

**City of New Bern
Board of Aldermen Meeting
August 11, 2020 – 6:00 P.M.
City Hall Courtroom
300 Pollock Street**

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

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

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

Mayor Outlaw made an announcement that those desiring to speak on the noise ordinance should make their comments under Request and Petition of Citizens. Anyone desiring to comment on short-term rentals should hold their comments until the public hearing on that topic.

Consent Agenda

(A vote was held on the Consent Agenda prior to hearing comments under Request and Petition of Citizens.)

- 4. Consider Adopting a Resolution Calling for a Public Hearing to Establish in the Code of Ordinances Article XXIV-B Section 15-487 for a Greater Five Points Redevelopment Overlay.**

Establishing an overlay district for the Greater Five Points redevelopment area will provide new standards to guide the physical development of the area, as detailed in the Redevelopment Commission's plan that was adopted by the Board on February 11, 2020. It was requested a public hearing be scheduled for August 25, 2020 to consider creating a new section in the Code of Ordinances to establish Article XXIV-B Section 15-487 for the Greater Five Points Redevelopment Overlay District.

- 5. Approve Minutes.**

Draft minutes from the July 28, 2020 meeting were provided for review and approval.

Alderman Aster made a motion to approve Items 4-5 of the Consent Agenda, seconded by Alderman Kinsey. The motion carried unanimously 7-0.

3. Request and Petition of Citizens.

(Request and Petition of Citizens was conducted after the vote on the Consent Agenda.)

Barbara Sampson of 480 NC Hwy. 55 West asked for an update on Stanley White Recreation Center. She noted a fence had been placed around the property. She stated the site where the City desired to move the center was not within the Duffyfield neighborhood, and she hoped the center would be rebuilt in its original location.

Gerard Mackle of 4104 Yarmouth Road spoke against the acquisition of the MRAP vehicle, citing concerns about costs to operate and maintain the vehicle. He also felt the vehicle would send the wrong message.

Caitlin Trombley of Pine Valley Drive spoke against School Resource Officers (“SRO”) in schools. She said data was not available to indicate that the presence of SROs improves student safety, student educational outcomes, or student mental health. She suggested SROs be replaced with social workers or counselors. Should the Board vote in favor of the SRO contract, she read a list of requests that she would like to see met. A copy of the list was provided to the Board.

Edwin Vargas spoke in favor of placing a 10-story, certified Red Cross shelter for the homeless at the old Days Hotel site. He stated he had expressed this idea to the Alderman for that ward, but was told the project could not be accomplished. He said he was tired of the Alderman not addressing the issue, and that he had written a letter to the Sun Journal detailing his plan. According to Mr. Vargas, HUD offered grant funds for such projects.

Jennifer Zerby of 208 Bandon Drive felt the MRAP was a great acquisition for the City and that the costs associated with the acquisition were reasonable. She stated the vehicle could be used for search and rescue, as well as keeping police officers safe.

Agenda Amended for Stormwater Presentation

Alderman Best made a motion to amend the agenda to allow for a presentation on stormwater drainage and flooding within the Duffyfield community, seconded by Alderman Kinsey. The motion carried unanimously 7-0.

George Chiles, Public Works Staff Engineer, shared a PowerPoint presentation listing completed and current stormwater-related projects throughout the City, and reviewing the \$32 million FEMA project. After his presentation, questions were addressed. Mr.

Stephens emphasized the FEMA project would take time to complete, potentially up to five years.

6. Conduct a Public Hearing and Consider Adopting an Amendment to Appendix A of the Land Use Ordinance for Short-Term Rentals.

In the fall of 2019, the Planning and Zoning Board (“P&Z”) established a subcommittee to review short-term rentals. The subcommittee consisted of P&Z members, citizens, and members of the Governing Board. The committee conducted biweekly meetings to discuss and develop recommendations, which were unanimously approved by P&Z at their July 7, 2020 meeting.

Jeff Ruggieri, Director of Development Services, shared a PowerPoint presentation to review the background and proposed changes. The entire ordinance for short-term rentals is new language, except for the definition of bed and breakfast, which was updated. Short-term rental properties would be required to register with the City annually, and registration would terminate upon transfer of the property.

Mayor Outlaw opened the public meeting, and the following came forward to speak:

- Nikki Ingianni of 210 New Street said when she bought her property 25 years ago, the property came with a dependency (stand-alone structure that was separate from her residence). The dependency has its own address and contains separate utility meters. She expressed concern about dependencies not being considered or viewed as a separate property, as well as concern about being able to meet the parking requirements. She also voiced opposition to an annual registration for dependencies.

Attorney Davis explained if the proposed ordinance were adopted, existing Airbnbs and dependencies would be grandfathered in as long as they continue to operate as they always have – as an existing nonconforming use. However, if they cease to operate for a period that exceeds six months, the property will lose its special status and not be allowed to continue to operate. He further explained the 250-foot rule and parking requirements for existing, nonconforming properties.

- Lorelei Schaffhausen of 511 Metcalf Street asked for clarification on locations of short-term rentals and whether the owner had to live at a residence if he had a designated person over 18 residing at the property. Attorney Davis confirmed short-term rentals could exist in both commercial and residential areas and that the owner was not required to live at their property if a designated adult resided there.
- Mike Duffy of 121 Mourning Dove Trail felt the short-term rentals were beneficial for the City, as they brought in occupancy taxes and boosted area spending. He expressed concern about units that may be renting to multiple people at once. He felt applicants should be required to show that they collect and remit occupancy taxes at the time of their annual registration.

- James Woods of 1902 Country Club Road asked for clarification about a dependency that is grandfathered in and may be noncompliant for six months. He expressed concern about the requirements that would need to be met to again make the property compliant. Attorney Davis explained properties that are actively marketed for sale would not lose their grandfather status during the time they are being marketed. He also pointed out new dependencies were not allowed and could not be constructed.

Alderman Odham made a motion to close the public hearing, seconded by Alderman Aster. The motion carried unanimously 7-0.

Alderman Bengel shared some of the comments and concerns that were voiced to her by citizens who were unable to attend. She asked if the new ordinance would supersede HOA regulations, and Attorney Davis said it would depend on what the covenants allow. Alderman Bengel also asked how the City would monitor the registration process and adequate onsite or satellite parking. Attorney Davis explained there was no cost to register, which meant there was no downside to registering. He explained how it would be in the interest of the property owner to register, as that would create a paper trail as to which properties were in conformance. Alderman Odham noted software is now available to track rentals that are offered online.

Alderman Bengel made a motion to adopt an Amendment to Appendix A of the Land Use Ordinance for Short-Term Rentals, seconded by Alderman Odham. Upon a roll-call vote, the motion carried 6-1 with Alderwoman Harris voting against it.

7. Consider Adopting an Amendment to Article III of Chapter 26 of the Code of Ordinances Relative to Noise.

This matter was tabled from the July 28, 2020 meeting, after a desire was expressed to allow public comment under Request and Petition of Citizens at this meeting. The existing noise ordinance has been updated and modernized to include the use of sound meters for amplified sound and music. These changes would be applicable citywide.

Alderman Bengel said some of the concerns and complaints she received were related to the base sound. Noting the problem may be more of a base issue than a volume issue, she asked if there was a way to address that in the ordinance. Attorney Davis said the ordinance could be changed to reflect that. However, he cautioned that base is picked up on the C scale, and there is no information as to what an acceptable decibel read would be for base on that scale. He explained decibel measurements would be taken at the source, not at the complainant's property. Alderman Bengel agreed that the City had to try something to address the noise problem and that she was open to coming back to the table at any time to make changes.

Alderman Bengel made a motion to adopt an amendment to Article III of Chapter 26 of the Code of Ordinances relative to noise, seconded by Alderman Aster. Upon a roll-call vote, the motion carried 6-1 with Alderwoman Harris voting against it.

8. Consider Adopting a Resolution Approving Updated Mission and Vision Statements for Parks and Recreation.

As part of the department's Comprehensive Master Plan in 2014, mission and vision statements were approved for Parks and Recreation. Since that time, both statements have been updated to better reflect the department's efforts. The Board was asked to approve the new statements, which are part of the CAPRA National accreditation process. Foster Hughes, Director of Parks and Recreation, stated the City was first accredited in 2013 and was currently undergoing reaccreditation. He read the updated mission and vision statements.

Alderman Odham made a motion to adopt a resolution approving updated mission and vision statements for Parks and Recreation, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

(Alderman Kinsey momentarily stepped out of the room at 7:45 p.m.)

9. Consider Adopting a Resolution Authorizing the Submission of an Application for the 2020-21 NC Public Beach and Coastal Waterfront Access Grant.

Parks and Recreation was invited to apply for a grant through the NC Public Beach and Coastal Waterfront Access Program, which has an application deadline of August 17th. If awarded, grant funds would be used to extend the marshwalk at Lawson Creek Park by approximately 300 feet to create a fishing and observation platform. The estimated cost of the project is \$106,450. A 25% match is required, which equates to \$26,612.50.

Mayor Outlaw expressed a desire to loop the marshwalk all the way around to connect to the beginning. He also felt a viewing dock would be a nice feature, if grant funds could be obtained in the future.

(Alderman Kinsey returned to the room at 7:48 p.m.)

Alderman Aster made a motion to adopt a resolution authorizing the submission of an application for the 2020-21 NC Public Beach and Coastal Waterfront Access Grant, seconded by Alderman Best. Upon a roll-call vote, the motion carried unanimously 7-0.

10. Consider Adopting a Resolution Authorizing the City Manager to Execute a Contract for the Griffin Avenue Water and Sewer System Improvements Project.

The Griffin Avenue Water and Sewer Systems Improvements project will replace aging infrastructure and improve firefighting capabilities along Griffin Avenue between Forest and Simmons Streets and portions of the Tryon Estates apartments. Deteriorated mains and service lines will be eliminated, which will increase available water for fire protection, as well as reduce potential sewer backups in the area. Bids were sought for the project, and James L. Cayton Utilities submitted the lowest bid at \$414,685. The current budget includes approximately \$1 million for water and sewer projects.

Alderman Aster made a motion to adopt a resolution authorizing the City Manager to execute a contract for the Griffin Avenue Water and Sewer System Improvements Project, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

11. Consider Adopting a Resolution Approving a Contract with the Craven County Board of Education for School Resource Officers.

The 2020-21 contract for School Resource Officers (“SRO”) at New Bern High School, Grover C. Fields Middle School, and HJ MacDonald Middle School provides for compensation at a rate of \$38,975 per SRO to offset the cost of salary and related benefits. Overtime is also paid by the Craven County Board of Education.

Alderwoman Harris asked whether this item should be tabled since the first nine weeks of class would be held virtually. Alderman Odham explained the City would be walking away from funding for officers who are still employed. Police Chief Summers recognized the officers were still performing duties as assigned by the Principals, such as delivering lunches to the students’ homes, executing security checks, etc. The officers are still on staff and are paid by the Police Department. They are also performing other duties within the community, although any tasks assigned by the Principals take precedence.

Alderman Odham made a motion to adopt a resolution approving a contract with the Craven County Board of Education for School Resource Officers, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried 6-1 with Alderwoman Harris voting against it.

Alderman Best made a motion to take a brief recess, seconded by Alderman Aster. The motion carried unanimously, time being 8:00 p.m. The meeting resumed at 8:11 p.m.

12. Consider Adopting an Ordinance Amending the Schedule of Fees and Charges.

The Board adopted an amendment to the Schedule of Fees and Charges on June 9, 2020 that was effective July 1, 2020. The schedule inadvertently omitted

changes to be implemented in Section 11 for Electric Utilities. This amendment is to correct the omissions. Alderman Bengel questioned the actual changes, noting the new fees were not listed on the redlined version. Charles Bauschard, Director of Public Utilities, explained he was proposing no charge for those items. Alderman Odham questioned why there was a need to list the items on the schedule, if there were no associated fees. He also questioned if the schedule that was originally adopted at the beginning of the fiscal year had omitted the charges, and the revision was adding them back just for the purpose of showing them with no fee.

Alderman Odham made a motion to table this item to the next meeting so staff could reconvene on the issue, seconded by Alderman Bengel. The motion carried unanimously 7-0.

13. Consider Adopting a Grant Project Ordinance to Establish the Tropical Storm Isaias Fund.

The City has incurred costs associated with Tropical Storm/Hurricane Isaias. It is anticipated these costs will be eligible for reimbursement through FEMA. The project fund will capture costs incurred for emergency services, utility restoration, debris removal, repairs, and other related expenses. The initial budget will be established at \$750,000. Mr. Stephens felt this FEMA claim would likely be small enough that it could be handled inhouse without the assistance of a consultant.

Alderman Odham congratulated the Department of Public Utilities for restoring power so quickly. Mayor Outlaw also thanked staff for an awesome job during the storm.

Alderman Aster made a motion to adopt a grant project ordinance to establish the Tropical Storm Isaias Fund, seconded by Alderman Bengel. Upon a roll-call vote, the motion carried unanimously 7-0.

14. Consider Adopting a Budget Ordinance Amendment for FY2020-21.

This budget ordinance will move funds from the Garage's FY2020-21 approved budget and re-appropriate them as follows: \$242,500 for replacement of vehicles and equipment in Parks and Recreation, Police, Public Works' Streets and Stormwater divisions, and PEG; \$300,000 to Parks and Recreation Facilities for the Pleasant Hill Community Center building; \$33,786 for increased insurance premiums; and the remaining balance of \$162,114 will be moved to contingency.

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

15. Appointment(s).

Alderman Bengel made a motion to reappoint Beth Walker and Kip Peregoy to the Redevelopment Commission, seconded by Alderman Odham. The motion carried

unanimously 7-0. Ms. Walker and Mr. Peregoy will serve a five-year term to expire on August 14, 2025.

Alderman Aster made a motion to appoint Dr. Steve Stelma and reappoint Dona Baker to the Dangerous Dog Board, seconded by Alderman Kinsey. The motion carried unanimously 7-0. Both will serve a one-year term. Dr. Stelma's term will expire on August 11, 2021, and Ms. Baker's appointment will expire on August 27, 2021.

16. Attorney's Report.

The City Attorney had nothing to report.

17. City Manager's Report.

- At the Mayor's request, Mr. Stephens provided an update on the City's efforts to address resiliency, and he discussed customer choice for electricity. Mr. Stephens announced the City's rates are currently on parity with Duke Energy and may eventually be less than Duke's. One of the benefits of a public power supplier is its ability to quickly respond to issues and restore power during storms.

With respect to resiliency, the City had its first kickoff meeting at the end of July to discuss a plan. The process will be very open and will engage the public. A webpage will be designated for the communitywide plan, and minutes of all meetings will be available. The plan is fully funded, and additional grants will be sought to implement the initiatives that come from the plan.

- A fence has been placed around the Stanley White Recreation Center to secure the scene for future demolition. Noting the sentimental value of the building, Alderman Bengel asked if it were possible to reuse the brick for walkways, etc. Mr. Stephens explained there would be a lot of labor in removing the mortar from the brick. Regardless of the location of the new facility, Alderwoman Harris voiced a desire to reuse materials that could be reused.
- The Board was asked to consider dates in October for a financial retreat, if still desired. Mr. Stephens said according to the Director of Finance, the City was down approximately \$120,000 per month in sales tax revenue for March and April due to the impact of COVID-19. The total difference from last year this time is approximately \$245,000. May's numbers should soon be available. Budget projections for FY20-21 were quite conservative, and numbers are still ahead of the amounts budgeted.

The City will receive \$497,000 from Craven County for COVID relief efforts. Staff will have to develop and submit a plan to the County to show how those funds will be used. Alderman Bengel asked when public spaces would be reopened, such as public buildings. In response, Mr. Stephens stated he worked at the Board's pleasure and would do as the Board desired. However,

he cautioned that some areas should remain off limits. He noted appointments are being taken as needed, and the City is continuing to conduct business daily. Mr. Ruggieri explained how the Inspections Division had been operating, noting they have been closed to the public and handling business in the building's vestibule. After members of the Board relayed complaints from citizens about the amount of time it takes to conduct business at the Fort Totten drive-thru, Mr. Stephens was asked to look at a potential plan to accommodate customers without putting the employees at risk. Mrs. Hogan said the CAPS office is doing a lot of work over the phone, but was not taking personal appointments. Each car that goes through the drive-thru is given a flyer about other payment options. There is a plan to potentially install an additional drop-box at the building. Aldermen Best and Bengel suggested customers potentially be assisted in person on a one-by-one basis behind plexiglass.

18. New Business.

Alderman Odham

There have been several questions about the enforcement of the Governor's Executive Orders regarding COVID-19. The orders are currently still considered law, despite a lawsuit by the Lieutenant Governor seeking an injunction. At Alderman Odham's request, Mr. Hughes explained why playgrounds and playground equipment are roped off, stating that action was in line with the Governor's orders. Parks, however, have been allowed to remain open.

Some citizens have expressed concern about the MRAP vehicle. Chief Summers announced there were 35 MRAPs in the State of North Carolina and approximately 20 bearcats, which is the police equivalency to the MRAP, for a total of 55 armored vehicles. Basic use of the equipment will be to protect officers as they do their job. The equipment will also be used during floods, as it can go through 3 to 5 feet of water. The vehicle will not be used for protests. The key component will be to train officers on how to use the equipment properly and when to use it.

An update was sought on establishing a citizens' academy. Mr. Stephens said if it were not for COVID-19, the City would probably be kicking off its first academy. Colleen Roberts, Public Information Officer, said she had met with all departments about information they would share and tours that would be provided. A plan is 95% in place and could possibly be implemented if it is tweaked to accommodate the need to social distance and practice COVID safety. Alderman Odham was satisfied to know that the plan was 95% complete.

Alderman Best

Condolences were expressed to Fire Chief Bobby Boyd on the passing of his mother.

An update was sought on the request for the NC Department of Transportation ("NCDOT") to repave Highway 55. Matt Montanye, Director of Public Works, did not have an update from NCDOT, but knew several projects had been placed on hold. He agreed to reach out for a status update.

Alderman Kinsey

Staff was thanked for a job well done during Tropical Storm Isaias.

Alderman Aster

Concerns have been expressed about people speeding in an area of Lawson Creek Park. It was suggested by some citizens that a speed bump be installed at that area. Alderman Bengel said she had received a request for speed bumps to be installed in Union Point Park. Mr. Hughes said he would monitor the speed issues in parks.

Condolences were also expressed to Chief Boyd on the passing of his mother, Jean Boyd.

Alderwoman Harris

Condolences were voiced to Chief Boyd.

Gratitude was expressed to the City Manager and staff on the work performed during the storm.

The Stanley White Recreation Center Advisory Board will meet August 18, 2020 at 6 p.m., and the agenda should be issued this week.

Alderman Bengel

Condolences were sent to Chief Boyd.

An update was requested on the opening and closing schedule for the Cunningham Bridge. Mr. Montanye said the request was in the final stage of approval, and he would obtain an update.

Complaints are being voiced about the roundabout area at the end of Broad Street and people not properly disposing of their trash in the grassy area. There are also concerns about cars driving where they should not drive. Mr. Stephens explained the property is privately owned, and the City is limited as to what it can do on the 30' easement. The private owners can have vehicles trespassed for driving on the private property. Mr. Stephens encouraged people to be good neighbors and clean up their trash and fishing remnants (bait, fishing line, etc.). If the issue is not rectified, the Board could choose to restrict fishing along the City's area of easement. Anything outside of the city's easement is not the City's responsibility. John Wood at the State's Historic Preservation Office advised the State has released funds for public buildings damaged by Hurricanes Florence and Michael. It was requested that Margaret Shields, the City's grant contractor, and staff investigate this, as City Hall would qualify for the funds.

19. Closed Session.

Alderman Odham made a motion to go into closed session pursuant to NCGS §143-318.11(a)(3) and (5) to discuss the acquisition of real property and maintain attorney/client privilege and pursuant to NCGS §143-318.11(a)(6) to discuss a personnel matter, seconded by Alderman Kinsey. The motion carried unanimously, time being 9:19 p.m.

20. Adjourn.

Alderman Bengel made a motion to adjourn, seconded by Alderman Kinsey. The motion carried unanimously 7-0, time being 9:55 p.m.

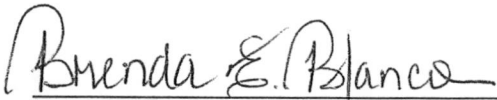
The attached documents are incorporated herewith and are hereby made a part of these minutes.

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

Minutes approved: August 25, 2020



Dana E. Outlaw, Mayor



Brenda E. Blanco, City Clerk