

**CITY OF NEW BERN  
BOARD OF ALDERMEN MEETING  
SEPTEMBER 26, 2023 – 6:00 P.M.  
CITY HALL COURTROOM  
300 POLLOCK STREET**

- 1. Meeting opened by Mayor Jeffrey Odham. Prayer by Dale Moore, Discipleship Pastor at Union Point Church. Pledge of Allegiance.**

- 2. Roll Call.**

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

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

- 3. Approve Agenda**

Alderman Prill made a motion to approve the agenda with Item 6 removed from consent to be heard separately immediately following the approval of the agenda, seconded by Alderman Best. Upon a roll-call vote, the motion carried unanimously 6-0.

- 6. Consider Adopting a Resolution Calling for a Public Hearing to Amend Section 15-343 – “Flexibility in Administration Required” of the Code of Ordinances.**

The Planning and Zoning Board (“P&Z”) undertook several discussions about off-street parking in downtown. To facilitate the reuse of buildings and protect historic buildings from being removed to create parking space, most historical and coastal cities with available public parking do not apply parking standards in their downtown areas. New Bern has approximately 600 public parking spaces that are not included in any parking calculations. A public hearing was requested to held on October 10, 2023 to consider an amendment to Article XVIII of the land use ordinance to modify requirements for new commercial developments and “change-of-use” occupancy within existing structures downtown. P&Z recommended approval of the amendment at its September 5, 2023 meeting by a vote of 5 to 1. The proposed amendment is consistent with the 2010 Regional Land Use Plan and the 2022 Land Use Plan Update.

Alderman Prill explained he asked for this item to be considered separately because it is a topic the Board has not discussed in detail. There are several potential issues with the proposed revision, and he wanted to make sure the Board understood the possible ramifications. Although P&Z referred this item to

the Board, one member of P&Z took exception. That member, Rusty Ingram, emailed his concerns to the Board. Alderman Prill asked that the Board have an opportunity to review the matter before it took any formal action to either call for a public hearing or consider the change.

Jessica Rhue, Director of Development Services, explained in North Carolina the first step in this type of action is to obtain a recommendation from P&Z. Text amendments can be initiated by a member of the public or staff. Administration and Development Services' staff believed there were enough complications with downtown parking that it was time to warrant a study. After reviewing the code and how it may have been enforced, staff recognized a permitting problem and desired to solve the problem. P&Z first discussed this topic in May and discussed it further in June, July, and August. P&Z proposes to expand the district exempting the strict letter of the law when it comes to parking. Mrs. Rhue welcomed the opportunity to present P&Z's findings and receive comments from the public. After a hearing, the Board does not have to adopt the ordinance change. It could choose to send the revision back to P&Z for further direction and modification. However, the first step in the process is to hear the recommendations.

Alderman Prill said one of the issues raised is there is no good factual basis or data presented to P&Z or to the Board. There is a lot of anecdotal information from staff. Staff indicated it had received calls from businesses looking to relocate to New Bern that decided not to after learning about the existing parking regulations. There are no names or factual details about these inquiries. Additionally, there is a need to look at each individual property that could potentially be used by current or future property owners. If action is taken before information is available about what could be located on the properties, the true impact is unknown. Alderman Prill again expressed concern about the Board making a policy decision based on anecdotal information. It is unknown what true impact the change will have on the downtown area. Applicants can appear before the Board of Adjustment to request a special use permit to counter any decision the Board makes. If the Board adopts this ordinance to ensure existing parking remains, at the same time it will be giving another body the ability to overrule the Board's decision by issuing a special use permit. Alderman Prill wanted an opportunity to discuss the change with staff and affected property owners before making a decision.

Alderman Best asked whether a public hearing is involved in a request for a special use permit. Mrs. Rhue confirmed the permit does require a public hearing at the Board of Adjustment.

Mr. Davis said he first initiated this issue two to three years ago when it came to his attention that staff did not know how to handle the code with respect to parking in the downtown commercial district when a business could not comply with parking. There is an exempt area that covers about two-thirds of the downtown commercial area, the boundaries of which were detailed by Mr. Davis. When ordinances were adopted years ago, the properties in the exempt area were grandfathered because they literally had no property for parking. If a business in

that area closes for more than six months or the use changes, the new business must comply with the land use ordinance. If there's no area to put a parking space on the parcel, that building will stay vacant "until the end of the world." That is an absurd result. The commercial district has since expanded. When Mr. Davis noticed businesses opening in buildings that had been vacant or did not have parking, he was curious as to how staff had been handling the zoning permits since those parcels could not legally comply with the parking requirements. He learned staff issued permits because they did not want to tell the businesses no. Although that was logical thinking, it was illegal under the code. There are 5-7 existing businesses that are not compliant with the parking ordinance. That puts the City in an awkward situation, and Mr. Davis said he was not sure how to advise staff regarding the next applicant. He took an oath just as the Board did to uphold the law, which means he would have to advise staff not to issue a permit to applicants who cannot comply with the parking ordinance. Those applicants will then seek a remedy from the Board, if not the court first. Mr. Davis said the proposal is an attempt to get in front of the issue of noncompliance. A solution is needed sooner rather than later.

Alderman Aster asked for the next logical step, and Mr. Davis said a public hearing would initiate the process. At the hearing, staff presents the issue, public comments are received, and the Board can deliberate. The Board has all its normal options at that point, which include continued discussion, tabling the matter, voting to adopt or not adopt the amendment, continuing the public hearing, etc.

Mayor Odham asked if Alderman Prill would be more comfortable with holding the public hearing and pushing the action off until the following meeting. Mr. Davis explained procedurally the action is expected to be on the same agenda and considered immediately following the hearing.

Alderman Aster made a motion to adopt a resolution calling for a public hearing to amend Section 15-343 – "Flexibility in Administration Required" of the Code of Ordinances, seconded by Alderman Brinson. Upon a roll-call vote, the motion carried 5-1 with Alderman Prill voting against it.

### **Consent Agenda**

#### **4. Consider Adopting a Resolution Calling for a Public Hearing to Annex a Portion of Tax Parcels 8-209-13001 and 8-209-12003.**

Weyerhaeuser petitioned to annex portions of Tax Parcel ID's ("PID") 8-209-13001 and 8-209-12003. (The portion of PID 8-209-12003 was subsequently reassigned PID 8-209-28001.) This is the property that the Board conveyed to Weyerhaeuser on August 22, 2023 after approving an exchange of property. A public hearing was requested to be held on October 10, 2023 to consider this petition.

**5. Consider Adopting a Resolution Calling for a Public Hearing to Annex Tax Parcels 8-210-11002, 8-210-11003 and a Portion of 8-210-23000.**

McCullough Farms petitioned to annex PIDs 8-210-11002, 8-210-11003, and a portion of 8-210-23000. The petition inadvertently referenced PID 8-210-13000 which was annexed in 2008, and it did not reference PIDs 8-210-11002 and 8-210-11003, although the parcels are specifically described in the legal description. The property is vacant land that is contiguous to the City of New Bern's municipal boundary. A public hearing was requested to be held on October 10, 2023 to consider this petition.

**7. Consider Adopting a Resolution Declaring Tax Parcel ID 8-035-016 on Pine Tree Drive as Surplus Real Property and Establishing a Minimum Bid.**

At its September 12, 2023 meeting, the Board voiced a desire to declare Tax PID 8-035-016 as surplus property and establish a minimum bid of \$225,000, which is the appraised value. The property is a vacant, wooded tract approximately 3.24 acres in size.

**8. Consider Adopting a Resolution to Initiate the Upset Bid Process for 817 Murray Street.**

Justin Beck tendered an offer of \$3,900 for the purchase of 817 Murray Street. The property is a vacant 0.024-acre residential lot with a tax value of \$7,800. The property was acquired jointly by the City and County in 2017 through tax foreclosure. If the property is sold for the initial bid, the City is projected to receive \$775.77 and the County \$3,124.23 from the proceeds.

**9. Consider Adopting a Resolution to Initiate the Upset Bid Process for 1101 Main Street.**

Kurtis Stewart tendered an offer of \$3,000 for the purchase of 1101 Main Street. The property is a vacant 0.138-acre residential lot with a tax value of \$6,000. The property was acquired jointly by the City and County in 2007 through tax foreclosure, and the County subsequently transferred its ownership to the City.

**10. Approve Minutes.**

Draft minutes from the September 12, 2023 meeting were provided for review and approval.

Alderman Prill made a motion to approve the items under Consent Agenda minus Item 6, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously 6-0.

\*\*\*\*\*

**11. Consider Adopting a Resolution Establishing a Municipal Service District (“MSD”) Advisory Committee.**

A resolution establishing an MSD Advisory Committee was presented to the Board at its August 22, 2023 and September 12, 2023 meetings. After some discussion, the Board requested the number of Ex-Officio members be increased from four to five to provide for an at-large appointment from the Board of Aldermen, and that term limits be staggered and set at two successive terms for residential members and commercial members representing the same commercial interest. The document was also revised to specify that the Board can replace any voting member who does not attend three of the four quarterly meetings or who no longer owns real property or resides within the MSD. If enough applications are received by October 13, 2023, the goal is to provide this information at the October 27<sup>th</sup> or November 14<sup>th</sup> meeting for consideration.

Alderman Best made a motion to adopt a resolution establishing a Municipal Service District Advisory Committee, seconded by Alderman Aster. Upon a roll-call vote, the motion carried unanimously 6-0.

**12. Consider Adopting a Resolution Accepting an American Rescue Plan Act (“ARPA”) Grant from the NC Department of Environmental Quality for Stormwater Planning.**

The City applied for an ARPA grant for stormwater planning through NCDEQ and was notified of an award in the amount of \$400,000. The Board is required to adopt a resolution accepting the grant and authorizing the City Manager to execute a financial award agreement and any other related documents. Alderman Best questioned where the funding would be used. Chris Seaberg, Community and Economic Development Manager, stated Public Works identified the most problematic areas, and the focus will be on those areas; specifically, downtown where the most historic infrastructure exists.

Alderman Prill made a motion to adopt a resolution accepting an ARPA grant from the NC Department of Environmental Quality for stormwater planning, seconded by Alderman Brinson. Upon a roll-call vote, the motion carried unanimously 6-0.

**13. Consider Adopting a Resolution Approving a Water and Sewer Use Agreement for 1955 Old Airport Road.**

Hubrich Contracting, Inc. plans to develop a charter school at 1955 Old Airport Road and requested to connect to the City’s water and sewer systems. The property is currently outside of the city limits. The proposed development will have a calculated average water and sewer demand of 11,700 gallons per day. Service can be provided with short main extensions to connect to the City’s existing infrastructure. Section 74-74 of the City’s ordinances provides that a written water and sewer use agreement be entered into to outline the roles and responsibilities of both parties in establishing service.

Mayor Odham asked whether charter schools were tax exempt, and Mr. Davis was unsure.

Alderman Prill made a motion to adopt a resolution approving a water and sewer use agreement for 1955 Old Airport Road, seconded by Alderman Brinson. Upon a roll-call vote, the motion carried unanimously 6-0.

**14. Consider Adopting a Resolution Approving the Sale of 837 Pavie Avenue.**

After receiving an offer of \$12,333, the Board adopted a resolution on March 28, 2023 to initiate the upset bid process for the property at 837 Pavie Avenue. Several upset bids were received with a final bid of \$18,000. The property includes a residential structure on 0.06-acres that was built in 1925 and is in need of rehabilitation. The bidder understands that he will be required to bring the structure into compliance with the minimum housing code. If the sale is approved, the City will receive \$4,261.53 and Craven County \$8,051.47 from the proceeds.

Alderman Best made a motion to adopt a resolution approving the sale of 837 Pavie Avenue, seconded by Alderman Brinson. Upon a roll-call vote, the motion carried unanimously 6-0.

NOTE: Items 15 and 16 were voted on collaboratively as indicated under Item 16.

**15. Consider Adopting a Resolution Approving the Redevelopment Commission's Sale of 209 Bryan Street.**

Charles Diggs submitted an offer of \$5,650 for the purchase of a vacant 0.106-acre residential lot located at 209 Bryan Street. Mr. Diggs proposes to construct a residential dwelling on the property, and the Redevelopment Commission supports his plan. The conveyance will be subject to a requirement for construction to begin within 12 months after the transfer. If not met, title to the property shall revert to the Commission. Additionally, if the residential dwelling is not occupied by the owner, it must be sold or rented to persons of low-to-moderate income. Board approval is needed for the Commission to sale this property.

**16. Consider Adopting a Resolution Approving the Redevelopment Commission's Sale of 821 West Street.**

Charles Diggs also submitted an offer of \$3,000 for the purchase of a vacant 0.114-acre residential lot located at 821 West Street. As with the previous item, Mr. Diggs proposes to construct a residential dwelling on the property, and the Redevelopment Commission supports his plan. This conveyance will be subject to a requirement for construction to begin within 24 months after the transfer or title to the property will revert to the Commission. Additionally, if the residential dwelling is not occupied by the owner, it must be sold or rented to persons of low-to-moderate income. Like the previous item, Board approval is needed for the Commission to sale this property.

Alderman Prill asked about the bidder's plan for the homes, and the Assistant City Manager announced Mr. Diggs plans to reside in one and rent the other.

Alderman Aster made a motion to adopt resolutions approving the Redevelopment Commission's sale of 209 Bryan Street as well as 821 West Street, seconded by Alderman Best. Upon a roll-call vote, the motion carried unanimously 6-0.

**17. Consider Adopting an Ordinance for the Demolition of 1207 Garden Street.**

On November 22, 2022, an initial letter regarding minimum housing deficiencies was sent to the owners of 1207 Garden Street. The owner indicated he would contact staff but has not yet done so. On July 10, 2023, a complaint was filed stating the property was unfit for dwelling, but no response has been received. An order to bring the structure into compliance by August 28, 2023 was subsequently entered, but to date there has been no communication from the owner, no permits have been obtained, and the structure remains noncompliant.

Alderman Best made a motion to adopt an ordinance for the demolition of 1207 Garden Street, seconded by Alderman Prill. Upon a roll-call vote, the motion carried unanimously 6-0.

**18. Consider Adopting an Ordinance to Amend Division 3. "Off-Street Parking" of Article VI. "Stopping, Standing and Parking" of Chapter 70 "Traffic and Vehicles".**

At the Board's meeting on January 24, 2023, a discussion ensued about converting the Pollock Street parking lot from leased spaces to pay-to-park spaces. Now that the work at City Hall is nearing completion, staff will soon resume parking in the City Hall lot, and the Pollock Street lot can move forward with the pay-to-park. The ordinance designates the change from a leased lot and establishes user fees as identified in the Schedule of Fees and Charges. Mr. Hughes pointed out the ordinance does not affect any on-street parking. The lot would not be enforced on Sundays. When the lot was leased annually, \$7,000 in revenue was generated for the MSD. The pay-to-park will generate more revenue. The cost of a kiosk is not justifiable at \$7,500. Thus, the decision was made to utilize the pay-to-park program. The ordinance also cleans up reference to the lot by Pollock and Fleet Streets, which is the rear of the Days Inn property, to designate it as the Brown Bear lot. The Brown Bear is not intended to be a permanent parking lot, and a provision is included for the City to change the designated use at any time.

Mayor Odham expressed concern about the lack of a kiosk, noting Greenville implemented the same process, and it did not work well.

Since this lot was previously leased, Mr. Hughes noted the designation of a pay-to-park lot will not eliminate any free parking but will increase parking space. One of the 50 spaces will be designated for handicap. Public Works assessed the

ATM in the lot and found removing it will not yield significant space for additional parking.

Alderman Prill made a motion to adopt an ordinance amending Division 3. "Off-Street Parking" of Article VI. "Stopping, Standing and Parking" of Chapter 70 "Traffic and Vehicles," seconded by Alderman Royal. Upon a roll-call vote, the motion carried unanimously 6-0.

**19. Consider Adopting an Ordinance to Amend the Schedule of Fees and Charges.**

The amendment to the Schedule of Fees and Charges incorporates proposed parking fees for the Pollock Street lot at \$1 an hour with a per transaction fee of \$0.45. If adopted, the new fees will be effective September 27, 2023.

Alderman Prill made a motion to adopt an ordinance to amend the Schedule of Fees and Charges, seconded by Alderman Royal. Upon a roll-call vote, the motion carried unanimously 6-0.

Since there are already misunderstandings, Mayor Odham highly encouraged the City get ahead of this from a communications standpoint and push it out on social media. Mr. Hughes indicated a press release would be issued the following day, a robust campaign will be pursued, and signage will be installed. The goal is to turn over the lot to Park-to-Pay next week, as staff should be returning to the City Hall lot this week.

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

The Drainage Improvements Project Fund will be amended to recognize the \$400,000 grant referenced in Item 12 for stormwater planning. No matching funds are required.

Alderman Best made a motion to adopt an ordinance to amend the Drainage Improvements Project Fund, seconded by Alderman Brinson. Upon a roll-call vote, the motion carried unanimously 6-0.

**21. Consider Adopting an Ordinance to Amend the Resiliency and Hazard Mitigation Plan Grant Project Fund.**

The Resiliency and Hazard Mitigation Plan Grant Project Fund will be amended to recognize a \$175,320 NC Resilient Coastal Communities Program grant from NCDEQ. While no matching funds are required, in-kind labor services of \$8,122.92 will be provided by the City.

Alderman Best made a motion to adopt an ordinance to amend the resiliency and hazard mitigation plan grant project fund, seconded by Alderman Brinson. Upon a roll-call vote, the motion carried unanimously 6-0.



## **22. Appointment(s).**

Alderman Aster made a motion to appoint Bobby Boyd to the Friends of the Firemen's Museum, seconded by Alderman Brinson. The motion carried unanimously 6-0. Mr. Boyd will fill George Halyak's seat with a term that expires on April 22, 2025.

## **23. Attorney's Report.**

The City Attorney had nothing to report.

## **24. City Manager's Report.**

Mr. Hughes reported on the following:

- The Boots and Badges softball game between Police and Fire is scheduled for September 30<sup>th</sup> at 6 p.m. at Kafer Park.
- New Bern 101 begins this Thursday with 17 participants.
- The ribbon cutting and grand opening for the City Hall Elevator Annex will take place October 10<sup>th</sup> at 5:15 p.m.
- Tropical Storm Ophelia impacted New Bern this past Friday and Saturday. Thanks to staff for their great work during the storm. A maximum of 8,000 customers lost power.

## **25. New Business.**

### Alderman Royal

City employees were commended for the work performed during the recent storm. Alderman Royal made a motion to use \$30,000 in Ward 2 ARPA funds for a left turn traffic light at the Pembroke overpass, seconded by Alderman Brinson. The motion carried unanimously. Mr. Hughes explained Ward 2 allotted \$500,000 for sidewalks, and it is not anticipated all that funding will be used for sidewalks. The amount will be reduced by \$30,000 to free up funds for the light.

### Alderman Aster

Retired chief building inspector, Johnny Clark, passed away yesterday. Services are planned for Friday at Cotten Funeral Home.

### Alderman Best

A citizen emailed to inquire as to whether the City could clean up storm debris that flows into her yard from someone else's property. Mayor Odham noted the City does not own the waterway and does not have the ability or legal authority to go onto private property to clean up. If equipment is needed for the cleanup, there is also a concern about liability. Mr. Hughes confirmed the City does not go onto private property to clean up unless it involves the City's infrastructure, like a fallen utility pole. The owner can put debris at the street, and the City will pick it up. There are several volunteer organizations that assist with cleanup.

**26. Closed Session.**

A closed session was not needed.


**27. Adjourn.**

Alderman Aster made a motion to adjourn, seconded by Alderman Best. The motion carried unanimously 6-0, time being 7:05 p.m.

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

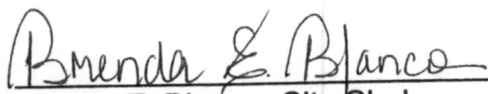
NOTE: For additional details and information on the Board of Aldermen meetings, please visit the City of New Bern's website at [www.newbernnc.gov](http://www.newbernnc.gov). Video and audio recordings of the meeting have been archived.

Minutes approved: October 10, 2023



---

Jeffrey T. Odham, Mayor



---

Brenda E. Blanco, City Clerk