

**CITY OF NEW BERN  
BOARD OF ALDERMEN MEETING  
MARCH 14, 2023 – 6:00 P.M.  
CITY HALL COURTROOM  
300 POLLOCK STREET**

- 1. Meeting opened by Mayor Jeffrey Odham. Prayer by Mayor Odham. Pledge of Allegiance.**
- 2. Roll Call.**

Present: Mayor Jeffrey Odham, Alderman Rick Prill (by telephone), 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 Royal made a motion to approve the agenda, seconded by Alderman Brinson. The motion carried unanimously 7-0.

- 4. Request and Petition of Citizens.**

Victor Taylor of 2817 Walter Drive thanked the Board for sponsoring the Black History Month parade. He also thanked the Mayor, Alderman Prill, Alderman Royal, the City Manager, and Assistant City Manager for their participation. Mr. Taylor commented that New Bern has the greatest City Clerk in its history and commended Ms. Blanco for the level of customer service she provides.

Sharon Broaddus of 2906 Bettye Gresham Lane addressed imminent flooding issues on the north side of Bettye Gresham Lane in the Lake View Subdivision. To no avail, homeowners have continued to reach out to Nolan Commercial Contractors, Inc. ("NCCI") to regrade the backyards of the affected homes. The properties are in a manmade flood zone, and pictures were shared of standing water. Stating the City signs off on the certificate of occupancy, she questioned how the City could allow the builder to continue with this type of behavior and why the builder is not held accountable. She contended Nolan Sydes has been building homes with issues for 20 years.

Christopher and Carolyn Adams of 2904 Bettye Gresham Lane voiced concerns about backyard flooding at the Board's February 14, 2023 meeting. At that time, the City advised that it has no working relationship with NCCI. That is when Mr. and Mrs. Adams learned NCCI had been dishonest with them. They continue to

be dishonest and are not a company of their word. Backyards continue to have significant flooding and ponding of rainwater for days. Once the builder obtains a permit, it is as if they have no oversight. NCCI is using the City as an escape goat, and Mrs. Adams hoped the City could persuade the builder to stop lying about the City's involvement in the matter.

Margaret Phillips of 1003 Abbey Leigh Avenue signed in to speak and was called to the podium but did not approach.

Daniel Martin of 3091 Bettye Gresham Road shared a feeling of helplessness with the other owners. The builder has promised that the homeowners' association ("HOA") would take care of the drainage and grading problems, but there is no HOA even though HOA fees were collected at the time of closings. A ditch has eroded well over three feet deep and four feet wide for the second time, and the builder has made no effort to respond. The situation continues to worsen and has been a nightmare for him, a first-time homeowner.

Lynda Leatherwood on behalf of her parents, Virgil and Barbara Prehn of 1009 Clydesdale Court, explained she had been helping her parents through this "fiasco". There have been numerous issues with the builder, including delays in construction, installation of items that were not listed in the contract, problems with a shower, and plumbing issues stemming from debris in the plumbing. There are still items outstanding that need to be addressed. Everyone has complaints about this builder, and allowing this builder to continue without holding it accountable will only perpetuate the number of citizens who plead for the Board's help.

David Leasure of 2906 Bettye Gresham Lane read a prepared statement, stating citizens are asking for more transparency and responsibility from the elected officials. In mid-November, the City Manager and several Department Heads visited his property to observe the poor grading conditions left by the developer, NCCI. He followed up with an email to complain about speeders along Bettye Gresham Lane and improperly placed sidewalks and streetlights. While the issues have been addressed, they have not been corrected. He expressed concern that New Bern is growing too fast.

Pamela Gayheart of 1007 Loretta Lane said she moved to New Bern in June of 2022 from Garner. After visiting New Bern just once, she and her partner decided this is where they wanted to live out their retirement years. After finding a lot in a subdivision, they were told lies by their builder. She was concerned the builder had lied to many others and will continue to lie to those who purchase in their next development off Hwy. 70 behind ACE Hardware. She was told that there would be lake access, but access to the lake involves a walk across gravel. She paid for an upgrade in flooring and her stove, but the builder reneged on the written cost of the upgrades. Ms. Gayheart said unless she and her partner agreed to walk away from \$10,000, they had to accept the builder's lies. As retirees, they do not have \$10,000 to throw away. The builder would not honor what its superintendent said would be done. Ms. Gayheart asked how many homeowners in attendance had

been lied to, and numerous hands were raised in the audience. Someone must hold the builder accountable. She urged the Board to not allow someone as unscrupulous as NCCI to continue to build, as that will lead to a continuation of unsatisfied citizens.

Pete Frey of 406 Forbes Alley noted he originally started the process in October to submit a bid for the property on Jones Street. He detailed his new proposal for the property, a copy of which was distributed to the Board, which is in line with the Redevelopment Commission's ("RDC") plan. He's lived in the neighborhood for 10 years, and the new plan is to build a home for he and his family and a rental unit that will provide affordable housing. He will donate up to \$10,000 from the rental income to Stanley White Recreation Center ("SWRC"). This is an opportunity for the RDC to achieve its goal. His bid for the property is still on record with the City, and he continues to await a decision from the RDC.

Douglas McKeever of 1005 Loretta Lane relocated to New Bern from Wilson. He has some issues with drainage in his yard due to a negative grade, which is prohibited by NC code. He questioned where the City's building department stood on that. His emergency gas shut-off valve is in his actual fireplace. Canada and 13-15 states in the US have outlawed vent-free fireplaces. The first time he used the fireplace, it set off the carbon monoxide detector. His home has structural issues, which he reported to the building department. In response, he was told there are 4-5 complaints daily and that he could always "walk away." Mr. McKeever was not happy with the response. The structural issues with his home involve framing, the roof overhanging by 3 inches, and two bathrooms stacked on top of each other. Part of the problem falls on the inspection process.

Daniel Glanton of 1004 Loretta Lane termed the builder of his Lake View home as "unbelievable". He described several issues with his home, drainage in the neighborhood, and safety concerns associated with metal stakes left in the ground.

Alderman Aster felt the City would continue to hear complaints. Although one of the citizens stated Mr. Sydes was telling homeowners that he has been in contact with the City, Mr. Hughes and George Chiles, Director of Public Works, confirmed they have not heard from the builder. Alderman Aster noted some of the concerns voiced were cosmetic in nature, while others were structural. Structural complaints can be reported to the NC Department of Insurance and licensing division. Alderman Aster questioned what the City could do to hold the contractor accountable. Mr. Davis explained local governments only have the authority given to them by state statute. The building code is a State of North Carolina minimal building code that must be enforced by the City. If a contractor applies for a building permit, the City has a legal obligation to issue the permit and cannot withhold it. Thereafter, the City inspects for compliance with the minimum building code. Local government inspection offices are not guarantors of perfect construction. If mistakes are made by a local government, there is no liability for missing an item of compliance. With respect to flooding, the City implements, monitors, and regulates a storm ordinance. The bulk of that work, however, is

done by the State. Mr. Davis' understanding was that the water issue may be coming from an adjoining property and not within the Lake View subdivision. The City addresses the stormwater for that subdivision, but not water that may be put on the property by another owner. That is a matter of a private lawsuit. Mr. Davis thought the State had exhausted its regulatory authority to ensure compliance, as has the City. Alderman Aster noted the roads, stormwater, sidewalks, and streetlights in Lake View and some of the other subdivisions in that area are still privately owned and the responsibility of the developer until they are turned over to the City. Alderman Aster told the citizens one of the most powerful tools they have to address their concerns is the press.

Mayor Odham suggested staff review the addresses from the petition of citizens and compile a list of any notes made by the Inspections Division about inadequate issues on the homes that have structural or stormwater issues. Once the list is available, he would like to meet with the homeowners, Alderman Aster, the City Manager, and City Inspector to review the list and physically visit the addresses. He wanted to be clear with the citizens as to what is within the City's purview and what direction the City could give the citizens so they may be able to seek help. The City cannot address cosmetic issues such as bathroom tile, backsplash, etc.

Alderman Royal reminded the homeowners that the City Attorney suggested they engage an engineer and then return to Inspections to see if their complaints were deemed to be in compliance. Mr. McKeever stated he had done that, and Inspections told him since there was OSB sheathing on the outside that the issue was okay. Mayor Odham said that should be one of the items on the compiled list that he and others can review with the Inspector as to what the code requires.

Mayor Odham cautioned anyone who presents before the Board to make sure that their statement includes facts and not emotions. A comment was made about water and sewer not working in someone's house for six years. That statement is simply not true. The Mayor recalled when the statement was originally made and by whom, and staff verified it was not a factual statement.

One of the gentlemen who spoke earlier stated he received negative feedback when he spoke with an employee. As an elected official representing the City, Alderman Best said it was unacceptable and she did not concur with employees making negative comments. If the situation did happen, she found it unacceptable and said she would not be a part of it. If an employee does not have an answer to a question, they should seek the information and show respect to the customer.

### **Consent Agenda**

#### **5. Consider Adopting a Resolution to Close Specific Streets for the Neuse River Bridge Run.**

Gary Kenefick, event organizer, requested to close the 200 blocks of East Front and South Front Streets from 4 a.m. until 1 p.m. on April 29, 2023 for the Neuse

River Bridge Run. Additionally, he sought the use of Union Point Park on April 28, 2022 from 12 p.m. until 9 p.m. for the Super Kids Fun Run. Kari Warren, Director of Parks and Recreation, authorized the closure of the park for the kids' event.

**6. Consider Adopting a Resolution to Close Specific Streets for the Antique Car Show.**

On behalf of the First Capital Chapter of the Antique Automobile Club of America, Michael Wilson requested the 200-300 blocks of Middle Street, 300-400 blocks of Pollock Street, and the 300 block of Craven Street be closed to vehicular traffic from 4:30 a.m. until 3:30 p.m. on May 13, 2023 for an annual car show.

**7. Consider Adopting a Resolution Calling for a Public Hearing to Rezone Tax Parcel ID 8-044-007.**

Price and Poole 2612 Investment Property, LLC requested to rezone 6.83+/- acres from C-4 Neighborhood District to C-3 Commercial District. The parcel, identified as Tax Parcel ID 8-044-007, is located on the east side of Lowes Boulevard at the intersection of Trent Road. The Planning and Zoning Board unanimously approved the request at its February 07, 2023 meeting. A public hearing is sought for March 28, 2023.

**8. Approve Minutes.**

Draft minutes from the February 27, 2023 work session and February 28, 2023 regular meeting were provided for review and approval.

Alderman Aster made a motion to approve Items 5-8 of the Consent Agenda, seconded by Alderman Best. Upon a roll-call vote, the motion carried unanimously 7-0.

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**9. Presentation by Craven 100 Alliance.**

As requested at the February 27, 2023 work session, Jeff Wood, Director of Craven County Economic Development and the Executive Director of Craven 100 Alliance ("C1A"), made a presentation on behalf of the Alliance. C1A is a 501(c)(3) nonprofit and public-private partnership between New Bern, Havelock, Craven County, and the private sector. The City has contributed about \$121,000 to C1A since 2014. C1A has brought in projects totaling almost \$2 million in investments and created or retained 1,558 jobs. It has worked with Coastal Carolina Regional Airport to entice airlines to add flights to the area. A pamphlet listing some of the accomplishments was shared with the Board.

Alderman Kinsey asked for an update on the aerospace program at the airport and C1A's relationship with the high schools and community college. In his



response, Mr. Wood talked about the importance of a workforce. He announced VOLT Center graduates have recorded around 800 job offers. Employers indicate there aren't enough people to fill vacancies.

Alderman Brinson asked what the City needs to work on from the C1A's perspective. Mr. Wood responded most job growth comes from companies already here. Other than workforce education, housing is a major issue.

**10. Consider Adopting a Resolution Approving a Lease Agreement with State Employees Credit Union for the ATM in the Parking Lot at 302 Craven Street.**

The State Employee's Credit Union ("SECU") requested renewal of the lease agreement for the ATM currently located in the City's parking lot at 302 Craven Street. This ATM provides a needed service for those who live and work in the downtown area, as well as visitors and tourists. The 12-month lease covers the period of July 1, 2022 through June 30, 2023, at a rate of \$225.00 a month. Mr. Chiles noted the lease was tabled in June of 2022 to allow the City time to consider changes to the leased parking lot. The credit union has remitted regular monthly payments during this period of consideration.

Mayor Odham said the credit union originally did not charge to use the ATM but that is not necessarily the case now. He questioned if the ATM were removed whether additional parking spaces would be recognized and if the credit union has an unfair advantage by other banks not being given an opportunity to lease the space. If the machine were removed, Mr. Chiles stated only one space would potentially be gained. Mr. Davis said other banks could be given an opportunity to lease the space, but since the current lease is already six months in the thought it is to continue it until July 1<sup>st</sup>. Noting parking is at a premium, Mayor Odham suggested a smaller kiosk could be placed in Bear Plaza. Alderman Kinsey felt it was beneficial to have the ATM in place. He commented every bank charges for noncustomer use and said SECU and Local Government Federal Credit Union members are not assessed usage fees.

Alderman Best asked about the timeframe for installing kiosks in the parking lot. With the construction at City Hall, Mr. Hughes explained employees are utilizing more of the parking spaces. For that reason, the kiosks will not be installed until sometime in the summer after the annex has been completed.

Alderman Brinson announced he would be voting yes on this matter since the lease is already 8 to 9 months into the contract. As good faith, the City needs to honor its promises. There are questions that will need to be hashed out before another lease is brought before the Board to extend the agreement beyond June.

Alderman Royal made a motion to adopt a resolution approving a lease agreement with State Employees Credit Union for the ATM in the parking lot at 302 Craven Street, seconded by Alderman Brinson. Upon a roll-call vote, the motion carried 6-1 with Mayor Odham voting against it.

**11. Consider Adopting a Budget Ordinance Amendment for Fiscal Year 2022-23.**

During the repointing of City Hall, the contractor has observed the vibration from the activity is causing the glazing on the exterior windows to fail. This amendment appropriates \$60,000 from fund balance to reglaze and paint the windows. Alderman Aster suggested Margaret Shields or someone look for grants to refurbish historic windows or mitigation money to weatherproof or rebuild them.

Alderman Brinson made a motion to adopt a budget ordinance amendment for Fiscal Year 2022-23, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously 7-0.

**12. Appointment(s).**

No appointments were made.

**13. Attorney's Report.**

The City Attorney had nothing to report.

**14. City Manager's Report.**

- Mr. Hughes announced the spring employee luncheon would be held on Thursday. Employees will be recognized for longevity and retirement.
- Tile flooring is being installed at the Pleasant Hill Community Center. A grand opening is anticipated around mid-April.
- Plans are in place to release the SWRC bid this Friday. The bid opening is anticipated for April 25, 2023.
- The City has received another grant for the Duffyfield Stormwater Project. The grant is from the NC Department of Environmental Quality in the amount of \$4.1 million. The City has also received a grant for \$400,000 to cover planning. Over the last three months or so, the Duffyfield Stormwater Project has received a total of \$6.7 million in construction grants plus the \$400,000 for planning.

**15. New Business.**

Alderman Best

A lot of construction is taking a place in Duffyfield, and citizens are asking when the water leak and streets will be repaired. Mr. Chiles said a lot of streets have been milled out, and the water and sewer infrastructure was either replaced or repaired as needed. When an area is selected for resurfacing, Water Resources is notified so the division can evaluate the infrastructure for needed upgrades prior to the street being resurfaced. This allows for underground work to be completed before the street is resurfaced. Today, the Streets Division added additional gravel to help carry the streets through until work begins on the repaving contract.

### Alderman Brinson

The Richard Dobbs Spaight Chapter of National Society Daughters of the American Revolution and New Bern Sons of the American Revolution will assist the Cedar Grove Questors on March 25, 2023 at 9 a.m. to clean Cedar Grove Cemetery. Volunteers should wear work clothes and bring their own tools.

National Vietnam War Veterans Day will be commemorated on March 29, 2023. This year marks the 50<sup>th</sup> anniversary of the day the last US Combat Troops departed Vietnam. The local chapter of the Vietnam Veterans Association will have displays at the Union Point Park gazebo from 10 a.m. until 4:30 p.m.

### Mayor Odham

Tours have been scheduled with some of the Aldermen for the Mayor and City Manager to visit the respective Alderman's ward to proactively look at issues.

An update was requested on setting a date for the retreat. Mr. Hughes said he was waiting to hear from a strategic planning consultant about their availability before the City Clerk polls the Board. He expected to have that information by the end of next week.

Mr. Frye's deposit is still being held until the RDC can decide about his offer. He asked the Board to be cognizant that a citizen put an offer on the table and paid an earnest deposit in November. Personally, the Mayor did not feel it was a good practice for the City to hold a deposit for several months. He implored the RDC and Ex-Officios who sit on the Commission to engage and make a decision so Mr. Frye could move forward or get his money back.

The Days Inn property was discussed at the last work session. The options for the property are to sell it pursuant to the upset bid process or give it to the RDC so the Commission can put restrictions on the property. Mayor Odham said his personal concern with the latter option is Mr. Frye has placed a bid and paid a deposit on a property, and after several months the RDC has yet to make a decision. The property is a cornerstone and key piece to the revitalization area. The Mayor said he was not a big fan of relinquishing ownership of the property to the RDC without knowing their plans. The next step for that property is to secure an appraisal and likely discuss it at the retreat. Alderman Best announced she attended the RDC's last meeting. The Commission will deliberate and discuss Mr. Frye's bid at the next meeting and vote how to handle it at that time. Mr. Frye will be notified at the meeting as to the decision. Mayor Odham said he appreciates Mr. Frye's offer and will go on record to say he is fully supportive of Mr. Frye's proposal and would vote in favor of it. He felt there was plenty of land to pursue Alderman Aster's proposal. Alderman Best concurred with the Mayor's comments and felt there were other properties the RDC could utilize to build the small homes suggested by Alderman Aster. Alderman Kinsey thanked Mr. Frye for being a gentleman, expressed hope that the City could assist the Adams, and said he hoped the Adams could understand what the City could and could not do.



**16. Closed Session.**

A closed session was not needed.

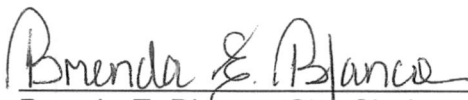
**17. Adjourn.**

Alderman Royal made a motion to adjourn, seconded by Alderman Kinsey. The motion carried unanimously 7-0, time being 7:36 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: March 28, 2023

  
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Jeffrey T. Odham, Mayor  
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Brenda E. Blanco, City Clerk