

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

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

Present: Mayor Dana Outlaw, Alderman Sabrina Bengel, Alderwoman Jameesha Harris (arrived at 6:05 p.m.), Alderman Robert Aster, Alderman Johnnie Ray Kinsey, Alderman Barbara Best (arrived at 6:01 p.m.), and Alderman Jeffrey Odham. Absent: None. A quorum was present.

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

**Consent Agenda**

Mr. Hughes announced the event organizer for Item 4 reached out today to advise they inadvertently omitted the 400 block of Pollock Street from their street closure request.

- 3. Consider Adopting a Resolution Closing Specific Streets for the Sudan Shriners' Parade.**

On behalf of the Sudan Shriners, Sharon Evans requested the 400-800 blocks of George Street, 400-600 blocks of Broad Street, and the 200-300 blocks of Middle Street be closed to vehicular traffic on May 21, 2022 from 10 a.m. until 2 p.m. for the Shriner's Spring Ceremonial Parade. It was also requested that the south side (eastbound lane) of Broad Street be closed to parking from 12 a.m. until the conclusion of the parade. In the event of inclement weather, the parade will not be rescheduled.

- 4. Consider Adopting a Resolution Closing Specific Streets for the Operation of Downtown Street Cafes.**

Lynne Harakal, Executive Director of Swiss Bear, requested portions of downtown streets be closed on various Fridays, Saturdays, and Sundays, from April through December to allow for the operation of street cafes and family entertainment. The streets to be closed are the 200-300 blocks of Middle Street, 300 block of Pollock Street, and 200 block of Craven Street from the point of Morgan's Tavern and Grill to Pollock Street. Most of the closures will be from 5:00 p.m. until 10:30 p.m., but there are some dates with other specified times as noted in the resolution.

**5. Consider Adopting a Resolution to Call for a Public Hearing on Financing the City Hall Elevator Project.**

With bids coming in substantially more than the anticipated project cost, direction was sought from the Board at its March 08, 2022 meeting on how to proceed with the City Hall elevator project. The Board authorized staff to obtain formal financing quotes and move forward with the project. Because the project involves improvements to real property, the borrowing must be approved by the Local Government Commission ("LGC"), and a public hearing is required pursuant to NCGS §160A-20. It was requested a public hearing be called for April 12, 2022.

**6. Approve Minutes.**

Minutes from the March 08, 2022 meeting were provided for review and approval.

Alderman Odham made a motion to approve Items 3-6 of the Consent Agenda with the addition of the 400 block of Pollock Street added to Item 4, seconded by Alderman Bengel. The motion carried unanimously 6-0. Of note, Alderman Best arrived just as the vote was being cast. Alderwoman Harris had not yet arrived, thus the 6-0 vote.

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**7. Presentation on Ethics.**

Members of the Board recently expressed a desire for additional information on ethics for local government officials. Tom Carruthers, Senior Assistant General Counsel with the NC League of Municipalities, reviewed the ethics laws. The presentation began with the requirement of elected officials to vote unless there is a conflict of interest. He also covered the laws with respect to direct benefits of contracts and the inability to receive gifts.

Stating she was a cofounder of a nonprofit that received funds from the City last year, Alderwoman Harris asked if she would need to recuse herself from such deliberations this year considering the new statute (NCGS §14-234.3). Mr. Carruthers confirmed she would need to do so if she is a member of the nonprofit's Board of Directors or an officer of a corporation receiving funds.

Alderman Aster asked about closed sessions. Mr. Carruthers reviewed the reasons under which Boards may conduct closed sessions and stated such sessions are vital to the proper functioning of the City. While discussions on economic development should occur in closed session, the decision on how to move forward should be voted on in open session. He cautioned about the consequences associated with discussing legal matters in public. Alderman Aster asked about an elected official's responsibility to keep information discussed in closed session confidential. For economic incentives or matters of litigation, there is no mandated confidentiality for what occurs in closed session, and a Board member does not

violate the law by disclosing information. However, the question to be asked is what is the purpose of going into closed session even when it is necessary and in the city's interest, if the information cannot be maintained confidential until the right time. Mr. Carruthers stated it is a matter of trust, and all business must be conducted with trust. Politics should be conducted with trust and operates much better with trust. Alderwoman Harris asked for clarification that items unrelated to personnel that are discussed outside of closed session is not a violation of law, and Mr. Carruthers confirmed that. Alderman Aster commented that going into closed session is senseless if elected officials are going to discuss the content of the closed session. He questioned why go into closed session. Mr. Carruthers encouraged the Board to continue to discuss their opinions on the matter.

Noting elected officials are often appointed to various boards, Alderman Odham asked about the new statute and what it covers. Unless the nonprofit is formed by the State, Mr. Carruthers stated it would fall within the definitions set forth in the new statute. There is one legal opinion that provides the nonprofit must be a 501(3)(c), but the law does not specifically address that. Therefore, the City Attorney has a statutory duty to provide the City with a legal opinion on the matter. Alderman Odham asked for clarification as whether the elected official is unable to vote in their position as an elected official who provides funding, or if the statute prohibits them from voting from their position with the nonprofit that receives the funding. Mr. Carruthers responded it affects the elected official's ability to vote. Once the elected position moves to the nonprofit's roll, he is no longer sitting as an elected official in Mr. Carruthers' opinion. Alderman Odham said that would mean he should not vote on the City's budget since it funds the Craven 100 Alliance ("C1A"), but he could vote in his position with the C1A. Mr. Carruthers stated that was correct and advised the City Manager and City Attorney would need to come up with very innovative ways in which to address the budget issue. He announced some cities are considering establishing a set budget for nonprofits, after which the Board would then vote on which nonprofits it wants to receive the funds. This allows elected officials to recuse themselves from voting for nonprofits in which they are involved.

Alderwoman Harris asked if all elected officials should disclose the boards on which they hold a seat. Mr. Carruthers said the law requires all Governing Boards to adopt a code of ethics, although he has not reviewed New Bern's and did not know if that was part of the code. Alderman Bengel asked about ex-officio positions. Mr. Carruthers said this is where the City Attorney should come into play to make a call, as that is a gray area. Although some elected officials serve as ex-officios on the Redevelopment Commission, the Commission is not an independent entity since it does not have its own tax ID number.

Mayor Outlaw expressed concern about having a quorum to pass a budget. Mr. Carruthers again said that is where the Manager and City Attorney need to be relied on, and all cities are having this issue. Mr. Davis said there could be a budget adopted with a pool for nonprofit funds. Then a separate vote would be taken on how to spend the pool, with each person recusing themselves with respect to nonprofits with which they are associated. Mr. Carruthers explained the new law

resulted from one town that had an abusive situation, and the State reacted to the need to address that situation. Mayor Outlaw asked about in-kind services, and Mr. Carruthers said he would be wary about voting to provide in-kind services or participate in those deliberations.

Mayor Outlaw questioned the acceptance of gifts, noting when he is presented with a jersey of something similar that he turns it into the City Clerk to become property of the City. Mr. Carruthers noted there are statutes that prohibit the acceptance of gifts or anything of monetary value in exchange for a position or vote, which is a felony. However, items of nominal value can be accepted, as well as "little bags of goodies" that contain nominal items such as USB drives.

**8. Presentation on an Affirmative Action Plan by the New Bern People's Assembly.**

On behalf of the New Bern People's Assembly, Kurtis Stewart and Bailey Evans shared a PowerPoint presentation on the group's request for an Affirmative Action Plan to include the addition of a Director of Diversity, Equity, and Inclusion ("DEI"). The City's employee demographics were reviewed and compared to the City at large. Employees are disproportionately white or male, per Ms. Evans. The position of director was recommended to be one that was on contract, not an internal position, and the Assembly expressed a desire to be actively involved in selecting the person to fill the position. Although New Bern's population is smaller than other cities that have contracted with someone to provide this service, Mr. Stewart felt the problem in New Bern was more significant than in other areas. He also clarified that the reference to minority did not refer solely to African Americans, but also women. A brief discussion ensued about the City's current process for reaching job candidates. Mr. Stewart and Ms. Evans felt there was a need for better recruitment practices that would attract minorities.

Alderwoman Harris thanked the Assembly for their work. She also expressed that Sonya Hayes, Director of Human Resources, does a wonderful job. However, it is important for the City to have equity. She expressed favor with utilizing a contracted position to attract minorities, as she did not feel the City was doing enough to address the issue of inequity. The Board was encouraged to find funding to facilitate the position of a Director of DEI.

Alderman Aster reminded the Board of Mrs. Hayes' presentation some time ago that reviewed all the avenues the City pursues to recruit for positions. Until Mrs. Hayes indicates that she cannot handle recruitment, Alderman Aster did not think changes were needed. Alderwoman Harris countered that it was not that Mrs. Hayes was not doing enough, but the new position would be certified and dedicated to looking in the community for qualified applicants. She noted that there were only four people of color who sit in high positions: the Assistant City Manager, the Assistant City Attorney, Director of Human Resources, and the Director of Public Works. In response to questions from Alderman Kinsey, Mr. Hughes referred to a presentation given previously by Mrs. Hayes in which she explained the steps to recruit employees. Mr. Stewart stated what has taken place in the past has not



worked. The Assembly has a vision and a plan and would like to work together to make this a better City for everyone. Minorities in general are not represented well. Mr. Stewart stated the Board is elected by the people, the people are saying this is an issue, and it cannot be ignored.

Alderman Best voiced agreement with Alderwoman Harris that a DEI officer was needed and stated the numbers could not be dismissed. When positions are open within leadership, she wanted to see a diverse pool of applicants. A DEI officer could also provide workshops and leadership classes for the current workforce. Employee moral is low, and it would be a plus for the City to have someone who could help build moral.

Alderman Bengel said there are several facets that are missing. The last position to be filled was that of the Public Works Director. That position was advertised with the Black Engineers Society of America, but there were no responses. Graduates of historically black colleges and universities ("HBCU") are going to metropolitan areas, not New Bern. New Bern does not have good affordable housing to offer those coming to New Bern. Training is needed; there is a need for the directors to be trained on diversity inclusion and equity. Alderman Bengel stated she would support a contract for someone to provide that training. The City could then work with the Assembly to find out why people are not returning to or moving to New Bern. She felt DEI was a buzz word and also felt the current environment is difficult for anyone to find employees. After briefly commenting on the history of affirmative action, Alderman Bengel said she did not know that government could change the community and said maybe the People's Assembly should hire someone to get out into the community to do that while the City tries to train, hire, and recruit.

Alderwoman Harris said in April of last year she, Alderman Best, Antoinette Boskey, and some others met to discuss the plan, and she commented that "affirmative action" may be a term that needed review. The issue is not only about DEI, but also about the culture in the workforce. To her, DEI is not a buzz word. This is something that should have been done, has not been done, and needs to be done. She did not feel the Assembly should have to pay for the contracted position. Taking action will show the community that there is equity within the city. The Assembly is not saying Human Resources is not doing its job. This is one more tool that is needed in the toolbox. If the employee demographics does not equate to the City's demographics, she did not understand the problem with creating a DEI position. The Assembly has done the work, and she felt it was the Board's responsibility to move forward. Alderman Bengel questioned whether the City should fire or lay people off to fill jobs with minorities, as it could take 20 years to get to the desired numbers. Alderwoman Harris responded no, but also questioned why stop at 456 employees. Alderman Bengel responded that was all the budget could facilitate, and Alderwoman Harris felt more could be added as economic development improved.

Alderwoman Harris asked how the Assembly would feel if the City were to start at square one by hiring someone to provide training. It would depend on the trainer and if that person had expertise, per Mr. Stewart. Ms. Evans said while training is

a win, it is a very first step. She then briefly reviewed the hiring taskforce proposed in their plan to assist with the hiring of a contractor.

Mayor Outlaw asked for input from staff. In response, Mr. Hughes said since he had been appointed as Manager, diversity, equity, and inclusion have always been on his mind. When the Assistant City Manager was hired, he was hired based on his qualifications. The same was the case with hiring the Directors of Public Works and Finance, both of whom are minorities. The Interim Director of Parks and Recreation is also a minority. Next year's budget includes a recommendation to fund diversity, equity, and inclusion training. The City must start somewhere, and training is a good first step. The most qualified applicant is the desired goal.

Alderwoman Harris said the problem is where the City is looking to find the best qualified individuals when it comes to minorities. She stated the recommendations being made are not a negative, but merely additions to correct the issues. She confirmed with Ms. Evans that the Assembly was seeking the creation of an advisory board to help hire the proposed director. Mr. Stewart said he appreciated the comments by Mr. Hughes, and it did not go without notice that some changes had been made. However, he asked that the Assembly be allowed to make a recommendation with respect to training. He also said he appreciated the information Mr. Hughes shared, as he was not aware of everything that had taken place.

Alderman Odham asked for a DEI section to be added to the monthly report so the Board could see some stats. He expressed concern about keeping youth in New Bern and voiced a desire to put a program together for middle schoolers and high schoolers in an attempt to retain them. He had no problem with anything presented by the Assembly, except the hiring of a director. He asked that staff be given an opportunity to address the issues presented and to put a program together. Alderman Bengel felt comfortable with pursuing the training, knowing that the Assembly would let the City know how well it was doing.

Mr. Stewart asked if the Assembly could provide names of trainers and be allowed to be a part of any program developed. Alderman Bengel made note of the City's new internship program and the fact it had joined forces with Craven Community College and the Volt Center. Mr. Stewart proposed that a qualified person from the Assembly be a part of the group and participate in the training. Mr. Hughes announced Human Resources was soliciting quotes for qualified training and would be happy to also obtain information from the Assembly. Alderwoman Harris felt the Assembly was already doing the work and should have a seat at the table. Alderman Odham recommended staff take the information presented by the Assembly and come back to the Board with a recommendation in 60 days, which the Board seemed agreeable to. Alderwoman Harris commented there was a difference between a Human Resources department and someone who has gone to school for and is certified to be a DEI officer. Alderman Odham did not think it would be fair to make a decision about adding a position when there is a new Board that will be taking seat. He cautioned that Board may not agree with the position and decide to terminate it.

**9. Conduct a Public Hearing and Consider Adopting an Ordinance Amending Section 15-80 – Endorsements on Major Subdivision Plats of the Land Use Ordinance.**

In accordance with NCGS §47-30, it was recommended Section 15-80 of the City's Land Use Ordinance for "Endorsements on Major Subdivision Plats" be amended to alter the certificate of survey and accuracy. The Planning and Zoning Board unanimously voted in favor of the amendment at their February 1, 2022 meeting.

(Alderwoman Harris momentarily stepped out of the room at 7:52 p.m.)

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

Alderman Odham made a motion to adopt the ordinance amending Section 15-80 – Endorsements on Major Subdivision Plats of the Land Use Ordinance, second by Alderman Bengel. Upon a roll-call vote, the motion carried unanimously 7-0. Of note, Alderwoman Harris had stepped out of the room, thus technically yielding an affirmative vote.

**10. Conduct a Public Hearing and Consider Adopting a Resolution Approving the Resiliency Plan.**

(Alderwoman Harris returned to the room at 7:54 p.m.)

Staff worked with consultants to develop a multiphase, long-term resiliency plan that will allow the City, residents, and businesses to be better prepared for and able to respond to situations arising from extreme storms. The draft plan was made available to the public on the City's website. Matthew Schelly, Interim Director of Development Services, noted the plan is a living document that will be revised as needed over time.

Donna York, Senior Coastal Scientist with Moffatt Nichol, the consulting firm, reviewed the planning process that was undertaken to develop the plan and the various "pillars" of the plan. The plan is meant to increase community resilience and is built upon existing plans to expand and enhance current strategies. Public input was sought from the community during the development process.

Alderman Bengel asked for confirmation that the plan was a living document and any comments that are received will be included in the plan as it grows. Even after the plan is adopted, citizenry input will still be received. Once the document is approved, New Bern will be able to pursue FEMA's Building Resilient Infrastructure and Communities ("BRIC") grant funding. Ms. York announced New Bern's plan is the first to combine resiliency and hazard mitigation in the State of North Carolina.



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

- Mike Duffy of 121 Mourning Dove Trail thanked the City for the planning. He recognized the help that was received from around the country and suggested it somehow be paid forward.
- Larry Rosenstrauch of 514 East Front Street, representing the Citizens Advocating Resiliency and Education ("CARE") group, thanked the City for pursuing a plan. The plan is felt to be a good beginning, although the group desires to advocate for a senior official who would report to the City Manager to oversee resiliency and recovery. Speaking for himself, Maria Cho and Fern Cotton, residents have not had time to fully digest the plan. He asked that the Board not adopt the plan until citizens, the Chamber of Commerce, and others have an opportunity to review it and provide feedback. It was his suggestion that the Board delay approval for 60-90 days. However, if it is adopted tonight, he suggested the Board schedule the first revision by early next year so people's comments could be received and processed.
- Jeff Wood-Yesline of 1316 National Avenue said it was an ambitious plan, and the Board should be commended for initiating it. After reading the plan, he did not recall seeing anything about the watersheds for the Neuse River. While he was in favor of implementing the plan, he questioned how the City would be affected by or respond to surges from the watershed. Mayor Outlaw said several mayors and county commissioners are working on a regional resiliency plan for Eastern North Carolina. Ms. York said the plan before the Board focused on the City of New Bern and the watersheds within the City's boundaries. However, the Corps of Engineers is conducting a feasibility study on the Neuse River Basin.

(Alderman Kinsey momentarily stepped out of the room at 8:27 p.m.)

Alderwoman Harris made a motion to close the public hearing, seconded by Alderman Aster. The motion carried unanimously 7-0. Of note, Alderman Kinsey had stepped out of the room, thus technically yielding an affirmative vote.

Alderman Bengel asked about potential problems with delaying approval, such as eligibility for funding. Mr. Schelly explained the adoption of the plan would finalize some of the project funding and pushing back on its approval would potentially cause problems with rolling it out to the regional hazard mitigation plan and funding for that plan. Concern was expressed about the need to have the City's plan incorporated into the regional plan before arrival of the next storm season. The regional plan is an official FEMA plan, and that is where extra funding points could be scored for recovery efforts, if needed. Mr. Schelly reminded everyone that the City's plan is not only about recovery, but also preparation.

Alderman Bengel also asked how the plan could be forwarded to the Chamber, Swiss Bear, and other organizations so comments could continue to be received. In response, Mr. Schelly said the plan could be "taken on the road" to roll it out to the organizations. Mayor Outlaw inquired about the funding source to update the plan. Mr. Schelly said the City has a resiliency consultant on call to do a range of



functions related to implementation of the resiliency plan. The Mayor felt there were more suggestions that could be added to the plan, and Mr. Schelly agreed that was possible.

Alderman Aster said there is a lot of information available that is really beyond the scope of the resiliency plan, such as the need for generators and unloading supplies from tractor trailers. All of that is in the City's Emergency Operations Plan ("EOP"), and the county is responsible for requesting those resources.

(Alderman Bengel momentarily stepped out of the room at 8:37 p.m.)

The City cannot request anything from the State during a disaster, as the request must go through the county's Director of Emergency Services.

(Alderman Bengel returned to the room at 8:38 p.m.)

Mr. Schelly and Ms. York recommended the plan be adopted this evening and confirmed it could be revised after adoption. Mr. Schelly recommended staff update the Board in September on any changes that have been suggested or incorporated.

Alderman Aster made a motion to adopt a resolution approving the resiliency plan, seconded by Alderman Odham. Upon a roll-call vote, the motion carried unanimously 7-0.

Alderman Best made a motion to take a 10-minute recess, seconded by Alderman Odham. The motion carried unanimously 7-0, time being 8:44 p.m. The meeting resumed at 8:56 p.m.

**11. Consider Adopting a Resolution Approving a General Warranty Deed between Habitat for Humanity of Craven County NC, Christine Cox, and the City of New Bern for 1904 Wake Street.**

On September 24, 2019, the City approved the conveyance of 1904 Wake Street to Habitat for Humanity for the purpose of developing affordable housing for low and moderate-income families. Habitat has subsequently constructed a home on the property and intends to transfer the home to a buyer. By executing a deed to transfer ownership to the buyer, the City will release any rights retained under a Transfer and Reversion Agreement between the City and Habitat.

Alderwoman Harris made a motion to adopt a resolution approving a general warranty deed between Habitat for Humanity of Craven County NC, Christine Cox, and the City of New Bern for 1904 Wake Street, seconded by Alderman Bengel. Upon a roll-call vote, the motion carried unanimously 7-0.

**12. Consider Adopting an Amendment to the Capital Project Ordinance to Rename the City Hall Annex Building Project Fund as the City Hall Elevator Project Fund.**

On May 2, 2019, an ordinance was adopted to establish a capital project fund for the design and construction of an elevator at City Hall. With anticipation that the project would be expanded to include an annex for City Hall, the ordinance was amended on April 28, 2020 to rename the project as the City Hall Annex Building Project Fund. Since that time, the Board has decided to pursue only the construction of an elevator and relocation of restrooms. Therefore, it is desirable to rename the project to reflect the work to be undertaken.

Alderman Bengel made a motion to adopt an amendment to the capital project ordinance to rename the City Hall Annex Building Project Fund as the City Hall Elevator Project Fund, seconded by Alderman Harris. Upon a roll-call vote, the motion carried unanimously 7-0.

**13. Consider Adopting a Resolution Authorizing the Filing of an Application with the Local Government Commission for the City Hall Elevator Project.**

The City will utilize proceeds from debt financing to fund the addition of an elevator at City Hall. Because the debt involves improvements to real property, approval is required from the Local Government Commission ("LGC"). The proposed resolution authorizes the filing of an application with the LGC. It is anticipated the application will be considered at the LGC's May 3, 2022 meeting. Kim Ostrom, Director of Finance, said the interest rate would be 2.86% for 15 years or 3.13% for 20 years.

Alderman Bengel made a motion to adopt a resolution authorizing the filing of an application with the Local Government Commission for the City Hall Elevator Project, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously 7-0.

**14. Consider Adopting a Resolution Approving a Declaration of Intent to Reimburse the City Hall Elevator Project.**

This item relates to the previous item for the City Hall Elevator project. As required by IRS regulations, a declaration of intent to reimburse needs to be adopted prior to or within 60 days of payment of expenditures that will be reimbursed through financing proceeds.

Alderman Bengel made a motion to adopt a resolution approving a declaration of intent to reimburse the City Hall Elevator Project, seconded by Alderwoman Harris. Upon a roll-call vote, the motion carried unanimously 7-0.

**15. Consider Adopting a Resolution Authorizing the City Manager to Execute a Contract with Daniels & Daniels Construction Company, Inc. for the City Hall Elevator Project.**

Bids for the City Hall elevator project were received on February 24, 2022, and the bid results were presented to the Board at its March 08, 2022 meeting. After discussing the bids, the Board directed staff to proceed with the project. The proposed resolution authorizes the City Manager to execute a contract with the lowest bidder, Daniels & Daniels Construction Company, for \$3,929,000 and any change orders within the budgeted amount.

Alderman Odham asked if a contingency was provided in the contract amount. Tripp Eure, Architect with MBF Architects, stated there was no contingency in this contract, but there is a contingency built into the budget that was included in the AIA contract with MBF Architects. Noting change orders could “eat you alive”, Mayor Outlaw asked if a lot of change orders were anticipated during the project. Mr. Eure did not think there would be many since the elevator annex is essentially new construction. Mr. Eure anticipated the contracts would be signed within a couple of weeks, followed by a preconstruction conference the following week. The contract allows for 360 days for the work to be completed.

Alderwoman Harris asked whether any Board meetings would need to be relocated due to the construction. Mr. Hughes said that was not anticipated at this time, although some staff may need to relocate. Alderman Bengel commented that 35-40 years ago the Governing Board debated an elevator to be installed by the fire escape at a cost that was a little over \$1 million. That Board decided not to pursue it. She thanked the current Board for agreeing to get the job done. She then discussed the need to possibly relocate the Baron’s bust to where the bear statue sits in front of City Hall and moving the bear and flag poles to the green grassy area. It is possible they may be moved back once the project is completed.

Alderman Bengel made a motion to adopt a resolution authorizing the City Manager to execute a contract with Daniels & Daniels Construction Company, Inc. for the City Hall Elevator Project, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously 7-0.

**16. Consider Adopting a Resolution Approving a Grant Agreement with the NC Land and Water Fund for an Innovative Stormwater Project.**

In 2021, the City was awarded an innovative stormwater grant in the amount of \$100,000 from the NC Land and Water Fund. The funds will be used for the Duffyfield Stormwater Enhancement Project. On January 12, 2021, the Board was notified of the award and authorized the City Manager to execute a grant agreement, which has not yet been carried out and has resulted in a minor revision to the contract. The original contract has been modified to change the construction contract date from September 16, 2020 to June 30, 2022. Since there is a change in the contract, reapproval is needed for the City Manager to sign the latest version of the grant contract.

Alderman Best made a motion to adopt a resolution approving a grant agreement with the NC Land and Water Fund for an Innovative Stormwater Project, seconded by Alderwoman Harris. Upon a roll-call vote, the motion carried unanimously 7-0.

**17. Consider Adopting a Resolution Approving a Grant Agreement with the NC Land and Water Fund for Restoration of Degraded Streams.**

The City has been awarded a grant in the amount of \$150,000 from the NC Land and Water Fund for restoration of degraded streams. The funds will be used to develop draft construction plans and secure permits for a potential wetland and floodplain restoration project for Jack Smith Creek. No match is required.

Alderman Best made a motion to adopt a resolution approving a grant agreement with the NC Land and Water Fund for restoration of degraded streams, seconded by Alderman Bengel. Upon a roll-call vote, the motion carried unanimously 7-0.

**18. Consider Adopting an Ordinance to Amend the Drainage Improvements Project Fund.**

The Drainage Improvements Project Fund will be amended to recognize the \$150,000 grant award from NCLWF, as detailed in the previous item.

Alderwoman Harris made a motion to adopt an ordinance to amend the Drainage Improvements Project Fund, seconded by Alderman Bengel. Upon a roll-call vote, the motion carried unanimously 7-0.

NOTE: Items 19 and 20 were voted on collaboratively, as indicated under Item 20.

**19. Consider Adopting a Resolution Approving a Program Income Policy for Expenditures Related to the American Rescue Plan Act and Coronavirus State and Local Fiscal Recovery Funds.**

Local governments receiving American Rescue Plan Act ("ARPA") funds and Local Fiscal Recovery Funds ("CSLFRF") are required to adopt a Program Income Policy. The policy indicates the City will comply with federal guidelines when spending the funds.

**20. Consider Adopting a Resolution Approving an Allowable Costs and Cost Principles Policy for Expenditures Related to the American Rescue Plan Act and Coronavirus State and Local Fiscal Recovery Funds.**

Like the previous item, local governments receiving ARPA and CSLFRF funds are also required to adopt an Allowable Costs and Cost Principles Policy.

Alderman Odham made a motion to adopt a resolution approving a Program Income Policy and a resolution approving an Allowable Costs and Cost Principles Policy for expenditures related to the American Rescue Plan Act and Coronavirus



State and Local Fiscal Recovery Funds, seconded by Alderwoman Harris. Upon a roll-call vote, the motion carried unanimously 7-0.

**21. Consider Adopting an Ordinance to Establish the Southeast Water System Improvements Project Fund.**

Jordan Hughes, City Engineer, explained in July 2021, a contractor caused an accidental fire while working on the Williams Road booster pump station, resulting in a complete loss of the structure. The City received \$488,400 from an insurance settlement. It has been determined that rebuilding the station in its current configuration and location would not be the most beneficial option for the water system. Rather, implementing improvements to the southeast portions of the City's water system would provide the most benefit for domestic supply and firefighting capabilities in the areas south of the Trent River. This ordinance will establish a project fund that is initially funded with the insurance proceeds. Once the total project cost is known, a transfer from the Water Fund fund balance will be requested. The project has been designed and is now being sent out for permitting.

Alderman Aster made a motion to adopt an ordinance to establish the Southeast Water System Improvements Project Fund, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

**22. Consider Adopting a Budget Ordinance Amendment for FY21-22.**

This budget ordinance will amend the General Fund by appropriating \$18,584 from fund balance to Human Resources to cover temporary help services associated with the handling of COVID-related matters, the replacement of the department's HVAC system, and document storage fees. An additional \$43,538 will be appropriated from fund balance for building repairs at the Fire training grounds. Insurance proceeds in this amount were received and recorded as revenue in 2019 for damage sustained to the training grounds during Hurricane Florence. Lastly, the Employees' Benefit Insurance Fund will be amended to appropriate \$120,000 from fund balance for additional MedCost administrative fees of \$120,000 and worker's compensation insurance costs of \$35,000.

Mayor Outlaw asked for an explanation of the \$120,000 to MedCost. Mrs. Ostrom said there were additional close-out costs. Sonya Hayes, Director of Human Resources, offered further explanation, stating the previous third-party administrator had to be paid to handle the run-out claims. While there are more costs for administrative matters, the hope is that there will be savings on the claims side. Mrs. Hayes felt the fund would stabilize.

Alderman Kinsey made a motion to adopt a budget ordinance amendment for FY21-22, seconded by Alderman Odham. Upon a roll-call vote, the motion carried unanimously 7-0.

**23. Appointment(s).**

No appointments were made.

**24. Attorney's Report.**

Several Board members have inquired about legal options to restrict the future use of Union Point Park. The park consists of two separate tracts: the restroom tract and the gazebo tract. The bathroom tract has imposed restrictions as a result of a grant that requires the National Park Service to approve any changes, sale, or use of the property. There have been several inquiries as to why the City cannot restrict the gazebo tract, just as former Mayor Ella Bengel restricted the restroom tract. That is factually not what happened; the Mayor Bengel simply implemented the restrictions as a requirement of a grant. Similarly, this Board has restricted areas of the Martin Marietta Park to comply with grant funding.

Mr. Davis reviewed the methods for restricting the tract, should the Board be inclined. The best way to restrict future use of a property is to dedicate it as a park and give it a name. That makes it politically very difficult to sell the park. However, that does not mean it is forever restricted as a park. The second option would be if there is a significant grant that would allow the City to improve that area, the grant would likely come with the same restrictions. A third and more remote option in another century or two would be to designate the area as a historic park. It would be premature to do that now.

Alderman Odham reflected on the public's response and how important Union Point Park is to the community, mainly because of its location. He expressed a desire to see some improvements made to the park through a grant opportunity or some other funding. Alderman Bengel felt the removal of the old stage was an improvement that had already been undertaken, and she liked the idea of securing a grant. Mr. Hughes announced and described upgrades that are planned for the park.

**25. City Manager's Report.**

- Information was provided on two building designs for the Stanley White Recreation Center ("SWRC"), and Mr. Hughes sought direction on how to proceed. The cost of option 1 was \$11.9 million, and option 2 was \$7.8 million. Alderwoman Harris felt since the Board accepted the concept of option 1 that the City needed to move forward with that plan and finance the cost that exceeds FEMA funding. Alderman Bengel agreed and favored a two-story building, and she also believed there should be some grant options available. Alderman Best questioned the need for two gyms instead of one gym and a pool. Mr. Hughes stated public input was sought and the proposed plan represents the outcome of that input. A second gym would be a multipurpose space that could double as an assembly room and a shelter. Considering there will be two gyms, Alderman Best questioned the expenditure of \$500,000 for a

covered outside basketball court. Alderwoman Harris noted the gym would not be open 24 hours; an outside court would be open all the time.

Alderman Odham asked about the size of the former SWRC facility, and Mr. Hughes stated it was approximately 18,000 square feet. Because of the delays in the project, Alderman Odham pointed out there is now an almost \$4 million increase in the cost of the project. He asked Mrs. Ostrom about the debt service for the elevator. Mrs. Ostrom recommended the 15-year term with payments of \$260,000 annually. A term of 20 years would yield payments of \$195,000 annually. Alderman Aster cautioned about costs of requests being proposed in the next budget, including a new fire station and other public safety needs. Those will require the expenditure of a lot of money. Alderwoman Harris said while she agreed with the public safety needs, she also felt money could be found to pursue option 1. Alderman Aster asked for Mr. Hughes' opinion about pursuing two gyms. Mr. Hughes said the design has the future in mind and should last for 60 years. Additional discussion ensued about design options. Alderwoman Harris noted the Board previously voted 6-1 to pursue the design of a two-story structure with two gyms.

Alderwoman Harris made a motion to move forward with option 1 and allow staff to find financing and partnerships to cover the rest of the funding, seconded by Alderman Best. Regarding the comment about the previous 6-1 vote, Alderman Odham said it was very clear the project budget would be \$8 million. Alderman Bengel said while she hated that prices were increasing, it was important to move the project along. Upon a roll-call vote, the motion carried 6-1 with Alderman Odham voting against it. Alderman Aster noted he voted in favor of the motion only because Mr. Hughes indicated option 1 would provide a center for the future.

- The grand opening of Martin Marietta Park will be held on Friday, March 25<sup>th</sup>, beginning at 11 a.m. Hot dogs will be served, and kayaking will be available.
- The South Glenburnie railroad crossing will again be closed tomorrow from 7 a.m. to 12 noon. Also, Simmons Street will be down to one lane from 6 a.m. to 4 p.m. from Neuse Drive to Neuse Boulevard.

## **26. New Business.**

### Alderman Kinsey

It is time to conduct the City Manager's six-month review. The Board indicated a closed session would be held at the next meeting to facilitate that review.

### Alderman Aster

The Firemen's Museum invites the public to the dedication of a new 911 memorial in the park adjacent to the museum. The dedication will be held on April 3, 2022 at 3 p.m. Fire Chief Bobby Boyd reflected on the vision for the park.

#### Alderwoman Harris

This marks the 100<sup>th</sup> anniversary of the Great Fire of New Bern. Alderwoman Harris was hopeful that there would be sufficient time to make plans for an event to remember this time in history.

Fire is holding an open house on Saturday, March 26<sup>th</sup>, from 10 a.m. to 2 p.m. A firetruck pull is slated for at 8 a.m. to raise funds for the Muscular Dystrophy Association.

#### Alderman Bengel

Now that the election has been scheduled, there is a need to address the seating of the new board. Alderman Bengel made a motion that if there is no runoff then the new board would be seated after the election is certified in June, and if there is a runoff, the new board will be seated after certification in August, seconded by Alderman Odham. The motion carried unanimously 7-0.

The Tisdale House is a very historic house that sits on the site of the new SWRC. The New Bern Preservation Foundation would like to save it. The only parcel that was identified as large enough to accommodate the structure is the lot behind Development Services on the side of Rhem Avenue. The City cannot give the property to an organization unless it is restricted to a low to moderate-income family, per Mr. Davis. Alderman Bengel suggested the City pay for the house to be moved to the lot, then sell it, and retain any proceeds from the sale. A rough estimate to move the structure, put it on a foundation, and work on the porch was over \$100,000, per Mr. Hughes. The house will need to be moved by the end of June. Mr. Davis said the only other options are to proceed through the upset bid process or give the structure away with attached restrictions. If the house is demolished, that work could be performed with staff, and the cost would only be the tipping fees. If the structure is moved to the vacant lot, the City could establish a minimum bid and accept bids on the property. The question was posed if the house would qualify for tax credits since it is in an overlay district. Mr. Schelly said probably not since the house will be moved. If it is available, the tax credit is 15% from the State. If the structure is used as an income-producing property (rental), the credit could be up to a total of 40% with 20% each from the State and Federal governments. Alderman Odham felt the City had failed to adequately market the house, and he suggested better marketing strategies be undertaken and a sign placed out front. He then asked if the sale of the house could be packaged on the City lot. Mr. Davis said he would need to think about that. Alderman Bengel liked the idea of packaging the properties and starting a bid war. After giving it thought, Mr. Davis said he would bring it back on the next agenda. Alderman Aster asked about the possibility of salvaging items from the house if it is ultimately demolished. Mayor Outlaw asked how long it would take for a mover to schedule the move, and Mr. Hughes said he would inquire. Mayor Outlaw noted there is considerable concern in the New Bern community about the demolition of the house.

Alderman Best said she failed to announce the Martin Luther King Outreach Ministry will hold an annual candlelight service on April 3<sup>rd</sup> at 5 p.m. at St. Paul Catholic Church. The event is free to the public.



**27. Closed Session.**

Alderman Bengel made a motion to go into closed session pursuant to NCGS §143-318.11(a)(3) to discuss the City of New Bern versus Gazem, Inc. to maintain attorney-client privilege, seconded by Alderman Aster. The motion carried unanimously, time being 10:17 p.m.

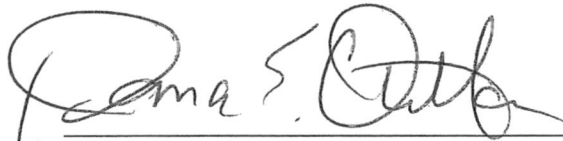
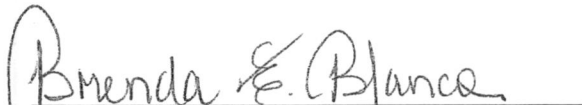
**28. Adjourn.**

Alderman Aster made a motion to adjourn, seconded by Alderwoman Harris. The motion carried unanimously 7-0, time being 10:25 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: April 12, 2022

  
Dana E. Outlaw, Mayor  
Brenda E. Blanco, City Clerk