

**City of New Bern  
Board of Aldermen Meeting  
November 8, 2011  
City Hall Courtroom 7:00 p.m.  
300 Pollock Street**

1. **Meeting Opened by** Mayor Lee W. Bettis, Jr. Prayer by Bishop Wanda Francisco, Mt. Zion Holiness Church. Pledge of Allegiance.
2. **Roll Call.** Aldermen Sabrina; Victor Taylor; Denny Bucher; Johnnie Ray Kinsey; Bernard White; and Dana Outlaw all present.

Also in Attendance: Mike Epperson, City Manager; and Scott Davis, City Attorney.

3. **Adopt Resolution Limiting Public Comment Period at Board of Aldermen Meeting.**

Alderman Bengel stated as a citizen, she believes that no one's right to speak is denied. On the other hand, citizens have the right to call any Alderman outside of the meeting to discuss issues. As a board, the city needs some order as to the length of time citizens may speak. If there are citizens from the same neighborhood with the same concerns, it would be feasible for the group to select one individual to speak on behalf of the group. She is in favor of the four (4) minute public comment, stated Alderman Bengel.

Alderman Bengel suggested that Mayor Bettis inform the citizens the board welcomes all to speak, but also state there is a time limit of four (4) minutes. As a reminder, the Mayor will inform the public of the rules at every first meeting of the month (request and petitions of citizens).

Alderman White stated citizens should be allowed to speak freely without a time limited imposed on them. When Alderman White ran for the job, he often told his constituents, "sitting out there would be just like sitting in their living rooms". Each individual agenda or issue is different from the other and four (4) minutes may not be sufficient time to explain him/her. Alderman White suggested citizens be allowed to speak later at some point during the meeting if four (4) minutes is not enough time. The board's job is to listen to the citizens, stated Alderman White.

Alderman Bucher agrees with the free speech concept, and they all ran to serve their communities. With today's technology, email and telephone calls are welcome. In most cases, citizens can present their concerns within four (4) minutes; therefore, he is in favor of the resolution allotting four (4) minutes for public comment. If people cannot express their concerns in four (4) minutes, they could return and speak at the next meeting, stated Alderman Bucher.

Alderman Kinsey stated the board is there to serve the citizens, but on the other hand the Aldermen are there to conduct a meeting. He recognizes it may take four to five minutes for public comment; therefore, he is willing to work with the citizen if it takes longer than the required four minutes.

Attorney Davis explained the board reserves the right to adopt additional reasonable rules to govern the conduct of its public comment period should it desire to do so, all consistent with the provision of N.C. G.S 160A-81.1. Up until about six (6) years ago

there were no statutory requirements for the public to speak. In 2005, the NC General Assembly passed a bill concerning public comment. All public bodies shall provide at least one period for public comment per month at a regular meeting of the board. "The board may adopt reasonable rules governing the conduct of the public comment period, including, but not limited to, rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokesmen for groups of person supporting or opposing the same positions." Is it a requirement that a designated spokesmen speak on behalf of the group, asked Alderman Bengel. It is not a requirement just good practice, but designating a spokesmen to speak on the same issue allows the meeting to be more efficient, stated Attorney Davis. The prior board allowed the public to speak four (4) minutes; was there a resolution passed asked Alderman Bengel. There was never a resolution or ordinance passed previously; the City piggy-backed on what Craven County was doing. This resolution will make it formal, and the resolution would only regulate board meetings, not public meeting such as a budget hearing, stated Attorney Davis.

Mayor Bettis stated constitutionally people should have the right to speak. It is important for people to speak. Mayor Bettis expressed he does not have a wrong or right answer for a time being allotted on public comment. There is one gentleman who takes advantage of public comment and unfortunately had to be escorted out of the meeting several times.

Hail James, 305 Calico Drive, spoke on behalf of the Coastal Carolina Tax Association (CCTA). The First Amendment of the Constitution not only gives people freedom of speech, but also the right to address government. Mr. James did not have a problem with the four (4) minute rule, but he was concerned that the resolution also says the Board of Aldermen has the right to adopt additional rules to govern the public comment period. "It is not right", and Mr. James thinks citizens concerned with tax burdens should be allowed to talk longer than four (4) minutes.

Alderman Taylor made a motion to adopt the resolution limiting public comment at Board of Aldermen meetings, seconded by Alderman Bucher. Upon a roll call vote, Aldermen Bengel, Taylor, Bucher, and Kinsey voted "Yes", Aldermen White, Outlaw and Mayor Bettis voted "No". The motion passed 4-3.

#### **4. Request and Petitions of Citizens.**

Matthew Evans, 515 Miller Street, stated the Chief Building Inspector tore down his house illegally, stating "he knows what is morally right". The city did not follow the law as it relates to the demolishing of his house. The city was awarded federal funds for rehabilitation of homes or buy outs. Why didn't the city purchase his home? This says a lot about his country after serving in the military. "If you say it long enough and loud enough people will start listen" stated Mr. Evans.

Jerry Hobbins, 229 New Street, was pleased with the extension arms added for American flags to be flown on Broad Street. Mark Stephens, Public Works Director, and Jordan Hughes, City Engineer, did an excellent job getting the flags back on Broad Street. The city should be proud to have remarkable employees.

Edwin Vargas, 230 Attmore Drive, requested an update on the long range drainage plan that was addressed in September/October 2011. Will there be a bond referendum or will

the city raise taxes for the drainage problems within the city? Will the city address the top five (5) areas of flooding due to Hurricane Irene? Mr. Vargas clarified that former Mayor Tom Bayliss allowed the public to speak five (5) minutes not four (4) minutes. It appears that five (5) minutes would be more tolerant.

Stevie Bennett, 1312 National Avenue, requested answers of the following questions at the October 2011 meeting:

- An accounting from Swiss Bear on all monies spent on the F-11 jet restoration project;
- Wells Fargo was to pay the 2009 taxes on Skysail by the end of September. As of October 4, 2011 no taxes have been paid.
- Who will determine if citizen questions or comments will get an answer and how long will it take before a reply is received?

Ms. Bennett further referenced item #11 stating it is River Drive not River Road and it resides in the 5<sup>th</sup> Ward, Alderman White and not 1<sup>st</sup> Ward, Alderman Bengel.

Mayor Bettis told Ms. Bennett he would email her the answer or and asked her to get them to him as soon as possible.

Bob Burns, 1809 Spencer Avenue, discussed the speeding problems on Spencer Avenue and throughout the Ghent neighborhood. It is a common problem of speeding as people use these streets as cut through streets. Petitions have been given to the Aldermen, City Engineer, and Police Department requesting stop signs. There are a lot of kids playing, people walking and riding bikes, and there needs to be a resolution before someone gets killed. Mark Stephens stated he will be addressing this issue during the traffic calming discussion.

Frank Kerr, 3711 Elveden Road, spoke on behalf of his water bill, and informed the board "the clock is going to bite you in the butt." The last board was voted out because they did not want to listen. "If you don't want to listen then go, don't let the clock get you into trouble." He informed the board the city is living off of utilities and there is no tax base. The city is taking the money and giving it Tryon Palace, NC History Center and the Public Library. You don't have enough money to pay the employees, and the city is relying on the utilities to pay the bills. Mr. Kerr will not be back to aggravate the city; he is going to Raleigh. There is a bill on the floor that restricts the city from using utilities funds and transferring them to the general fund.

Daniel Spangler, 1819-A Race Track Road, of "A Dog's Dream" expressed electrical service changes. A letter was sent to Mr. Spangler informing him of a rate change made to his account. Upon performing the yearly rate evaluations, it was determined the rate needed to be changed from E03 to E08 which is a change of two category service up. He went from the rate E03 skipping over E04 and went directly to E08. Mr. Spangler contacted the utilities department and requested a meeting with Jon Rynne, Public Utilities Director, to discuss what was going on and how the increase would be handled. It was determined Mr. Spangler's business was put in the wrong category from the beginning. There was another business of the same type before Mr. Spangler that was set up as an E03 schedule. The business has gone out of its range four (4) times within a year. He understands he used outside his category limit. The meters regulate how much energy is used every fifteen (15) minutes in a thirty (30) day period. The business was out of the schedule E03 service category in March, but it was not brought to his attention until October. This is approximately six (6) months after the occurrence. There

is a difference of 15% to 50% increase in his electrical bill that equates to \$2,000 a year if the usages stay the same. Out of the thirteen (13) months he was in business, ten (10) of those months he did not meet the requirements of E08 schedule, but needed to move up one category and has no problem with it. During the meeting, Mr. Spangler was told there is nothing the city could do about the regulations. He requested the board look into the regulations that are imposed on businesses. A simple fix would be to allow an adjustment period for business that is changing categories or you may only go up one (1) category every six (6) months to lessen the burden on businesses. There is the possibility that businesses will be forced to move to other counties such as Onslow County. If moves his business to Onslow County, he will be saving \$800 to \$1,200 dollars in electrical services.

Mayor Bettis asked Mr. Spangler to call him so an appointment may be scheduled to discuss the issue.

**4a. Presentation by Epiphany School.**

David Wang, Headmaster of Epiphany School, stated the Social Studies class was studying "what does it mean to be a good neighbor"? The students decided to help residents of Craven County clean up after the devastation of Hurricane Irene. The students decided to make a video of all the volunteers and volunteer groups that assisted in the clean-up process. They will be collecting all video clips and articles in partnership with the City of New Bern to present a thank you video to be completed by December 13, 2011. The students heading up this project are: Sydney Herron; Ford Parson; Joshua Brown; and Rip Taggart.

**5. Presentation of F-11 Model to City.**

David Brown, 118 Burnhart Road of Bridgeton, presented a crafted model of the F-11 jet to the city. Mr. Brown crafted this model himself and acquired his experience while working at Cherry Point MCAS. He has made approximately five (5) models thus far.

**6. Motion to Approve Plans for Heritage Park.**

David French of "The Family History Society of Eastern North Carolina Heritage Park presented a power point presentation. The board approved a resolution to establish a park on city-owned property between Christ Episcopal Church and City Hall, upon approval of plans by the Historic Preservation Commission (HPC) and the board. The park will include a monument focusing on the history of the area honoring all people with a connection to the area from early times to the present. Plans have been approved by the HPC, and The Family History Society of Eastern NC is now requesting board approval.

The existing flagpoles are to remain, but will be lowered to allow better viewing in the pedestrian streetscape. The Barron's bust statue will remain at its current location, but the monument for the printing press will be located on Craven Street. The flagpoles and bust will be in a simple grass green space with pavers for walking. The existing Dwarf Burford Holly bushes will be removed to increase the spaciousness of the park. Once the shrubs are removed, a brick and wood fence is to screen the utilities.

The hardscape will be red brick pavers laid in a Flemish Bond pattern. The walks are 7' wide or wider meeting ADA requirements. There are four benches in the park and the reflecting pool will have an 18' high and wide knee wall surrounding it for seating.

Alderman Bengel made a motion to approve plans for Heritage Park, seconded by Alderman Taylor. The motion carried unanimously.

**7. Approve Authorizing City to Complete Letter of Interest and /or Acts as Fiscal Agent for New Bern Art Center at City Laundry Project.**

Ben Watford and Katherine Adolph along with local artists have worked to plan, design and redevelop the City Laundry into The New Bern Art Center at the City Laundry. They are seeking funds for their revitalization efforts in the Five Points area through ARTPLACE. ARTPLACE, a collaboration of top national foundations, the National Endowment for the Arts and various federal agencies, believes that art culture expresses powerfully through places creating vibrant communities. ARTPLACE periodically awards grants to organizations doing ground-breaking work in creative placemaking. Mr. Watford and Ms. Adolph are requesting the Board to authorize City staff to submit a letter of interest and/or to act as fiscal agent for the project. There are no funds required from the City.

“Transformation of the historic City Laundry warehouse by artists doing art ever day will attract and retain artists and transform a depressed area into a hub of life. The one (1) acre site, only two blocks from one the State’s most prestigious tourist attractions, Tryon Palace, is adjacent to Public Housing, and a dominant African-American neighborhood along the Pollock Street Gateway Corridor. It is our dream, hope and expectation that the parallel paths of affluent, Historic Downtown New Bern and an economically depressed African-American neighborhood will intersect in the world of art to support each other in creating life together”, stated Ms. Adolph.

Alderman Taylor made a motion to approve authorizing the city to complete a letter of interest and act a fiscal agent for New Bern Art Center at the City Laundry, seconded by Alderman White. The motion carried unanimously.

**Alderman Outlaw made a motion to go into closed session pursuant to NCGS 143-318.11 (a) (3) for discussion of the City’s intervention in the Duke Power and Progress Energy merger, seconded by Alderman Bengel. The motion carried unanimously, time being 8:25 p.m.**

Alderman Taylor made a motion to go back into open session, seconded by Alderman Bengel. The motion carried unanimously, time being 9:50 p.m.

**8. Discussion Regarding Development of Traffic Calming Policy and Update of Street Classifications.**

This item was tabled and would be discussed at the Work Session meeting.

9. **Approve Ordinance Amending Section 70-132 Entitled “Maximum Speed Limits on Specific Streets – Twenty five Miles per Hour” of Chapter 70 “Traffic and Vehicle” of Code of Ordinance of City of New Bern.**

Mark Stephens, Director of Public Works, stated Alderman Taylor asked someone to look into the speed limits on First, Second, and Third Avenue. These streets have very narrow corridors, function as one-way streets, and typically have cars parked on the shoulders of the streets. The streets are not designed for the citywide speed limit of 35 MPH, yet they are not designated in the City Code as slower speed zones. The adoption of this ordinance will designate these streets as 25 MPH zones which is typical of streets given the characteristics of being very narrow corridors and function as one-way streets.

Alderman Taylor asked Mark Stephens to look into lowering the speed limits on First, Second, and Third Avenue after receiving complaints of a high volume of speeding.

Alderman Bucher stated he attended a meeting in the Ghent Neighborhood in reference to speeding. Lt. Matthew of New Bern Police Department informed the group people do not read speed limit signs; they normally drive at a speed they feel comfortable with.

Alderman Outlaw inquired as to why you would lower the speed limit for these streets and no other street within the city with the same characteristics. Alderman Taylor stated he requested the speed limit be lowered due to kids playing in the streets. The streets are narrow and are in a neighborhood, and because of ongoing complaints of speeding. The City needs to be proactive in hopes of preventing a tragedy.

Alderman Taylor made a motion to adopt the ordinance amending Section 70-132 “Maximum Speed Limit on specific streets-Twenty-Five MPH of Chapter 70 of Code of Ordinance, seconded by Alderman Bengel. Upon a roll call vote, the motion carried unanimously.

10. **Adopt Resolution Approving Funding of Roof Rehabilitation of Union Station Depot.**

Mike Epperson, City Manager, stated the board previously approved initiation of the public bidding process for the train depot roof rehabilitation upon verification of funding through the Federal Highway Administration and completion of the Lease Agreement that is being reviewed and finalized by Norfolk-Southern Railroad, NC Railroad, and the City. The amount being requested for the roof rehabilitation is \$500,000 with 80% of the funding through NCDOT and FHWA, with the remaining 20%, or \$100,000 through matching local funds. The City of New Bern is the sponsor of the project and will be the project administrator for the construction; therefore, the City will be required to commit to the 20% matching funds regardless of the source. It is understood that the 20% matching funds will come from private contributions and other funding mechanisms. Should the matching funds not be received, the City can choose not to move forward with the project and withdraw from the Enhancement Grant opportunity.

Alderman Bengel is in full support of this resolution; the joint working groups have been working diligently on this project.

Alderman Bucher made a motion to adopt the resolution approving funding of roof rehabilitation of Union Station Depot, seconded by Alderman Bengel. Upon a roll call vote, the motion carried unanimously.

**11. Adopt Resolution Awarding Bid for River Road/North Avenue Sewer Rehabilitation Project.**

Mike Epperson, City Manager, stated this project is to replace the existing sanitary and storm sewer infrastructure located in the intersection of River Road (Drive) and North Avenue. The manholes and piping in this intersection have been failing for several years, resulting in ongoing sinkholes issue at this intersection. At this point, the manholes and piping have deteriorated beyond reasonable repair and need to be replaced in order to maintain sewer service and safe traffic conditions in this area. The project was awarded to James L. Cayton Utilities, Inc. for the amount of \$91,702.

Alderman Kinsey asked if local bidders placed a bid and if so was cost close in range. The cost was close in range from one company to another, stated Mr. Hughes, City Engineer.

Alderman White made a motion to adopt the resolution awarding the bid for River Drive and North Avenue sewer rehabilitation project, seconded by Alderman Outlaw. Upon a roll call vote, the motion carried unanimously.

**12. Adopt Resolution Approving Agreement with PowerServices to Provide Professional Engineering Services for Advanced Metering Infrastructure/Demand Side Management Project.**

Jon Rynne, Director of Electric Utilities, explained the procedures for advance metering infrastructure demand side management project. The City currently reads 21,000 electric meters and 14,000 water meters each month through a combination of manual reads and radio reads for the purpose of billing for these services. Additionally, the city controls through its Load Management Program, 28,000 appliances located at 11,000 residences throughout its service territory each month for the purpose of reducing its peak demand and lowering its power supply cost.

Advanced Metering Infrastructure (AMI) technology will allow these meters to be read through a two-way communication system and have the readings captured and stored within a software program for numerous uses including billing, customer service, use by customers for tracking energy usage, and for "pay as you go" programs to help customers manage their electric usage and bills. This technology will also be used to improve the effectiveness of the Demand Side Management (DSM) of the city's electric load through improving the effectiveness of load management switches deployed on the system, helping to reduce its largest expense power supply cost.

A request for qualifications was sent to four consulting firms in August 2011. The submittals from these firms were evaluated by staff from numerous departments within the city that will utilize the system. The RFQ submittals from the consultants were graded on five criteria related to the project to choose the best qualified firm. Based on the evaluation, it is recommended that Power Services of Raleigh, NC be chosen to perform the design, specification, and commissioning work related to the purchase and installation of a new AMI/SDM system. The cost for completing this project is seventy-

four thousand six hundred dollars (\$74,600). The cost is within the amount that was budgeted.

Alderman Bucher made a motion to adopt the resolution approving Agreement with PowerServices for Advanced Metering Infrastructure/Demand Side Management Project, seconded by Alderman Outlaw. Upon a roll call vote, the motion carried unanimously.

**13. Approve Ordinance Establishing Capital Project Fund for Advanced Metering Infrastructure/Demand Side Management System.**

The city desires to specify, purchase and install an AMI/DSM System. This ordinance establishes a Capital Project Fund to be known as the "Advance Metering Infrastructure/Demand Side Management System." The cost of the project is four hundred fifty thousand dollars (\$450,000) and it will be funded through debt proceeds. The Declaration of Official Intent to Reimburse was adopted by the board on June 28, 2011, in order to be reimbursed for any eligible City funds expended prior to receipt of the financing proceeds. The Finance Officer is authorized to make temporary loans between other funds and the Advanced Metering Infrastructure/Demand Side Management Fund to provide funding until anticipated debt proceeds are received.

Alderman Kinsey made a motion to adopt the ordinance establishing a capital project fund for advanced metering infrastructure/demand side management system, seconded by Alderman Bengel. Upon a roll call vote, the motion carried unanimously.

**14. Approve Budget Amendment.**

A separate project fund is being established to account for funds used for the Advanced Metering Infrastructure/Demand Side Management System Project. This budget ordinance recognizes the reduction of proceeds of installment purchases and capital expenditure other line item accounts in the Electric Fund.

Alderman Bengel made a motion to approve the budget amendment, seconded by Alderman Bucher. Upon a roll call vote, the motion carried unanimously.

**15. Approve Revised Board of Alderman Meeting Roster for 2012 to Add Budget Workshop Dates.**

The revised Aldermen Meeting roster will add additional dates for the FY2012-2013 Budget. The following dates have been added to the roster:

- April 17, 2012: Discuss special appropriation request which are not consider contractual in nature;
- May 8, 2012: Overview and presentation of the budget; and
- May 15-16, 2012: Budget workshops.

Alderman Outlaw suggested that the Board of Aldermen meeting be held in the communities, example Stanley White Recreation Center and West New Bern Recreation Center beginning in 2012. The board members were agreeable to this suggestion. Alderman Bengel suggested the meeting be held quarterly outside of city hall and the location to be determined.

Alderman Bengel made a motion to approve the revised Board of Aldermen Meeting Roster, seconded by Alderman Taylor. The motion carried unanimously.

**16. Approve Minutes.**

Alderman Bengel made a motion to approve the minutes from the October 11, 2011, and October 25, 2011 Board Meeting, seconded by Alderman Outlaw. The motion carried unanimously.

**17. Appointments.**

Alderman Bucher made a motion to reappoint Len Long to the New Bern Appearance Commission, Seconded by Alderman Outlaw. The motion carried unanimously.

**18. Attorney's Report.**

Attorney Davis had nothing to report.

**19. City Manager's Report.**

The city-wide visioning forum will be held Saturday, November 12, 2011; 9:30 am til 1:00 pm, at the Jasper B. Hayes Omega Center located 800 Cedar Street. Everyone is invited to share their ideas and help create a new vision.

**20. Announcements.**

Alderman Bengel informed the public the Heritage Park establishment will be paid with funds from private donors. Alderman Bengel thanked all the volunteers that participated in the restoration of the F-11 jet. A special thank you to Ebby Howard of E&J Automotive. He was responsible for transporting the jet to the Fleet Readiness Center at Cherry Point. Get well wishes shout out for Mary Randolph who was hospitalized last week, and remember Veterans Day will be observed Friday, November 11, 2011. Let a vet know how much we appreciate them.

Alderman Taylor expressed Happy Veterans Day!

Alderman Bucher informed the public of the "Emergency Alert System Nationwide Test" to take place on November 9, 2011 at 2:00 pm.

Alderman Kinsey thanked all the veterans for making it possible for all of us.

Alderman White wanted to know the status of cleaning up Jack Smith Creek. The city is waiting on the reports from the Division of Water Quality to make an assessment of the property, stated Mike Avery. He further requested an update on the sidewalks and the Hazel Avenue canal. The staff is working on the preliminary designs and will report its finding back to the board, stated Jordan Hughes.

Alderman Outlaw had concerns as to the ball field meeting ADA requirements at the Fort Totten Park. Mr. Hardison clarified work is being done at Seth West Parrott Park which encompasses West New Bern Recreation Center. It is not Fort Totten Park.

**21. Closed Session.**

The board held the closed session earlier during the meeting.

**22. Adjourn.**

Alderman Taylor made a motion to adjourn the meeting, seconded by Alderman Kinsey. The motion carried unanimously, time being 10:21 p.m.

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Mayor

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City Clerk