The mayor shall be considered a member of the board in determining the number on which a majority is based and in counting the number of members actually present. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

(b) A member or members of the board participating from a remote location by simultaneous communication shall be counted as present for quorum purposes, and all votes of members of the board made during an official meeting with simultaneous communication shall be counted as if the member were physically present in the place of the official meeting, provided all of criteria outlined in this Rule 22, and Rule 20 above, are met.

Rule 23. Public Hearings

Public hearings required by law or deemed advisable by the board shall be organized by a resolution that sets forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted for each speaker, and other pertinent matters. The resolution shall be adopted by a majority vote. Its specifications may include, but are not limited to, rules fixing the maximum time allotted to each speaker; providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made, in the case of hearings subject to the open meetings law, for those excluded from the hall to listen to the hearing); and providing for the maintenance of order and decorum in the conduct of the hearing.

All notice and other requirements of the open meetings law applicable to board meetings shall also apply to public hearings at which a majority of the board is present; such a hearing is considered to be part of a regular or special meeting of the board. These requirements also apply to hearings conducted by appointed or elected committees of board members, if a majority of the committee is present. A public hearing for which any required notices have been given may be continued to a time and place certain without further advertisement. The requirements of Rule 2(c) shall be followed in continuing a hearing at which a majority of the board, or of a board committee, as applicable, is present.

At the time appointed for the hearing, the presiding official or his or her designee shall call the hearing to order and then preside over it. When the allotted time expires, or earlier, if no one wishes to speak who has not done so, the presiding officer shall entertain a motion to end the hearing.

Rule 24. Minutes

Full and accurate minutes of the board proceedings, including closed sessions, shall be kept. The board shall also keep a general account of any closed session so that a person not in attendance would have a reasonable understanding of what transpired. These minutes and general accounts shall be open to inspection of the public, except as otherwise provided in this rule. The exact wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the board, the entire board shall be polled by name on any vote.

Members' and other persons' comments may be included in the minutes if the board approves.

General accounts of closed sessions are sealed upon approval by the board. Such sealed general accounts shall be withheld from public inspection until the city attorney makes a determination that public inspection of such general accounts would frustrate the purpose of the closed session, at which point they shall be unsealed by the city clerk.

Rule 25. Appointments

(a) The board may consider and make appointments to other bodies, including its own committees, if any, only in open session. The board may not consider or fill a vacancy among its own membership except in open session. Appointments will be made according to the North Carolina General Statutes, when applicable.

(b) The board shall at all times comply with the North Carolina Constitutional and statutory prohibitions on dual-office holding.

(c) If an appointee has unexcused absences which constitute more than 25% of the Board meetings in any calendar year which he or she is required to attend pursuant to his or her appointment, he or she may be asked to resign by majority vote of the board, commission or committee. Excused absences are defined as absences caused by events beyond one's control. If the individual refuses to resign when asked he or she may be dismissed by action of the Board of Aldermen subject to state or local law. A calendar year is to be defined as a 12-month period beginning on the date of appointment.

(d) Appointees must uphold city policies pertaining to the board, commission, or committee on which he or she serves.

(e) The city shall cause the following appointment information to be published on the city's official website for each board, commission or committee where the city has an official appointment:

1. The name.
2. A brief summary of its function.
3. The total number of members and terms of office.
4. The requirements for office and duties of each appointed position.
5. The current members, including names and terms served.
6. The regular meeting day, time, and location, if available.
7. The method by which each appointment is made.

(f) The board shall use the following procedure to make appointments to various other boards and committees:

1. Notification of available appointments. A list of available positions stating terms of office, requirement for office, and duties of positions shall be available for public inspection in the

office of the city clerk, and published on the city's official website at the beginning of each calendar year.

2. Selection Process.

(i) Individuals interested in applying for appointment shall submit a written application on a form provided by the city to the city clerk and available on the city's official website.

(ii) The city clerk shall provide the board with written notification that vacancies exist on the various boards, commissions and committees appointed by the board or its members. This notification along with applications of interested citizens shall be provided to the board at a regular meeting.

(iii) Nominations for vacancies may be made at the same meeting at which the vacancy is considered; provided, however, that upon a motion and second, nominations may be delayed until a subsequent meeting upon a simple majority vote. Once the floor is opened for nominations, the member or members shall put forth nominations with no second required, and debate such nominations where necessary. When the debate has ended, and if only one nomination is made, the appointment shall be approved by a voice vote of a majority of the board. If more than one nomination is made, the city clerk shall call the roll of the members and each member shall cast a vote. The nominee who receives the highest votes shall be the nominee appointed.

3. Applications. All applications for appointments shall remain active and on file with the city clerk for a period of one (1) year.

Rule 26. Committees and Boards

(a) Establishment and Appointment. The board may establish and appoint members for such temporary and standing committees and boards as are required by law or needed to help carry on the board's work. Any specific provisions of law relating to particular committees and boards shall be followed.

(b) Open Meetings Law. The requirements of the open meetings law shall apply to all elected or appointed authorities, boards, commissions, councils, or other bodies of a local governmental unit that are composed of two or more members and that exercise or are authorized to exercise legislative, policy-making, quasi-judicial, administrative, or advisory functions. However, the law's requirements shall not apply to a meeting solely among the city's professional staff.

Rule 27. Amendment of the Rules

These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting, unless a statute or a rule of the board provides otherwise. Adoption of an amendment shall require an affirmative vote equal to a quorum.

Rule 28. Reference to *Robert's Rules of Order*

The board shall refer to the current edition of *Robert's Rules of Order Newly Revised* to answer procedural questions not resolved in these rules so long as *RONR* does not conflict with North Carolina law or with the spirit of these rules.

AGENDA ITEM COVER SHEET

Agenda item title:

Ordinance to Amend Section 2-41 "Regular meetings" of Division 2 "Meetings" of Article II. "Board of Aldermen" of Chapter 2 "Administration of the Code of Ordinances of the City of New Bern

Date of Meeting/Work Session January 9, 2018 **Ward # if applicable** _____

Department Administration **Person submitting item** Scott Davis

Call for Public Hearing _____ **Date of Public Hearing** _____

Explanation of the item:

Ordinance amending Section 2-41 "Regular meetings" of Division 2 "Meetings" of Article II. "Board of Aldermen" of Chapter 2 "Administration to change the time of regular meetings.

Actions needed by Board:

Adopt Ordinance

Is item time sensitive? Yes

Will there be advocates/opponents at the meeting? No

Backup attached:

Ordinance

Cost of Agenda Item N/A

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? _____

Additional notes:

AN ORDINANCE TO AMEND SECTION 2-41 “REGULAR MEETINGS” OF DIVISION 2 “MEETINGS” OF ARTICLE II. “BOARD OF ALDERMEN” OF CHAPTER 2 “ADMINISTRATION” OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Aldermen deems it advisable and in the public interest to amend Section 2-41 “Regular Meetings” of Division 2 “Meetings” of Article II. “Board of Aldermen” of Chapter 2 “Administration” of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Section 2-41 “Regular Meetings” of Division 2 “Meetings” of Article II. “Board of Aldermen” of Chapter 2 “Administration” of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting Section 2-41 in its entirety and inserting in its stead the following:

“Section 2-41. Regular Meetings.

Regular meetings of the board of aldermen shall be held at the city hall on the second and fourth Tuesdays in each month at 6:00 p.m. unless the board of aldermen shall designate, at a regular or special meeting, some other day or time for their regular meetings. Regularly scheduled work sessions shall constitute regular meetings for the purpose of taking any official action.”

SECTION 2. This ordinance shall be effective upon its adoption.

ADOPTED THIS 9th DAY OF JANUARY, 2018.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AN ORDINANCE TO AMEND SECTION 2-41 "REGULAR MEETINGS" OF DIVISION 2 "MEETINGS" OF ARTICLE II. "BOARD OF ALDERMEN" OF CHAPTER 2 "ADMINISTRATION" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Aldermen deems it advisable and in the public interest to amend Section 2-41 "Regular Meetings" of Division 2 "Meetings" of Article II. "Board of Aldermen" of Chapter 2 "Administration" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Section 2-41 "Regular Meetings" of Division 2 "Meetings" of Article II. "Board of Aldermen" of Chapter 2 "Administration" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting Section 2-41 in its entirety and inserting in its stead the following:

"Section 2-41. Regular Meetings.

Regular meetings of the board of aldermen shall be held at the city hall on the second and fourth Tuesdays in each month at ~~7:30~~ 6:00 p.m. unless the board of aldermen shall designate, at a regular or special meeting, some other day or time for their regular meetings. Regularly scheduled work sessions shall constitute regular meetings for the purpose of taking any official action."

SECTION 2. This ordinance shall be effective upon its adoption.

ADOPTED THIS 9th DAY OF JANUARY, 2018.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda item title:

Ordinance to amend Part IV. "Appearance Commission" of Article III. Administrative Mechanisms of Appendix A "Land Use" of the Code of Ordinances

Date of Meeting/Work Session January 9, 2018 **Ward # if applicable** _____

Department Parks & Rec **Person submitting item** Scott Davis

Call for Public Hearing _____ **Date of Public Hearing** _____

Explanation of the item:

To amend the number of members on the Appearance Commission and their residency requirements

Actions needed by Board:

Adopt ordinance

Is item time sensitive? Yes

Will there be advocates/opponents at the meeting? No

Backup attached:

Ordinance

Cost of Agenda Item N/A

If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? _____

Additional notes:

AN ORDINANCE TO AMEND PART IV. "APPEARANCE COMMISSION" OF ARTICLE III. "ADMINISTRATIVE MECHANISMS" OF APPENDIX A "LAND USE" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect certain revisions to Part IV. "Appearance Commission" of Article III. "Administrative Mechanisms" of Appendix A "Land Use" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Section 15-37. "Appearance commission established" of Part IV. "Appearance Commission" of Article III. "Administrative Mechanisms" of Appendix A "Land Use" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting Section 15-37. "Appearance commission established" in its entirety and inserting in its stead the following:

"Sec. 15-37. Appearance commission established.

(a) There is hereby established a commission to be known as the New Bern Appearance Commission.

(b) The appearance commission shall consist of seven (7) members who shall be residents of the city's planning and zoning jurisdiction at the time of appointment. Where possible, appointments shall be made in a manner as to maintain on the commission at all times a majority of members who have had special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a closely related field.

(c) The members of the appearance commission shall be appointed by the board of aldermen to serve terms of three years each; provided, however, that the initial members shall serve staggered terms. Nominations of members to the appearance commission shall be made on a rotating basis among the aldermen and mayor, who may nominate members from any part of the city or the city's extraterritorial jurisdiction. If a vacancy shall occur in the membership of the commission because of death, resignation, or removal of any member, the board of aldermen shall appoint a successor to fill the unexpired term. All members of the commission shall serve at the pleasure of the board of aldermen and may be removed by the board with or without cause.

(d) At its organizational meeting, the appearance commission shall select a chairman and shall create and fill such other offices as it shall deem necessary. Thereafter, at its first meeting at the beginning of the city's fiscal year, the commission shall select a chairman and such other officers as it shall deem necessary. The officers shall be eligible to succeed themselves."

NOTES:

- Edits consistent with requirements of G.S. 160A-451.

SECTION 2. That Section 15-38. “Duties of the appearance commission” of Part IV. “Appearance Commission” of Article III. “Administrative Mechanisms” of Appendix A “Land Use” of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting Section 15-38. “Duties of the appearance commission” in its entirety and inserting in its stead the following:

“Sec. 15-38. Duties of the appearance commission.

(a) The appearance commission shall serve the board of aldermen in an advisory capacity, and shall recommend programs to the board which it considers appropriate to enhance and improve the visual quality and aesthetic characteristics of the city. The commission shall make recommendations to the board which will facilitate the planning, growth, and protection of trees on public property and street rights-of-way within the city, foster communication between the citizens of the city which would provide for needed protection of trees, and coordinate active measures to support their health and growth within the city. The board of aldermen may by motion confer upon the commission one or more of the powers and duties reflected in G.S. 160A-452.

(b) To the extent permitted by law, the appearance commission may adopt rules for the transaction of its business. It shall keep an accurate record of the business transacted before it, which records shall be open to the public. A record of the attendance of its members shall be kept.

(c) The appearance commission may meet monthly, and no less than once each quarter. All meetings shall be open to the public in accordance with the North Carolina Open Meetings Law. Special meetings, at the call of the chairman, shall be held as necessary. A quorum shall consist of a majority of the members of the commission.

(d) The appearance commission shall, no later than April 15 of each year, submit to the board of aldermen a written report of its activities as required by G.S. 160A-454.”

NOTES:

- Edits consistent with requirements of G.S. 160A-452 and 160A-454.

SECTION 3. This ordinance shall be effective from and after the date of its adoption.

ADOPTED THIS 9th DAY OF JANUARY, 2018.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AN ORDINANCE TO AMEND PART IV. "APPEARANCE COMMISSION" OF ARTICLE III. "ADMINISTRATIVE MECHANISMS" OF APPENDIX A "LAND USE" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect certain revisions to Part IV. "Appearance Commission" of Article III. "Administrative Mechanisms" of Appendix A "Land Use" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Section 15-37. "Appearance commission established" of Part IV. "Appearance Commission" of Article III. "Administrative Mechanisms" of Appendix A "Land Use" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting Section 15-37. "Appearance commission established" in its entirety and inserting in its stead the following:

"Sec. 15-37. Appearance commission established.

(a) There is hereby established a commission to be known as the New Bern Appearance Commission.

(b) The appearance commission shall consist of ~~five (5)~~ seven (7) members, ~~four (4)~~ of whom shall reside within the city's corporate limits, and one (1) of whom shall reside either within the city's corporate limits or within the city's extraterritorial jurisdiction who shall be residents of the city's planning and zoning jurisdiction at the time of appointment. At least three ~~(3)~~ Where possible, appointments shall be made in a manner as to maintain on the commission at all times a majority of members of the commission shall who have had special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a closely related field.

(c) The members of the appearance commission shall be appointed by the board of aldermen to serve terms of three years each; provided, however, that the initial members shall serve staggered terms. Nominations of members to the appearance commission shall be made on a rotating basis among the aldermen and mayor, who may nominate members from any part of the city or the city's extraterritorial jurisdiction. If a vacancy shall occur in the membership of the commission because of death, resignation, or removal of any member, the board of aldermen shall appoint a successor to fill the unexpired term. All members of the commission shall serve at the pleasure of the board of aldermen and may be removed by the board with or without cause.

(d) At its organizational meeting, the appearance commission shall select a chairman and shall create and fill such other offices as it shall deem necessary. Thereafter, at its first meeting

at the beginning of the city's fiscal year, the commission shall select a chairman and such other officers as it shall deem necessary. The officers shall be eligible to succeed themselves."

NOTES:

- Edits consistent with requirements of G.S. 160A-451.

SECTION 2. That Section 15-38. "Duties of the appearance commission" of Part IV. "Appearance Commission" of Article III. "Administrative Mechanisms" of Appendix A "Land Use" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting Section 15-38. "Duties of the appearance commission" in its entirety and inserting in its stead the following:

"Sec. 15-38. Duties of the appearance commission.

(a) The appearance commission shall serve the board of aldermen in an advisory capacity, and shall recommend programs to the board which it considers appropriate to enhance and improve the visual quality and aesthetic characteristics of the city. ~~As a substitute for the tree committee,~~ The commission shall make recommendations to the board which will facilitate the planning, growth, and protection of trees on public property and street rights-of-way within the city, ~~and~~ foster communication between the citizens of the city which would provide for needed protection of trees, and coordinate active measures to support their health and growth within the city. The board of aldermen may by motion confer upon the commission one or more of the powers and duties reflected in G.S. 160A-452.

(b) To the extent permitted by law, the appearance commission may adopt rules for the transaction of its business. It shall keep an accurate record of the business transacted before it, which records shall be open to the public. A record of the attendance of its members shall be kept.

(c) The appearance commission may meet monthly, ~~but shall meet~~ and no less than at least once quarterly; each quarter. ~~a~~ All meetings shall be open to the public in accordance with the North Carolina Open Meetings Law, ~~G.S. 143-318.9 et seq.~~ Special meetings, at the call of the chairman, shall be held as necessary. A quorum shall consist of ~~six of the 11~~ a majority of the members of the commission.

(d) The appearance commission shall, no later than April 15 of each year, submit to the board of aldermen a written report of its activities, ~~as is required by G.S. 160A-454."~~

NOTES:

- Edits consistent with requirements of G.S. 160A-452 and 160A-454.

SECTION 3. This ordinance shall be effective from and after the date of its adoption.

ADOPTED THIS 9th DAY OF JANUARY, 2018.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

Part 7. Community Appearance Commissions.

§ 160A-451. Membership and appointment of commission; joint commission.

Each municipality and county in the State may create a special commission, to be known as the official appearance commission for the city or county. The commission shall consist of not less than seven nor more than 15 members, to be appointed by the governing body of the municipality or county for such terms, not to exceed four years, as the governing body may by ordinance provide. All members shall be residents of the municipality's or county's area of planning and zoning jurisdiction at the time of appointment. Where possible, appointments shall be made in such a manner as to maintain on the commission at all times a majority of members who have had special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a closely related field. Members of the commission may be reimbursed for actual expenses incidental to the performance of their duties within the limits of any funds available to the commission, but shall serve without pay unless otherwise provided in the ordinance establishing the commission. Membership of the commission is declared to be an office that may be held concurrently with any other elective or appointive office pursuant to Article VI, Sec. 9, of the Constitution.

A county and one or more cities in the county may establish a joint appearance commission. If a joint commission is established, the county and the city or cities involved shall determine the residence requirements for members of the joint commission. (1971, c. 896, s. 6; c. 1058; 1973, c. 426, s. 63.)

§ 160A-452. Powers and duties of commission.

The commission, upon its appointment, shall make careful study of the visual problems and needs of the municipality or county within its area of zoning jurisdiction, and shall make any plans and carry out any programs that will, in accordance with the powers herein granted, enhance and improve the visual quality and aesthetic characteristics of the municipality or county. To this end, the governing board may confer upon the appearance commission the following powers and duties:

- (1) To initiate, promote and assist in the implementation of programs of general community beautification in the municipality or county;
- (2) To seek to coordinate the activities of individuals, agencies and organizations, public and private, whose plans, activities and programs bear upon the appearance of the municipality or county;
- (3) To provide leadership and guidance in matters of area or community design and appearance to individuals, and to public and private organizations, and agencies;
- (4) To make studies of the visual characteristics and problems of the municipality or county, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design for the entire area, any portion or neighborhood thereof, or any project to be undertaken;
- (5) To prepare both general and specific plans for the improved appearance of the municipality or county. These plans may include the entire area or any part thereof, and may include private as well as public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the municipality or county or any part thereof within its area of planning and zoning jurisdiction, including public ways and areas, open spaces, and public and private buildings and projects;
- (6) To participate, in any way deemed appropriate by the governing body of the municipality or county and specified in the ordinance establishing the commission, in the implementation of its plans. To this end, the governing body may include in the ordinance the following powers:
 - a. To request from the proper officials of any public agency or body, including agencies of the State and its political subdivisions, its plans for public buildings, facilities, or projects to be located within the municipality or its area of planning and zoning jurisdiction of the city or county.
 - b. To review these plans and to make recommendations regarding their aesthetic suitability to the appropriate agency, or to the municipal or county planning or governing board. All plans shall be reviewed by the commission in a prompt and expeditious manner, and all recommendations of the commission with regard to any public project shall be made in writing. Copies of the recommendations shall be transmitted promptly to the planning or governing body of the city or county, and to the appropriate agency.
 - c. To formulate and recommend to the appropriate municipal planning or governing board the adoption or amendment of ordinances (including the zoning ordinance, subdivision regulations, and other local ordinances regulating the use of property) that will, in the opinion of the commission, serve to enhance the appearance of the municipality and its surrounding areas.
 - d. To direct the attention of city or county officials to needed enforcement of any ordinance that may in any way affect the appearance of the city or county.

- e. To seek voluntary adherence to the standards and policies of its plans.
- f. To enter, in the performance of its official duties and at reasonable times, upon private lands and make examinations or surveys.
- g. To promote public interest in and an understanding of its recommendations, studies, and plans, and to that end to prepare, publish and distribute to the public such studies and reports as will, in the opinion of the commission, advance the cause of improved municipal or county appearance.
- h. To conduct public meetings and hearings, giving reasonable notice to the public thereof. (1971, c. 896, s. 6; c. 1058.)

§ 160A-454. Annual report.

The commission shall, no later than April 15 of each year, submit to the municipal or county governing body a written report of its activities, a statement of its expenditures to date for the current fiscal year, and its requested budget for the next fiscal year. All accounts and funds of the commission shall be administered substantially in accordance with the requirements of the Municipal Fiscal Control Act or the County Fiscal Control Act. (1971, c. 896, s. 6; c. 1058.)

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



Dana E. Outlaw
Mayor

Mark A. Stephens
City Manager

Memorandum

TO: Mayor and Board of Aldermen

FROM: Brenda Blanco, City Clerk *DEB*

DATE: January 3, 2018

SUBJECT: Appointments to New Bern Appearance Commission

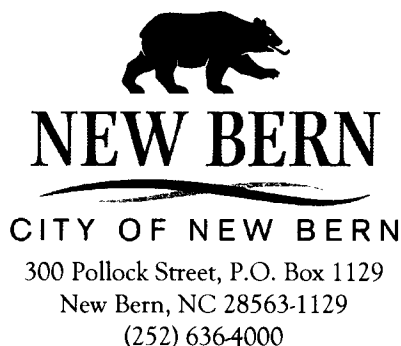
The number of members on the Appearance Commission is being increased from five to seven. As a result, two additional appointments are needed. Appointees shall be residents of the City's planning and zoning jurisdiction and shall, when possible, have had special training or experience in a design field such as architecture, landscape design, horticulture, city planning, or a closely-related field. Members of the Appearance Commission serve a three-year term.

This commission is overseen by the Parks and Recreation Department. Please feel free to reach out to Foster Hughes, Director of Parks and Recreation, regarding any questions about the Commission.

/beb

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Dana E. Outlaw
Mayor

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City Manager

Memorandum

TO: Mayor and Board of Aldermen

FROM: Brenda Blanco, City Clerk *BEB*

DATE: January 3, 2018

SUBJECT: Appointment to New Bern-Craven County Public Library

Victor Taylor represented the Board of Aldermen on the New Bern-Craven County Public Library Board of Trustees. The Board is asked to make an appointment to replace Mr. Taylor. The new appointee shall serve as a trustee for the duration of their term of office. The Library Board meets the first Tuesday of alternate months beginning with February. The meetings begin at 7:30 p.m. and are held at the library. Any Board member who is absent for more than three consecutive meetings during the year will be removed from the Board.

/beb