

**CITY OF NEW BERN
BOARD OF ALDERMEN MEETING
NOVEMBER 09, 2021 – 6:00 P.M.
CITY HALL COURTROOM
300 POLLOCK STREET**

- 1. Meeting opened by Mayor Dana E. Outlaw. Prayer by Alderman Barbara Best. Pledge of Allegiance.**

- 2. Roll Call.**

Present: Mayor Dana Outlaw, Alderman Sabrina Bengel, Alderman Robert Aster, Alderman Johnnie Ray Kinsey, Alderman Barbara Best, and Alderman Jeffrey Odham (arrived at 6:06 p.m.). Absent: Alderwoman Jameesha Harris. A quorum was present.

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

- 3. Request and Petition of Citizens.**

There were no request and petition of citizens.

Consent Agenda

- 4. Consider Approving a Proclamation for Community Relations Day.**

Maria Cho, on behalf of the Redevelopment Commission's Health and Wellness working group, requested a proclamation to establish a Community Relations Day. The observance of this day will be held annually on the third Saturday of November. Its purpose is to honor leaders from within the community and express appreciation to those who work hard to make a difference in the Greater Duffyfield area.

- 5. Consider Adopting a Resolution to Close Specific Streets for the Craven County Jaycees 2021 Christmas Parade.**

The Craven County Jaycees' annual Christmas parade is scheduled for Saturday, December 4, 2021. David Ricks, the event coordinator, requested that the 400-800 blocks of George Street, 300-600 blocks of Broad Street, and the 200-300 blocks of Craven Street be closed to vehicular traffic from 1 p.m. until 5 p.m. He also requested that the southside (eastbound lane) of Broad Street be closed to parking from 12 a.m. until the conclusion of the parade.

6. Approve Minutes.

Minutes from the October 26, 2021 special and regular meetings were provided for review and approval.

Alderman Best made a motion to approve Items 4-6 of the Consent Agenda, seconded by Alderman Kinsey. The motion carried unanimously 5-0. Of note Alderman Odham had not arrived when the Consent Agenda was approved.

7. Presentation by Religious Community Services.

Zeb Hough, Executive Director of Religious Community Services ("RCS"), provided a PowerPoint presentation to review the services offered by the organization to meet the needs of area citizens.

(Alderman Odham arrived at 6:06 p.m.)

Questions and answers were entertained after the presentation. Alderman Best asked in what way the City could partner with RCS to help fill any gap. Mr. Hough explained as services have expanded, operational costs have increased. One way the City could assist is to help reduce the utility costs so that those funds could be diverted to provide services instead of covering overhead expenses. Mayor Outlaw suggested a working group of Board members to meet with some of RCS' staff and directors to see if there are mutual cost-beneficial measures that can be considered. Aldermen Bengel, Aster, and Best will represent the City on the working group.

8. Conduct a Public Hearing on the Rezoning of 4416 US Highway 17 South; and
a) Consider Adopting a Statement of Zoning Consistency or Inconsistency; and
b) Consider Adopting an Ordinance to Rezone 4416 US Highway 17 South from R-10 Residential District to C-3 Commercial District.

Corey Thomas requested to rezone a 0.46-acre parcel from R-10 Residential to C-3 Commercial. The parcel is in the extraterritorial jurisdiction west of the Rocky Run area and is identified as 4416 US Highway 17 South and Craven County Tax Parcel ID 8-206-028. The Planning and Zoning Board ("P&Z") unanimously approved the application at its October 5, 2021 meeting. There were no public comments offered to P&Z at that meeting. Jeff Ruggieri, Director of Development Services, shared a PowerPoint presentation to review the request, zoning uses, and zoning designations in the area.

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

- Constance Simmons of 4420 US Hwy. 17 South spoke on behalf of the citizens of the Rocky Run community stating they opposed the rezoning. Ms. Simmons expressed concerns about the erection of a fence and signage on the subject property. She also voiced concern about the City's choice of

location for the public hearing notice. She felt placing it in a different location than in the past was an attempt to keep the local residents from knowing about the hearing. She stated she opposed the rezoning because she did not want a business near residences, did not want noise factors or increased traffic flow, and she was concerned a business would bring strangers to the neighborhood.

- Sandra West Gray, a lifetime resident and homeowner at 4418 US Hwy. 17 South, also expressed opposition. She stated there was a great discrepancy in the location of the property lines and was upset about the erection of a bob-wired fence near her property. She described disagreements between herself and the applicant regarding the property line.
- Jekera Holmes of 201 Rocky Run Road shared pictures of the fence that was erected by the applicant and expressed displeasure with the "business-type" fence. After the passing of a relative, Ms. Holmes stated her family had kept up and maintained part of the property for the last 10 years or over 20 years. She felt it was unneighborly that the applicant stated they were "lucky they could use the driveway" after he erected a fence.
- Corey Thomas, owner of 4416 US Hwy. 17 South and resident of 107 Culpepper Road, showed a survey of the property indicating that the property line is in the middle of the adjacent landowner's driveway and that the driveway encroaches his property. When he purchased the property, he was aware it was zoned residential, but he had no idea at that time what he would do with the property. With respect to the area, there are two residential lots beside of his property (those of Ms. Simmons and Ms. Ray); otherwise, eight commercial lots flank his property. Mr. Thomas stated most of the property in the area was commercial. The fence was erected about six feet from his property line, and he avoided cutting off the neighbor's driveway so as not to be the "bad guy".

At the Mayor's request, the City Attorney explained the scope of the Board's duties was to decide whether the request to change the zoning was reasonable. In his explanation, Mr. Davis stated the Board had no jurisdiction to settle property line disputes.

Mr. Thomas explained his reason as to why he felt the property should be rezoned. New Bern's population has doubled from 15,000 in the 1950's to around 30,000 now. Houses in the Rocky Run area were built in the 1930's to 1960's. Things have changed since then and there is a need for commercial lots in that corridor. The subject property is situated on a four-lane highway, and everything around the subject property is commercial. In his opinion and everyone with whom he had spoken, the property was more suitable for commercial. Mr. Thomas stated he planned to put a small construction business on the site and store trailers.

Alderman Aster asked where the closest commercial property was located. Mr. Ruggieri stated Mike's Tires was three lots down.

- James Woods of 1902 Country Club Road stated the Rocky Run community had no representation on the P&Z Board. The residents are not aware when P&Z holds meetings because they have no representation. Mr. Woods felt the Rocky Run residents needed someone on P&Z to represent them.

Alderman Odham made a motion to close the public hearing, seconded by Alderman Kinsey. The motion carried unanimously 6-0.

Alderman Odham asked whether Craven County had zoning, and Mr. Davis responded not to his knowledge. Theoretically, if the City were to decide to no longer have an ETJ in the Highway 17 corridor, then there would be no zoning and every property owner would be free to do as this wished with their property. Mayor Outlaw asked about the legal procedure if the Board were to decide not to have an ETJ in that area, and Mr. Davis stated he would have to investigate that.

Alderman Odham reflected upon the reasoning for reducing the size of the P&Z Board. Essentially, there were 3 ETJ seats out of 9 or 10 total seats that were making decisions for the City of New Bern. That was not fair and was unbalanced. Alderman Odham said he understood the question of representation and the homeowners' frustration. But typically, when a highway is put in place, there is commercial on the highway corridor with residential behind it.

Alderman Best asked Ms. Simmons and Ms. Gray what type of property taxes they paid, and both responded only county taxes. Alderman Best said you would think the County would come to the homeowners' aid, and she agreed with Mr. Woods' statements. She suggested the citizens reach out to the county commissioners about representation. Alderman Best further stated she would feel more comfortable if the fence that had been erected was a privacy fence. Mr. Ruggieri said any open storage of building materials, etc. would require a special use permit that would require a solid or opaque fence.

Mayor Outlaw said objectively most of the improvements in the area were commercial, and he noted the area was preponderantly transitional toward commercial. He stated C-3 was a reasonable zone for that area and everyone should be able to live with that. He was sorry that was upsetting to some property owners, but the area is one of growth on a major highway. The Board is not supposed to talk about usages, but instead talk about zoning generalities. The P&Z Board unanimously decided to approve the request and recommend the rezoning to the Governing Board. Even though the area is in transition, Alderman Bengel expressed concerns about changing the zoning and stated she would have to vote against it. Alderman Best stated she felt the same way and would also have to vote no.

Alderman Odham made a motion to adopt a statement of zoning consistency for 4416 US Highway 17 South. The motion died for lack of a second.

Alderman Bengel made a motion to adopt a statement of zoning inconsistency, seconded by Alderman Best. Upon a roll-call vote, the motion failed 3-3 with Aldermen Bengel, Kinsey and Best voting in favor of it and Mayor Outlaw and Aldermen Aster and Odham voting against it. Mr. Davis stated the item would be tabled unless someone had a change of view on the matter.

If the Board was amenable, Alderman Odham asked staff to research what it would take to remove Rocky Run from the ETJ, and Alderman Bengel stated she would support that. Alderman Aster said he wanted to hear the pros and cons of an ETJ, as he felt it was time the City got out of the ETJ business.

9. Consider Adopting a Resolution Authorizing the Addition of Streetlights on Colony Drive.

Alderman Kinsey requested additional streetlighting on a portion of Colony Drive to Racetrack Road. Staff evaluated the request and determined the area does not meet the City's light standard and recommended the addition of two streetlights. The installation of the lights will cost \$4,028.14, and the monthly utility charge for service will be \$32.54.

Alderman Kinsey made a motion to adopt a resolution authorizing the addition of streetlights on Colony Drive, seconded by Alderman Odham. Upon a roll-call vote, the motion carried unanimously 6-0.

10. Consider Adopting a Resolution Approving the NBAMPO 5303 Grant Contract with the NC Department of Transportation.

On behalf of the New Bern Area Metropolitan Planning Organization, the City was identified as the direct recipient of Section 5303 Federal Transit Administration Urban Planning Funds. These funds are managed by NCDOT's Public Transportation Division. To receive the funds, the Board of Aldermen must adopt a resolution authorizing the City Manager to sign a grant agreement with NCDOT. The total allocation for FY2021-22 is \$25,000, which reflects a Federal and State share of \$22,500 and a local share of \$2,500. The local share will be provided by the jurisdictions participating in the New Bern Area MPO as follows: New Bern \$1,387.00; River Bend \$148.50; Trent Woods \$203.50; Bridgeton \$21.00; and Craven County \$740.00.

Alderman Odham made a motion to adopt a resolution approving the NBAMPO 5303 Grant Contract with the NC Department of Transportation, seconded by Alderman Best. Upon a roll-call vote, the motion carried unanimously 6-0.

11. Consider Adopting a Resolution Approving a License Agreement with Woods Hole Group for NOAA Monitoring Equipment at the Broad Street Terminus.

Woods Hole Group sought a license agreement to temporarily install and attach National Oceanic and Atmospheric Administration ("NOAA") equipment at the

Broad Street terminus. This equipment will be utilized to monitor the water levels of the Neuse River. The license agreement will terminate at midnight on May 31, 2022.

Alderman Aster asked if the City could have live access to the data, noting it would be beneficial to the Fire Department. Mayor Outlaw inquired about size of the equipment. Mr. Hughes confirmed the data would be available to the City, although he would have to inquire as to whether it would be live. He also responded to the Mayor's question about the size of the equipment.

Alderman Bengel made a motion to adopt a resolution approving a license agreement with Woods Hole Group for NOAA monitoring equipment at the Broad Street terminus, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously 6-0.

NOTE: Items 12-14 were voted on collaboratively as indicated under Item 14.

12. Consider Adopting a Resolution Authorizing the Submission of a Grant Application to the Building Resilient Infrastructure and Communities Program for the Duffyfield Canal Restoration Project Scoping, Capability and Capacity-Building Activity.

Staff sought authorization to submit a grant application to the Building Resilient Infrastructure and Communities ("BRIC") program administered by FEMA. If awarded, the grant funds would be used to perform project scoping activities relative to the development and analysis of a hydrologic and hydraulic model to collect topographic survey data and rainfall prediction information needed to develop a model of the canal and associated drainage information. The model would then be analyzed to ascertain the feasibility and effectiveness of various flood mitigation strategies and to develop conceptual plans. This will be helpful in developing a phased construction and restoration plan for the Duffyfield Canal and surrounding areas. The total cost of the scoping project is \$200,000. Grant funds would cover \$140,000 with a \$60,000 match consisting of cash, donated, or third-party in-kind services, materials, or a combination thereof.

13. Consider Adopting a Resolution Authorizing the Submission of a Grant Application to the Building Resilient Infrastructure and Communities Program for the Resilient Utilities Infrastructure – Electric Substation Project/Mitigation Project.

Similar to the previous item, staff sought authorization to submit a grant application to the BRIC program administered by FEMA. If awarded, the grant funds would be used to construct a new electrical substation strategically located to ensure a reliable and resilient distribution of power and to replace an aged transformer at the Trent Road substation. The total project cost is \$6,000,000, which would be covered by \$4,200,000 in grant funds and a City match of \$1,800,000 which could be cash, donated, or third-party in-kind services, materials, or a combination thereof.

14. Consider Adopting a Resolution Authorizing the Submission of a Grant Application to the Building Resilient Infrastructure and Communities Program for the Duffyfield Community Stormwater Enhancement Mitigation Project.

This BRIC program grant application will assist with phases of the Duffyfield Community Stormwater Enhancement Project. The project is intended to reduce the risk of flooding, while also improving water quality. Phases II-III of the project include a series of interconnected stormwater wetland areas constructed on existing city-owned vacant parcels, some of which were acquired through FEMA buyout programs. Phase IV will include the development of a stormwater park with a series of trails and recreational opportunities for the community. The total costs for phases II-IV are \$4,964,500. Grant funds of \$3,475,150 will be sought to complete the engineering, design, and construction of these three phases. A City match of \$1,489,350 will be required and may consist of cash, donated, or third-party in-kind services, materials, or any combination thereof.

While discussing the three grants, Mr. Hughes confirmed all matching funds would come from the City. ARP funds are not eligible for matching federal grants, but Water and Sewer or Utility fund balances could be used for the matches. Amanda Ohlensehlen, Community and Economic Development Manager, pointed out other grants could be sought to meet the matches as well. Alderman Bengel said she was concerned about the \$1.8 million match. Mrs. Ohlensehlen noted the grants were nationally competitive. While FEMA requires a 25% match, staff was proposing a 30% match to allow the City to achieve more points in the scoring process. Recalling that Charlie Bauschard, Director of Public Utilities, had previously notified the Board of a need for a new substation, Alderman Aster stated the grant funds would help with that expense. Mrs. Ohlensehlen announced the grant implementation was 36 months, so if all three projects were awarded, they could be spread out over the 3-year period.

Alderman Best made a motion to adopt: a) a resolution authorizing the submission of a grant application to the BRIC program for the Duffyfield Canal Restoration Project scoping, capability, and capacity-building activity; b) a resolution authorizing the submission of a grant application to the BRIC program for the resilient utilities infrastructure – electric substation project/mitigation project; and c) a resolution authorizing the submission of a grant application to the BRIC program for the Duffyfield Community stormwater enhancement mitigation project, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously 6-0.

15. Consider Adopting a Resolution to Approve Amendment No. 4 to the Owner-Engineer Agreement with Rivers and Associates, Inc. for the Township No. 7 Sewer Improvements Phase III Project.

The Township No. 7 Sewer Improvements Phase III project will meet the needs of the City's sewer system south of the Trent River. The project will also relocate a sewer pump station that is currently on the bank of Lawson Creek. The engineering design has been completed, and the permitting phase is concluding. The project is

scheduled to be bid by the end of the year with construction beginning in early 2022. As the project moves into the bidding and construction phases, additional professional services will be required for issuance of bidding addenda, construction contract administration, coordinating with permitting agencies, and preparation of final drawings for the project. Rivers and Associates has estimated a price of \$123,000 for completion of the work that was not included in the original project scope. To have the engineering support necessary for the next phases of the project, staff recommended approving Engineering Amendment No. 4 with Rivers and Associates for these additional costs and services.

At Mayor Outlaw's request, Jordan Hughes, City Engineer, reviewed the changes and the additional scope of work. Mr. Hughes explained there had been several delays in the project that were associated with coordinating the project around NC Department of Transportation's ("NCDOT") Highway 70 work in James City. The work that is taking place in the James City corridor will be covered 75% by the NCDOT project. The easement by Tryon Palace will require approval from the General Assembly, which will not meet again until 2022.

Alderman Odham made a motion to adopt a resolution approving amendment No. 4 to the owner-engineer agreement with Rivers and Associates, Inc. for the Township No. 7 Sewer Improvements Phase III project, seconded by Alderman Bengel. Upon a roll-call vote, the motion carried unanimously 6-0.

16. Consider Adopting an Ordinance Amending the Township 7 Sewer Improvements Project Fund.

Relative to the previous item, this budget ordinance amendment will increase the Township 7 Sewer Project by \$172,223. Funds will be appropriated from Sewer Fund's fund balance to cover the \$123,000 in additional engineering fees, \$14,223 for current obligations that exceed the original budgeted amount, and \$35,000 to cover easement acquisitions.

Alderman Bengel made a motion to adopt an ordinance amending the Township 7 Sewer Improvements Project Fund, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously 6-0.

17. Consider Adopting a Budget Ordinance Amendment for FY2021-2022.

The Fiscal Year 2021-22 operating budget will be amended to appropriate \$98,000 from the Water Fund's fund balance to cover an 18-year-old dump truck that was scheduled for replacement next fiscal year, but needs replacing now. The Sewer Fund will appropriate \$172,223 from fund balance for the Township 7 Sewer improvements, and the Grants Fund will recognize \$12,504.99 received from the Patrick Leahy Bulletproof Vest Partnership Grant from the Bureau of Justice Assistance. This grant requires an equal match in funds, which was budgeted in the FY2021-22 operating budget. Additionally, grant funds of \$65,000 will be recognized from the Homeland Security Grant through NC Emergency

Management to secure a prime mover for the Fire Department, a picture of which was displayed for reference. This grant does not require a match.

(Alderman Best momentarily stepped out of the room at 7:52 p.m.)

Alderman Odham asked if the Board were to purchase the dump truck now if it could be financed next year in a package with other items considering interest rates are so low. Kim Ostrom, Interim Director of Finance, said that could be done, but the City would need to adopt a Resolution of Intent to Reimburse. However, she did not recommend financing the purchase since there was adequate fund balance to cover the cost.

Alderman Aster made a motion to adopt a budget ordinance amendment for FY2021-22, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 6-0. Of note, Alderman Best had momentarily stepped out of the room, thus technically yielding an affirmative vote.

(Alderman Best returned to the room at 7:56 p.m.)

18. Consider Adopting an Ordinance to Amend Chapter 74 “Utilities” to Establish Article VI – Cross-Connection Control.

The NC Department of Environmental Quality updated the requirements for cross connection control programs for North Carolina public water systems, and cities are required to adopt a more formal program. This year’s budget reclassified an existing position to that of a Cross Connection Control Coordinator, who will be responsible for initiating the program and ensuring the City is operating in compliance with State statutes. Over the past several months, the Cross Connection Control Coordinator, City Engineer, and City Attorney have worked to draft an ordinance to conform with the State’s new requirements, which will establish and be the foundation for the City’s cross connection control program moving forward.

Alderman Bengel made a motion to adopt an ordinance to amend Chapter 74 “Utilities” to establish Article VI – Cross-Connection Control, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously 6-0.

19. Consider Adopting an Ordinance to Amend Chapter 70 “Traffic and Vehicles” of the Code of Ordinances.

The City recently accepted ownership and maintenance of Downey Drive and Watercrest Loop. It is necessary to amend Chapter 70 to establish the location of stop signs on these streets.

Alderman Aster made a motion to adopt an ordinance to amend Chapter 70 “Traffic and Vehicles” of the Code of Ordinances, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 6-0.

20. Appointment(s).

No appointments were made.

Alderman Odham announced he has an opening to fill on the Community Development Advisory Committee. He invited anyone from Ward 6 who was interested in serving on this committee to contact him.

21. Attorney's Report.

The City Attorney had nothing to report.

22. City Manager's Report.

Mr. Hughes thanked American Legion Post 539 for cleaning approximately 60 Veterans' headstones in the Greenwood Cemetery. He also thanked VFW Post 514 for donating flags that were placed at those graves earlier in the day.

Marvin Williams' first day on the job as Assistant City Manager was yesterday. He will be working with the Police Department, Public Works, Fire, and Information Technology and will also spearhead several projects. Mr. Williams thanked Mr. Hughes for choosing him for the position.

23. New Business.

Mayor Outlaw

The Mayor participated in a motorcycle ride this past Saturday for Craven County's Sheriff Deputy Zach Billingham. He read a thank you card the City received from Deputy Billingham's parents, Mark and Tonya Billingham.

Alderman Odham

On Saturday, December 11th, a benefit concert will be held at the Craven County fairgrounds for Deputy Billingham to help cover medical expenses.

A status was sought on where things stand with FEMA for the restrooms, outdoor basketball courts, and Stanley White Recreation Center. Mr. Hughes stated the scope of work is almost complete and ready for presentation to FEMA, and staff hopes to have a response by February. Alderman Odham said he felt it was time to have an outdoor basketball court, and he questioned if the scope of work included one. Mr. Hughes confirmed that was part of the scope of work, and if the City moves forward now with installing courts it may potentially lose out on FEMA funds to cover the courts. Alderman Odham said it was disappointing that FEMA was essentially holding the City hostage on this project. He asked if the City was ready to move forward as soon as FEMA approval was received, and Mr. Hughes confirmed the City was ready to roll.

Alderman Best

A suggestion was made for the Board to consider approving a small gift card for employees at Christmas. Last year, a \$25 gift card was given, and Alderman Best

said she was hoping it could be doubled this year. The cost for 485 employees would be about \$25,000, which is a small price to pay for the City's "backbone". The Board gave direction for staff to present a resolution on the next agenda to consider this. Mrs. Ostrom explained the gift card amount would be added to each employee's W2 as income. Aldermen, Best, Aster and Kinsey each expressed support for \$50, while Mayor Outlaw and Alderman Bengel supported \$25. It was decided there would be two resolutions for the Board to choose from at the next meeting.

Alderman Bengel

It was requested that Public Works look at the intersection of Bern and Queen Streets to review the need for another stop sign and striping of a crosswalk. Alderman Bengel also noted the intersection contains a lot of cracks and potholes. George Chiles, Interim Director of Public Works, stated he would look at the area. Chief Boyd was thanked for the strategic planning session that was held on Friday. She suggested the rest of the departments should also have a strategic planning session.

Veteran's Day will be observed on Thursday. All veterans were thanked for their service. A veteran's luncheon will be held at Temple Baptist Church from 11 a.m. to 1 p.m. on Thursday. Many restaurants and retailers will also offer specials. Post 539 will hold a March for 22 to recognize veteran suicides.

24. Closed Session.

A closed session was not needed.


25. Adjourn.

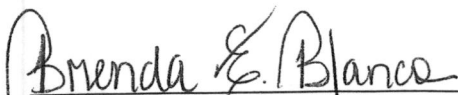
Alderman Aster made a motion to adjourn, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 6-0, time being 8:16 p.m.

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: November 23, 2021


Dana E. Outlaw, Mayor


Brenda E. Blanco, City Clerk