

**CITY OF NEW BERN  
BOARD OF ALDERMEN MEETING  
AUGUST 10, 2021 – 6:00 P.M.  
CITY HALL COURTROOM  
300 POLLOCK STREET**

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

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

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

- 3. Request and Petition of Citizens.**

Sonya Simmons of 592 Hwy. 55 West voiced concerns about the City removing temporary signs she erected to advertise her businesses. She questioned why other businesses' signs were allowed to remain. Mr. Davis explained off-premise signs are prohibited by ordinance, and a business sign must be on the property where the business is located. Obtaining permission from a property owner to place a sign on their property does not override the ordinance. Real estate signs are exempt, and staff does pick up temporary signs that are in the right of way.

**Consent Agenda**

- 4. Consider Adopting a Resolution to Close the 200 Block of New Street for a Neighborhood Block Party.**

Rick Prill, a resident of New Street, requested to close the 200 block of New Street from Linden Street to East Front Street on September 18, 2021 from 3 p.m. until 10 p.m., for a neighborhood block party. A rain date of September 19, 2021 was requested.

- 5. Consider Adopting a Resolution to Close the 3600 Block of Cranberry Lane for a Carolina Colours-Sienna Woods Neighborhood Picnic.**

The Sienna Woods Picnic Committee requested to close the 3600 block of Cranberry Lane from 8 a.m. until 9:30 p.m. on October 23, 2021 for the Carolina Colours-Sienna Woods neighborhood picnic. A rain date of October 24, 2021 was requested.

**6. Consider Adopting a Resolution to Close the 900 Block of Elm Street for the John Thomas Barber Historical Marker Unveiling.**

The J.T. Barber Class of 1950 requested to close the 900 block of Elm Street for a ceremony to unveil a historical marker honoring John Thomas Barber on September 4, 2021 from 10 a.m. until 1 p.m.

**7. Consider Adopting a Resolution to Close Specific Streets for the 2021 New Year's Eve Block Party.**

The City's annual New Year's Eve Celebration is scheduled for December 31, 2021. It was requested the 200 block of Pollock Street from the entrance of the Dunn Building's parking lot to Craven Street be closed to vehicular traffic from 7:00 a.m. on December 31, 2021 until 8 a.m. on January 1, 2022. Additionally, it was requested the 300 block of Pollock Street, a portion of the 200 block of Craven Street beginning at Morgan's Tavern & Grill, and the 300 block of Craven Street be closed from 2:30 p.m. on December 31, 2021 until 3 a.m. on January 1, 2022.

**8. Consider Adopting a Resolution Closing the 1300-1400 Blocks of North Craven Street for the Travis Tritt Concert.**

White Umbrella Limited requested the 1300-1400 blocks of North Craven Street be closed to vehicular traffic on August 15, 2021 from 12 noon until 10:00 p.m. for a Travis Tritt Concert.

**9. Approve Minutes.**

Minutes from the July 27, 2021 regular meeting and August 03, 2021 special meeting were provided for review and approval.

Alderman Bengel made a motion to approve Items 4-9 of the Consent Agenda, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

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**10. Consider Adopting a Resolution Approving the North Carolina Statewide Emergency Management Mutual Aid and Assistance Agreement – Revision 2021.**

The City previously entered into a statewide mutual aid agreement, which is revised from time to time. The last agreement was revised in 2017 and executed by the City in February 2018. The newest revision dated 2021 will update the City's designated representatives. The agreement meets FEMA's requirements for local governments giving or receiving help in the event of a declared disaster. It also helps to speed up the process when applying for FEMA reimbursement.

Alderman Aster made a motion to adopt a resolution approving the North Carolina Statement Emergency Management Mutual Aid and Assistance Agreement – Revision 2021, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

**11. Consider Adopting a Resolution Approving an Amendment to a Letter of Engagement for Professional Services – FEMA with Disaster Recovery Services, LLC.**

Following Hurricane Florence, the City entered into two agreements with Disaster Recovery Services, LLC (“DRS”) to provide professional services related to FEMA and insurance claims. On March 10, 2020, the Board approved a letter of engagement amending the scope of work for the FEMA services to include debris removal and repairs to approximately 66 miles of drainage ditches and waterways. Based upon that expanded scope of work, DRS estimated the updated project costs for FEMA recovery would not exceed \$1,950,000. That amount has now been exhausted, and work remains to be completed.

Therefore, another letter of engagement is proposed amending the contract for FEMA services to allow DRS to assist the City with beginning the close-out processes, continue work on the BP station appeal, and work on additional drainage claims. Also, DRS would be able to offer guidance to the new Finance staff. Originally, the cost to continue the services was estimated at an amount not to exceed \$377,500. However, Mr. Hughes announced DRS was able to further lower the amount to \$255,000. DRS will continue to assist with the Stanley White Recreation Center (“SWRC”) process, which is almost near the end of the environmental assessment (“EA”). They will also assist with the Trent Village and City Hall projects. Alderman Aster reminded the Board that DRS’ services are reimbursable by FEMA up to 5% of the overall amount received from FEMA.

Cory Spaulding, Project Manager with DRS, was in attendance via Zoom. He provided a brief recap of funding secured for Hurricane Florence damages, noting the total funding to date was \$60.286 million. That breaks down as \$58.132 million in FEMA and State of North Carolina funding and \$2.153 million from the City’s insurance carrier. Also secured was \$192,000 in mitigation funding for City Hall. DRS will continue to assist with the appeals of the BP building and administrative pay, which total around \$2 million.

Alderwoman Harris asked Mr. Spaulding how long he had worked with FEMA, and Mr. Spaulding responded nearly 25-30 years. Recalling last year that Mr. Spaulding advised the Board that they were obligated to notify FEMA of the alternative location, Alderwoman Harris asked if that was still the case. Mr. Spaulding responded that was accurate.

Mr. Spaulding provided an update on the ditch project, as requested by Alderman Aster, noting \$33 million in FEMA funding had been secured for Category A ditch work and Category D work was estimated by FEMA to be at \$1.755 million. DRS

believed the Category D work was underestimated, and the costs have come in significantly higher than the estimate. There is a method to recoup the cost overages. Alderman Aster and Mr. Spaulding reviewed the appeal status for the BP building, with Alderman Aster commenting he would recommend the appeal be escalated to arbitration if it is denied.

Alderman Aster made a motion to adopt a resolution approving an amendment to a letter of engagement for professional services – FEMA with Disaster Recovery Services, LLC, seconded by Alderman Odham. Upon a roll-call vote, the motion carried unanimously 7-0.

**12. Consider Adopting a Resolution Authorizing the Interim City Manager to Execute Contract Documents for the Hurricane Florence Category A Drainage Ditch Project in the Quarry 2 Drainage Basin.**

Over the past two years, the City has been working with FEMA on a project to remove sediment and debris from 66 miles of drainage ditches throughout the City. The work to address the Quarry 2 drainage basin Category A project was put out to bid, and Trader Construction Company submitted the lowest bid at \$374,800. It was requested the Interim City Manager be authorized to execute a contract with Trader Construction Company for this portion of the project, along with any change orders within the budgeted amount. The Quarry 2 basin is made up of mostly the Derby Park area to Bosch, and work should begin in about three weeks, according to George Chiles, Interim Public Works Director.

At Mayor Outlaw's request, Mr. Chiles explained some steps that could be taken to calm drainage reservoirs. He noted there are several areas in the city that were developed prior to stormwater rules; thus, they have no stormwater retention or detention. It may be advantageous to review what other communities have done, which is look at new methods of retention before the water gets into the outfall.

Alderman Odham asked if staff could color code a citywide drainage map to show the work that has already been completed by FEMA and what will be completed. Mr. Chiles said he would prepare that by basin to depict completed work and areas where work is to be done.

Issues were discussed about the culvert that leads to Colony Drive and is located near the railroad tracks. It was noted the culvert is owned by the state; thus, the City cannot request FEMA's assistance to address it. Alderman Aster said he was in favor of preparing a resolution asking the NC Department of Transportation to improve the culvert. He asked Mr. Chiles to let the Board know if he felt such action would be helpful. If a resolution is pursued, Alderman Best suggested it also include other state-maintained areas such as Simmons Street.

Alderman Aster made a motion to adopt a resolution authorizing the Interim City Manager to execute contract documents for the Hurricane Florence Category A drainage ditch project in the Quarry 2 drainage basin, seconded by Alderman Best. Upon a roll-call vote, the motion carried unanimously 7-0.

**13. Consider Adopting a Budget Ordinance Amendment for FY2021-22.**

The amendment would appropriate \$64,000 to the Police Department's budget for the purchase of the remaining 25 mobile radios previously approved by the Board on July 28, 2020. In addition, the E911 Telephone System Fund would be amended to reduce the annual PSAP distribution from the State. The reduction of \$28,325 is due to the City exceeding the allowable 20% that can be carried forward from FY2021.

This item was pulled by the Interim City Manager.

**14. Appointment(s).**

Alderman Best made a motion to appoint James Woods to the Community Development Advisory Committee, seconded by Alderman Odham. Upon a roll-call vote, the motion carried unanimously 7-0. Mr. Woods will serve a three-year term to expire on June 30, 2024.

Alderman Bengel made a motion to appoint Dr. Bobbi Kotrba and reappoint Dr. Steve Stelma and Dona Baker to the Dangerous Dog Board, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0. They will each serve a one-year term

**15. Attorney's Report.**

The City Attorney had nothing to report.

**16. City Manager's Report.**

National Night Out has been rescheduled for this Wednesday and Thursday.

**17. New Business.**

Alderman Best

While attending FEMA's EA meeting on July 29, 2021, it was upsetting to learn a lot of citizens in attendance were under the assumption that the Board had already voted to rebuild SWRC at the Third Avenue site. The meeting was total chaos. Although the Board has been transparent, there are some citizens who feel it has not. Alderman Best stated she was not going to continue to discuss the topic, because she did not have the time nor energy to listen to a lot of the propaganda. Citizens have been throwing stones and telling untruths that are affecting people's lives. Upon request, Mr. Hughes recapped the SWRC events, noting in May of 2020 the Board voted to change the scope of work to move the facility to the Third Avenue location, which triggered the FEMA's EA. The EA started in late August of 2020 and is still ongoing. The public input period will end on August 16, 2021. At the conclusion of the EA, FEMA will review any comments received. A determination from FEMA will be received at some point after the comment period.

Upon receipt of FEMA's determination, staff will be ready for direction from the Board and will issue a Request for Proposal to begin the construction. No decision has currently been made by the Board with respect to the location of the new facility.

Alderman Aster noted once the Board approved the change in the scope of work and now that FEMA has agreed to the change in conjunction with Executive Order 11988, FEMA cannot and will not fund the City to build the center back in the floodplain. He stressed that all of the Board voted to change the scope of work and under the law if the alternate site is approved, then there is no building in the floodplain. Alderwoman Harris said if you look at the June 15, 2020 meeting, direction was given for the City Manager to change the scope of work; action was not taken by resolution. Not everyone agreed with that move, but the FEMA expert, Mr. Spaulding, was in attendance and stated the City was obligated to tell FEMA about the alternate site. In March when the alternate property was discussed in closed session, it was indicated the property would be a backup plan. She asked what happened and then commented the Board had voted on October 8, 2019 to rebuild at the original site. Alderwoman Harris stated there was deceit, a lack of transparency, and the Board has known all along that it did not want to spend money in "that" community. She stated it was true that the Board could now ask for another change in the scope of work to request the facility be put back at the original location and to alter its size. It is not a done deal, according to her.

Alderman Aster asked Mr. Spaulding if it was law that once an alternate site had been determined and approved that the facility had to be built on the alternate site and could not be built in a floodplain. Mr. Spaulding confirmed that was correct, and he then recapped the history of the process to date. Originally, there was no alternate site. Under Executive Order 11988, the City and FEMA are required to relocate out of the floodplain when using federal funds if a feasible or acceptable location is available. At the very beginning, there was no alternate location. FEMA was advised so they approved to rebuild at the original site. The project went through the FEMA review and approval process, which took a considerable amount of time. At a point in time, the City became aware an alternate location was available and could be an acceptable location. The City asked if they were required to notify FEMA of that potential location, and Mr. Spaulding stated he had responded yes and that if the City rebuilt at the existing location then there was the potential that FEMA could say the City violated Executive Order 11988 and they could deny all federal funding. Thus, the decision was made to notify FEMA of the alternate location. That instituted the EA to determine if the alternate location was a suitable location. That process has been ongoing for almost a year now with numerous public input meetings. Most recently, FEMA held a public conference with the City, at which time FEMA advised that if a feasible location was available outside of the floodplain then it would be required that the facility be relocated outside of the floodplain. The EA has not yet been completed; however, the indication is that the alternate location is considered a feasible location. If that is the case, the facility cannot be built back in the flood zone.

Alderwoman Harris stated the Board knew about an alternate location on March 10<sup>th</sup>, and FEMA accepted the application on March 14<sup>th</sup>. She questioned why the

City waited so long to inform FEMA of an alternate location and why it waited to ask for a change in the scope of work until after FEMA had approved funding for the original location. For clarity, Mr. Spaulding asked if she was referring to the four-day difference, and Alderwoman Harris replied yes. He explained that when he was asked if the City should immediately notify FEMA of a potential alternate location, he responded the project had been under review by FEMA for months and it had taken years to get it to the point where it was. At that time it was in the Office of Legislative Affairs review, which was the final step for obligation. If the City notified FEMA that day of a potential alternate location and the project was pulled from being obligated, it may have taken years for FEMA to obligate the project. Thus, since the project was in the final days of obligation, the decision was made to wait for the project to be obligated and then the City was to perform its duties under the law to notify FEMA of the potential alternate location. Additionally, Mr. Spaulding had requested time to research the law to determine the City's obligation regarding the notification. He came to the conclusion that even after obligation, the City was required to notify FEMA of the alternative site. Alderwoman Harris asked if Mr. Spaulding advised the City to not alert the public as to the next step, and he responded no. He stated this was a matter of four days; nothing was deliberately held up for a long period of time. Mr. Spaulding stated he still stood by that decision and felt it was a very wise decision for the City to make.

Alderwoman Harris said owners of the alternate site stated they were approached by the City Attorney and told that if they did not sell the property, the City would condemn it. She claimed the alternative location had been a set up from the beginning. She stated the Board tried to sew deceit and sabotage opportunities for the black and brown community. The majority of the community cried out over this topic, but the Board did not want to spend \$8 million or more in that community. She stated that was a smack in the face, and the Board represents the entire City, not just their individual ward. She also stated was frustrated that the Board continued to sew deceit in the communities, and also stated the Board purposely made sure the facility would not go back into that community.

In response, Alderman Aster said he did not understand how Alderwoman Harris could say the process was not transparent. Direction was given to the City Manager and the consultant to change the scope of work, which was voted on by everyone, including Alderwoman Harris. He noted Alderwoman Harris keeps talking about "in that community", and he asked was Third Avenue not a part of that community as well? An email was received today from one of Alderwoman Harris' presumable constituents that told her to stop messing around with this issue and build the recreation center back. Alderman Aster said the City had been playing around with this for a long time, and it was time to put a bigger, better, and drier center back in place. He felt this had gone on long enough and said he was tired of people voting to buy the property and then saying they did not make a recommendation to buy it. He noted Alderwoman Harris voted for the change in the scope of work and made the motion to buy the property, but was now trying to wiggle her way out of it. He commented this was clear as day, and he was tired of it. Alderman Aster noted the project was a 428 grant and under a 428 grant, the City could apply to take the entire money and build the center in another place like Martin Marietta Park, but no

one wants to do that. Instead, they all wanted to start construction tomorrow on the alternate site and stop messing around with the idea of building a structure in a floodplain. He expressed a desire to build the structure in a non-floodplain area that could be used as a Red Cross Shelter equipped with a generator. Alderman Aster said if he had been in Alderwoman Harris' shoes, he would have gone to the community and said the alternate location would be the best thing that could happen for the community. He said he took offense to some of Alderwoman Harris' comments about back-room deals. Earlier in the day, Alderman Aster said he asked the City Manager to add Alderwoman Harris to the FEMA team so she could attend a 2-hour FEMA meeting on Thursdays to discuss all FEMA projects. He reiterated that no backroom stuff was done, and that Alderwoman Harris was aware of everything that had been done, and she even made the motion for the new site. He further stated she had 15 people upset with her, but should hear comments he received from those attending the meeting at the Omega Center. One person stated he had visited the original site of the SWRC following a recent rain, and the whole field was under water. That person said the center needed to be moved. Alderman Aster said he was tired of everything, the City needed to move forward, and Alderwoman Harris should have taken the opportunity to tell the community what a good thing the new site can and could be. Instead, she was following the lead of a few people to fight it tooth and nail.

In response, Alderwoman Harris said she was not fighting anything tooth and nail. From the beginning, she was in favor of the new site as a backup deal. She stated she was never previously invited to FEMA meetings, but was being invited now because she had called Alderman Aster out. She stated she was speaking on behalf of the majority of the community who approached her to express that they wanted the facility built back in the same location. Alderwoman Harris stated she did a lot in her community and did not want anyone to ever come at her saying she did not. She stated she did not know about the FEMA meetings or meetings with the Congressman until after the fact. Alderman Aster said he reported to the Board about the meetings, and then asked Alderwoman Harris wasn't she aware of the weekly meetings. When she responded yes, Alderman Aster questioned why she never asked to be a part of them. Alderwoman Harris said she did not know how many Board members were attending and whether there would be a quorum. She stated the Board never wanted to build the facility back in its original location and that the Board swindled the people, tried to sew deceit in the community, and made it look as if leadership did not do what it was supposed to do. Alderwoman Harris stated she would never take back her motion because it was a smart decision, and she was erring on the side of caution in case FEMA did not obligate the project. That does not mean she went behind the community's back. Alderman Aster reiterated his question noting there were numerous times he reported on FEMA meetings and meetings with the Congressman and Senator. He was the only Board member who attended. Alderwoman Harris said she did ask the City Manager, Mark Stephens, about those meetings.

Alderman Odham agreed that the change in scope of work was via direction given to the Manager. When the FEMA consultants presented the alternative plan, he believed the Board voted on that plan during the meeting. There were people upset



by that vote and those on the Board who questioned whether it was procedurally correct, but Alderman Odham stated it was a legal vote per his recollection. He believed Alderwoman Harris voted against the plan and that the vote was either 6-1 or 5-2 in favor. He stated he was ready to move forward with the new site and was ready to vote on it, as he had heard from enough people in the community who supported the new site.

Alderman Best said she totally misunderstood the process when it was discussed at the March 2020 meeting. She did not know that if the alternate site was approved by FEMA that it would be the ultimate site. She felt Alderwoman Harris also misunderstood. She stated if she had understood the process, she would not have voted for it. However, she stated Gaston Boulevard was a great location for the center.

#### Alderman Aster

It makes good business sense to move SWRC out of the floodplain. It is only a football field away from the original site, and there will be trails leading to Henderson Park and other amenities. He stated he could not wait to make the motion to relocate it.

#### Alderwoman Harris

A moment of silence was observed for Van Cuthbertson who recently passed away. Mr. Cuthbertson was a former city employee.

#### Mayor Outlaw

Noting this Board is going into its fourth year, Mayor Outlaw stated he would continue to do his part to facilitate better communication and would take full responsibility for any shortcomings. He reiterated that it would be in the best interest of the youth and seniors and in the best interest of the citizens' quality of life to relocate SWRC to the elevation of 14 feet.

### **18. Closed Session.**

A closed session was not needed.

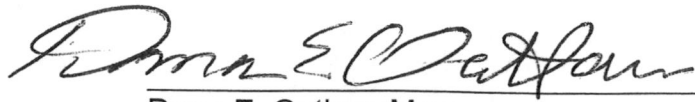
### **19. Adjourn.**

Alderman Aster made a motion to adjourn, seconded by Alderman Odham. Upon a roll-call vote, the motion carried unanimously 7-0, time being 7:22 p.m.

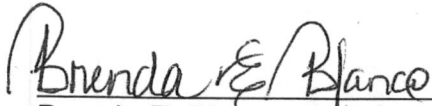
The attached documents are incorporated herewith and are hereby made a part of these minutes.

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](http://www.newbernnc.gov). Video and audio recordings of the meeting have been archived.

Minutes approved: August 24, 2021



Dana E. Outlaw, Mayor



Brenda E. Blanco, City Clerk