

**CITY OF NEW BERN
BOARD OF ALDERMEN MEETING
OCTOBER 25, 2022 – 6:00 P.M.
CITY HALL COURTROOM
300 POLLOCK STREET**

- 1. Meeting opened by Mayor Jeffrey Odham. Prayer by Bishop Holly Raby of East Coast Coalition of Pastors. Pledge of Allegiance.**

- 2. Roll Call.**

Present: Mayor Jeffrey Odham, Alderman Rick Prill, Alderman Hazel Royal, Alderman Robert Aster, Alderman Johnnie Ray Kinsey, Alderman Barbara Best, and Alderman Robert Brinson. 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.

- 3. Approve Agenda.**

Alderman Best made a motion to approve the agenda, seconded by Alderman Prill. The motion carried unanimously 7-0.

Consent Agenda

- 4. Consider Approving the 2023 Holiday Calendar.**

Annually, the Board approves a calendar designating the holidays to be observed and dates for which City offices will be closed. The proposed calendar for 2023 was provided.

- 5. Consider Approving the 2023 Board of Aldermen Meeting Roster.**

The Board adopts a meeting roster for each calendar year. The proposed roster identifies the 2nd and 4th Tuesdays of each month as regular meetings. All meetings will begin at 6 p.m. It also identifies two dates for budget meetings that will start at 1 p.m.

- 6. Consider Approving a Proclamation for Small Business Saturday.**

Pam Woo from the Small Business Saturday Coalition requested a proclamation for Small Business Saturday. This is observed annually on the Saturday immediately following Thanksgiving.

7. Approve Minutes.

Draft minutes from the October 11, 2022 meeting were provided for review and approval.

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

8. Public Safety Update.

In light of recent gun violence, Police Chief Patrick Gallagher provided a public safety update. He assured the public that the New Bern Police Department and other agencies are doing everything they can to protect citizens and detour crime. Chief Gallagher described in detail the recent shooting events that resulted in the death of one and injury of four. He also provided information on an armed robbery that subsequently took place at the City's Customer and Payment Services' ("CAPS") office at 606 Fort Totten Drive.

After receiving the update, Alderman Prill suggested the Police Department work on a presentation to educate and provide tips to the public on self and situational awareness. Chief Gallagher felt that was an excellent idea and indicated he would work with his staff. Alderman Royal pointed out the Community Watch program may have some useful tools available for the public. To build trust, Alderman Best suggested officers have more involvement with communities. While she commended the department for their work, she felt citizens did not feel a sense of police presence and said that was leading to an uneasiness.

Mr. Hughes reminded the public that TIP411 is active and allows citizens to provide anonymous tips. Also, he encouraged citizens to sign up for New Bern Alerts, a technology that sends out important messages to the public. Mayor Odham stated the City would not tolerate the criminal behavior that had been exhibited.

9. Recognition of New Bern 101 Graduates.

The Fall 2022 session of New Bern 101 concluded with this Board meeting. Participants have visited each department of the City to learn about the departments' responsibilities, services provided, various programs, and to tour facilities and meet staff. Participants were recognized and presented a certificate of completion.

10. **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.

Several months ago, 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. The Board of Aldermen considered the request at its November 09, 2021 meeting, at which time the matter was tabled. The applicant requested this matter be taken up again for consideration.

Matt Schelly, Interim Director of Development Services, shared a PowerPoint presentation to review the request and subject area. His presentation included a comparison of uses for R-10 residential and C-3 commercial, pointing out most of the uses under C-3 would not be possible since the parcel is only one-half acre in size. He also highlighted other parcels, one adjacent to the subject property, that were previously rezoned from residential to C-3 commercial. After his presentation, Mr. Schelly responded to questions from the Board.

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

- Constance Simmons of 4420 Highway 17 South stated she was again appearing for the purpose of expressing opposition to the rezoning. She felt the rezoning would not be allowed in other neighborhoods such as Carolina Colours, River Bend, Trent Woods, etc., and stated it would only be allowed because the subject area is a predominantly minority neighborhood. She was concerned about businesses bringing strangers to the area, an increase in traffic flow and potential crime, and a noise factor.
- Ed Mallison of 266 Rocky Run Road said he was speaking on behalf of some of the people in the community. He stated he had collected approximately 61 signatures in opposition to the rezoning. He felt the rezoning would disturb the peace and tranquility of the neighborhood, which includes elderly who have lived in the area for a long time.
- Sandra Gray of 4418 Highway 17 South questioned who represented and looked out for the interest of the Rocky Run area. She noted her bedroom was on the side of the subject property, and she felt her privacy and peace would be affected by the rezoning. She did not want a commercial business next door to her home. She felt communities such as Rocky Run were being targeted for a takeover.
- Travis Oakley of 319 Belle Oaks Drive spoke as the Chairman of the Planning and Zoning Board. He pointed out the area is a corridor on a major highway that leads in and out of New Bern. The area is not residential, but a corridor that already contains several businesses and mixed zoning. He

stressed the area is not a residential neighborhood, but a highway corridor. He cautioned the Board about picking and choosing and how that could lead to difficulty in bringing businesses to New Bern.

- Jekera Holmes of 201 Rocky Run Road agreed the area was mixed zoning. She stated a lot of the existing C-3 zones are still developed with residences. Elderly people living in the area agreed to the rezoning because they were under the impression that would increase their property value.
- Corey Thomas, owner of 4416 Highway 17 South, stated he resides at 107 Culpeper Road. He outlined his three reasons for changing the zoning: 1) the need for commercial business, and the fact New Bern is growing out in that direction; 2) conformity; 3) desirability and demand. On his way to the meeting, he counted at least 16 businesses between River Bend and Ben D. Quinn School (the subject area).

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

Alderman Royal announced residents in the Rocky Run community had reached out to her to express opposition. She understood and sympathized with them, felt the character of the area was one of peace and long-term investment, and she did not want to disturb that tranquility and peace.

Alderman Best said her position on the request had not changed since the Board considered it in November 2021. Ms. Gray had questioned whether the Rocky Run area had representation, and Alderman Best said she did not think it did. Mr. Davis confirmed the law had provided for decades that there be one appointment on the P&Z Board to represent the extraterritorial jurisdiction ("ETJ"). Alderman Best remarked she would not want a business beside of her home.

Upon request, Mr. Davis explained the ETJ is a one-mile area from the existing city boundary for which the City has authority to regulate the land use. Properties in the ETJ do not pay city taxes, but are subject to the city's land-use rules. Typically, ETJs were established decades ago to protect cities from highway billboards and public nuisances. The legal theory was cities would extend their ETJ and within one or two decades force the area to be annexed. The ETJ area would then continually be moved out to acclimate the area to the city's land-use regulation. As decades have passed, forced annexations in North Carolina have become legally and politically very difficult. After a painful annexation in 1992, Boards have decided not to force any further annexations. Thus, the City is left with areas of ETJ that no longer have a legal theory behind them.

Alderman Best made a motion to adopt a statement of zoning inconsistency, seconded by Alderman Royal. The motion failed 2-5 with Aldermen Prill, Aster, Kinsey, Brinson, and Mayor Odham voting against it.

Alderman Aster made a motion to adopt a statement of zoning consistency, seconded by Alderman Kinsey. The motion carried 5-2 with Alderman Best and Royal voting against it.

Alderman Aster made a motion to adopt an ordinance to rezone 4416 US Highway 17 South from R-10 Residential District to C-3 Commercial District, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried 5-2 with Aldermen Best and Royal voting against it.

11. Conduct a Public Hearing and Consider Adopting an Ordinance to Amend Section Five – Electric Line Extension Policy of the City of New Bern Electric Department's Customer Service Policies.

The City's customer service policy provides rules for electric line extensions. The policy generally provides that developers are required to pay the total estimated cost of construction less revenue credits when service lines are extended to developments. In response to concerns raised by developers, staff reviewed the policy and recommends changes that will better align the intent of the policy to recover cost, promote economic development, and compete for customers in areas of customer choice. The significant alterations include:

- changing the revenue credit calculation from 2 to 3 years;
- updating the annual purchased power cost to reflect the current cost;
- omit streetlighting and transformer costs from the total estimated cost of construction; and
- reformatting the policy narrative and definitions and adding clarification.

Mayor Odham opened the public hearing, but no one came forward to speak.

Alderman Aster confirmed with Charlie Bauschard, Director of Public Utilities, that this policy does not affect electric rates.

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

As a point of clarification, Mr. Davis pointed out the Board had a revised ordinance in front of them that was modified late this afternoon. Over the weekend, the stakeholders were continually working on the draft policy, and some changes were made to help the policy read more clearly. When the Board votes, it will be to consider the revised ordinance instead of the version that was in the agenda package.

Alderman Aster made a motion to adopt an ordinance for the revised version of Section Five – Electric Line Extension Policy of the City of New Bern Electric Department's Customer Service Policies, seconded by Alderman Brinson. Upon a roll-call vote, the motion carried unanimously 7-0.

12. Consider Adopting a Resolution Authorizing the Execution of a Grant Agreement with Golden LEAF Foundation.

The City applied for and was awarded a grant in the amount of \$249,760 by the Golden LEAF Foundation. The funds will be used for the Rose Street Pump Retrofit

to allow for better mitigation of high-water levels resulting from intense rain events. The grant does not require a match.

Alderman Prill made a motion to adopt a resolution authorizing the execution of a grant agreement with Golden LEAF Foundation, seconded by Alderman Best. Upon a roll-call vote, the motion carried unanimously 7-0.

13. Consider Adopting a Resolution Accepting the FY2022 Bureau of Justice Assistance Bulletproof Vest Program Grant.

The Police Department applied for and was awarded the 2022 Bureau of Justice Assistance Bulletproof Vest Partnership grant. The total cost of the ballistic vests is \$29,782.60. The grant award will cover one-half of the cost, and the City is required to provide an equal match of \$14,981.30. This match has been budgeted in the department's FY2023 uniform account.

Alderman Aster made a motion to adopt a resolution accepting the FY2022 Bureau of Justice Assistance Bulletproof Vest Program Grant, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

14. Consider Adopting an Ordinance for the Demolition of 1607 High Street.

Mr. Hughes announced he had received a call from ReBuild NC this afternoon informing him that the owners had received an award to rebuild their house. Rebuild NC requested that they be allowed to tear the home down so a lien is not placed against the property. If a lien is placed against the property, the owners do not have the means to pay it. ReBuild NC plans to have a contractor in place within the next 30 days to address lead abatement, after which they will have the home demolished at their expense. Mr. Hughes requested this item be tabled so staff could monitor the progress over the next 30-60 days to ensure ReBuild NC is following through on what they said they would do. Alderman Prill thanked Ms. Kristy Kulberg, Director of Operations for Craven County Disaster Recovery Alliance, for her work on this property.

Alderman Prill made a motion to table Item 14 until the first meeting in December (December 13th), seconded by Alderman Royal. The motion carried unanimously 7-0.

15. Consider Adopting an Ordinance for the Demolition of 423 (501) Sandy Point Road.

A letter of minimum housing deficiencies was sent to the owner of 423 Sandy Point Road on February 03, 2021. A complaint was filed on December 06, 2021 alleging two structures on the property were unfit for human habitation. A hearing was scheduled for December 22, 2021, but the owner did not appear. Following the hearing, the owner was given until February 07, 2022 to bring the dwellings into compliance. On February 21, 2022, the owner submitted an incomplete application for a permit and was notified of such. The missing information was never submitted,

and staff has had no contact from the owner since June 13, 2022. Permits have not been obtained, and the two structures remain noncompliant. Public Works estimates the cost of demolition at \$6,800 per structure. Pictures of the property and a complete list of chronological events were provided.

Patrick Ezel, Building Inspector I, pointed out the property is in an ETJ and briefly described the unkept promises made by the property owner. The owner is aware that staff is seeking the Board's approval to demolish the property, but he will be given a grace period until Friday to secure a permit to handle the demolition himself. If the owner does not secure the permit and the Board has approved the demolition ordinance, then the ordinance can be acted upon. Mr. Ezel noted the owner has an additional four properties that are in the same deteriorated state, bringing the owner's total number of dilapidated structures to six. According to the owner, the properties were vacant at the time of Hurricane Florence. This usually means the homes are excluded from FEMA grant funding.

(Alderman Kinsey momentarily stepped out of the room at 7:31 p.m.)

Mayor Odham asked if the structures are demolished, a lien placed on the property and not paid, whether the City would acquire the property through foreclosure. Mr. Davis explained the process.

(Alderman Kinsey returned to the room at 7:33 p.m.)

Mark Pickett with the Baptist Home Mission organization was in the audience and asked to approach the Board. Alderman Aster made a motion to allow Mr. Pickett to speak, seconded by Alderman Brinson. The motion carried unanimously 7-0.

Mr. Pickett, Site Coordinator of the Baptist Home Mission Rebuild Center located on Old Cherry Point Road, stated he met with Craven County on Friday morning to discuss projects. The organization is actively talking with the County about potential projects to assist residents whose homes were damaged in Hurricane Florence. He was not familiar with the subject property, nor has the organization spoken with anyone about the property, but he he would assist if that was a possibility. The organization primarily focuses on homes that are owner occupied, which is also a requirement for grant funding. Mr. Pickett stated he did not come to the meeting to talk about this property, but instead to support Ms. Kulberg on the previous item. Mayor Odham speculated that this property would be a low priority for any organization since it was not occupied during the hurricane. Mr. Pickett said the organization's ministry is to help homeowners, but he could not state with absoluteness that the organization could help in this case. Mr. Ezel noted the structures are in a flood zone and would require elevation if rebuilt. The homeowner desires to demolish the structures himself because of the cost to elevate and rebuild.

A brief discussion ensued about the lien and foreclosure process following a demolition and the likelihood of recouping those costs considering the tax value of the property.

After notifying the Board that Ms. Kulberg had information on this property, Mr. Schelly asked the Board if it was interested in hearing from her. Alderman Best made a motion to allow Ms. Kulberg to speak, seconded by Alderman Brinson. The motion carried unanimously. Ms. Kulberg stated while listening to the discussion, she reached out to her Recovery Director to research this property. A renter in the home filed for FEMA assistance, not the owner. The homeowner owns multiple properties and is likely an area landlord. Her organization does not help fix landlord houses, but homes where the owners have no other option for recovery. She offered to work with the City on cases where homes were damaged or destroyed during the hurricane.

A brief discussion was held about recovering the cost of demolition, the value of the property, and the options presented to the property owner. The owner was offered a payment plan to repay the City for the cost of demolition, but he refused stating he did not like to make payments. Mayor Odham inquired as to the possibility of annexing the property if the City demolished the structures and ultimately foreclosed on the property. Mr. Davis stated the property could be annexed, although it would be best if the property is contiguous to other city property. He was not aware as to whether this property was contiguous.

Mr. Davis pointed out that the adoption of a demolition ordinance does not mandate that the City Manager act on it. Once entered, the ordinance could “sit there forever”. Staff is asking for an ordinance so it could be used as leverage. With that being said and that being the understanding, Alderman Aster stated he would make a motion.

Alderman Aster made a motion to adopt an ordinance for the demolition of 423 (501) Sandy Point Road, seconded by Alderman Prill. Upon a roll-call vote, the motion carried unanimously 7-0.

Alderman Aster gave direction for the Manager to hold the demolition ordinance until enough time had been given for the owner to decide if he was going to demolish the structures himself. Upon clarification, the direction was to delay the demolition for 30 days with the Manager reporting back to the Board with a status update. The Board expressed consensus. Alderman Brinson asked for information on the owner’s other four properties, and Mr. Ezel indicated he would provide that.

16. Consider Adopting a Budget Ordinance Amendment for FY 2022-23.

This budget ordinance amendment recognizes grants of \$249,760 from the Golden LEAF Foundation for the Rose Street pump retrofit and \$45,000 from the NC Resilient Coastal Communities Program for the Duffyfield Community Resilience Improvement – Basin Restoration Enhancement project. Neither grant requires a match. The amendment also acknowledges a grant of \$14,891 from the Bureau of Justice Assistance – Bulletproof Vest Partnership grant. Matching funds of \$14,891 are required and have been budgeted in the Police Department’s uniform expense account.

(Alderman Best momentarily stepped out of the room at 7:59 p.m.)

Alderman Aster made a motion to adopt a budget ordinance amendment for FY 2022-23, seconded by Alderman Brinson. Upon a roll-call vote, the motion carried unanimously 7-0. Of note, Alderman Best had stepped out of the room, thus technically yielding a vote in the affirmative.

(Alderman Best returned to the room at 8:00 p.m.)

17. Consider Adopting an Ordinance to Amend the Township 7 Sewer Improvements Project Fund.

The Township 7 Sewer Improvements Project Fund will be amended to appropriate \$175,000 from the Sewer Fund fund balance. This will cover the purchase of equipment needed by the contractor for the installation of the new sewer pump station.

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

18. Appointment(s).

Alderman Brinson made a motion to appoint Eric Thompson to serve on the Board of Adjustment, seconded by Alderman Aster. The motion carried unanimously 7-0. Alderman Best thanked Alderman Brinson for letting the candidate fill the appointment she was to make to replace Kip Peregoy. The appointee's term will expire on June 30, 2025.

Alderman Prill made a motion to appoint David Cox, Waste Collection Superintendent, to the Coastal Regional Solid Waste Management Authority (CRSWMA"), seconded by Alderman Kinsey. The motion carried unanimously 7-0.

Stating it was a bit taxing to finding candidates to serve on boards and commissions, Alderman Best asked if the City had a process in place for citizens to apply to serve. Ms. Blanco confirmed the City's website does contain information on how to apply and stated she also shares information during her presentation to the New Bern 101 participants. Mr. Hughes offered to make announcements on social media and through press releases.

As a point of clarification, Mayor Odham noted the appointment made by Alderman Brinson would fill the seat that was assigned to Alderman Best for fulfilment. The Board still has two alternate seats to fill.

19. Attorney's Report.

The City Attorney had nothing to report.

20. City Manager's Report.

Mr. Hughes announced downtown businesses will be offering trick or treating from 4-6 p.m. on Saturday, October 29, 2022. A Halloween movie will also be displayed that evening in Union Point Park.

A work session is scheduled for November 03, 2022 from 12:30 – 5:00 p.m. A list of potential topics was at each of the officials' seats. Mr. Hughes pointed out two additional topics to add to the list include the salary study and discussion of the ETJ. Mayor Odham noted the Board would have the flexibility to continue the work session to another date if all the items are not discussed by the end of the meeting.

21. New Business.

Alderman Royal

A medical fundraiser will be held for Alfred Barfield on November 5, 2022 from 11 a.m. to 3 p.m. at the Omega Center.

Alderman Best

An update was sought on the Pleasant Hill Community Center. Mr. Hughes announced the sheetrock contractor started work last week, and the tile floors will go in next followed by kitchen cabinets. After this work, a grand opening will be scheduled.

Alderman Best asked if the shelter at Evergreen Cemetery would be painted or upgraded. Mr. Hughes said there was no funding in the budget to replace it, but staff could repaint the shelter.

Gratitude was expressed to Matt Schelly, staff, and Margaret Shields (Grant Contractor) for securing the Golden Leaf grant.

Alderman Brinson

Several Veteran activities were announced:

- November 7th at 9:30 a.m.: As a service project last year, American Legion 539 cleaned veterans' headstones in Greenwood Cemetery and will go back on this date to ensure they are still clean prior to Veteran's Day and the laying of wreaths by Wreaths Across America.
- November 8th at 9:30 a.m. – American Legion 539 and Montford Point Marines will perform an initial clean-up of veterans' headstones in Greenwood Cemetery. It is believed one Montford Point Marine is buried in Greenwood and eight buried in Evergreen. This will be a multi-day project as the group also believes Evergreen Cemetery has almost twice as many veterans than Greenwood. Anyone who would like to assist can just show up to help or contact Alderman Brinson or American Legion Post 539.
- November 9th from 10 a.m. until 1 p.m.: The Craven County Veteran's Stand Down will be at the National Guard Armory on Glenburnie Drive. This event

is sponsored by the Veterans Organic Garden and NCWorks to support homeless veterans and veterans in need with free services and food.

- November 11th: The March for the 22 will be held. This is a fundraiser to prevent veteran suicides and support veterans in need. More information can be found at www.marchforthe22.us. While this is a fundraiser under American Legion Post 539, funds raised will go directly into the Veteran's Fund for veteran's programs or veterans in need.
- November 11th – The Craven County Veteran's Council will hold a veteran's luncheon at Temple Baptist Church. Doors open at 11 a.m. with a ceremony and free lunch beginning at noon for the first 250 veterans. The Veteran of the Year and Veteran Lifetime Achievement Awards will be presented.

For the record, Alderman Brinson announced he is currently the Judge Advocate for American Legion Post 539 and would not use Governing Board meetings to announce fundraisers for the Post's general fund. He is also currently the Treasurer for the Craven County Veterans Council, but expects to be nominated as its Vice Chairman this December. Since the City of New Bern does not appropriate any funds to or directly supports either of these nonprofits, Alderman Brinson did not foresee any conflicts of interest with his duties as Alderman.

22. Closed Session.

Alderman Prill made a motion to go into closed session pursuant to NCGS §143-318.11(a)(3) to maintain attorney-client privilege, NCGS §143-318.11(a)(4) to discuss potential economic development incentives, and NCGS §143-318.11(a)(5) to discuss the potential acquisition of real property, seconded by Alderman Kinsey. The motion carried unanimously 7-0, time being 8:15 p.m.

Open Session

Mayor Odham noted Alderman Brinson had reminded him that at the last meeting there was mention of possibly cancelling or rescheduling the November 8th meeting since it falls on Election Day. After brief discussion, it was the consensus to move forward with the meeting, but direct staff to keep the agenda light.

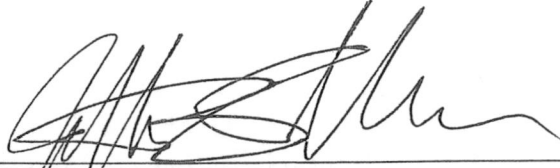
23. Adjourn.

Alderman Aster made a motion to adjourn, seconded by Alderman Brinson. The motion carried unanimously 7-0, time being 8:43 p.m.

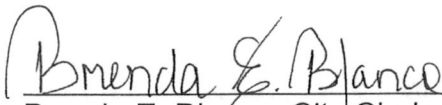
The attached documents are incorporated herewith and are hereby made a part of these minutes.

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 08, 2022

A handwritten signature in black ink, appearing to read "Jeffrey T. Odham", written over a horizontal line.

Jeffrey T. Odham, Mayor

A handwritten signature in black ink, appearing to read "Brenda E. Blanco", written over a horizontal line.

Brenda E. Blanco, City Clerk