

**City of New Bern
Board of Aldermen Meeting
July 12, 2011
City Hall Courtroom – 7:00 P.M.
300 Pollock Street**

1. **Meeting opened by** Mayor Lee W. Bettis, Jr. **Prayer by** Alderman Bernard White. Pledge of Allegiance.
2. **Roll Call.** Aldermen Sabrina Bengel; 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.

The Mayor recognized Jackie Beach, Director of the Craven-Pamlico-Carteret Regional Library System and called her to the podium. Beach asked the Board for a proclamation honoring Hayden Hodges Jones for her service to New Bern and the library. Jones was born in New Bern in 1941, and passed away after a 29-month battle with pancreatic cancer. She worked at the library for almost 50 years and loved it more than almost anything, with the exception of New Bern. The Board of Trustees for the library named the library's auditorium after Jones in February, naming it the Hayden H. Jones Auditorium. Mayor Bettis confirmed a proclamation would be read at the City's next board meeting honoring Jones and invited Beach to that meeting to hear its reading.

3. **Update from Integrated Communication Strategies, Inc. regarding advocacy efforts.**

Mike Epperson, City Manager, introduced David Miner and Jason Deans of Integrated Communication Strategies who presented an update on the advocacy efforts regarding the Duke/Progress Energy merger. Miner is a former member of the House of Representatives, serving six terms from 1992 to 2004. Deans has a rich history in North Carolina politics, most recently Chief of Staff to US Congressman Patrick McHenry. Miner stated their company, Integrated Communication Strategies, is looking forward to developing a plan that would provide relief to the taxpaying citizens of New Bern in terms of the debt that is owed through the Municipal Power Agency and the work done with Electricities. They would also like to develop a plan that provides information regarding the work being done in Washington DC with FERC (Federal Energy Regulatory Commission). In terms of the Public Utilities Commission in NC, the commissioners act as judges and the jury so the commissioners obviously cannot comment on cases before them. However, concerns will be addressed before the public staff.

The General Assembly adjourned a couple of weeks ago, but will return next week to vote on redistricting plans and on House Bill 773, which is the house incentive studies bill. Included in the bill is the Municipal Power Agency Relief Legislative Study Committee. Miner and Deans will have an opportunity to address many of New Bern's concerns before this study committee.

Bettis stated the situation with Electricities has hurt growth in Eastern North Carolina. Electricities has been stalinistic and acted as if they are not accountable for their actions. Alderman White asked Miner to press forward and do the best they could to help New Bern.

4. **Presentation on behalf of New Bern National Night Out.**

Danielle Glenn, Citywide Community Watch Coordinator, recognized all committee members and volunteers of community watch groups who were present at the meeting. National Night Out will be celebrated nationwide on August 2, 2011. In New Bern, the event will be held at Union Point Park from 5 to 8:30 p.m. National Night Out is America's night out against crime. New Bern's celebration will include music, entertainment, raffle drawings, demonstrations, displays, a bounce house, face painting and more. Child safety will be promoted, and one thousand bookbags will be given away to children at the closing ceremony.

New Bern businesses have created a watch group, taking the community watch concept to the commercial level. The group meets monthly on the second Tuesday of each month. Any business desiring more information may contact Lt. Chandler Powell at the New Bern Police Department.

Glenn thanked the Board and City of New Bern for supporting the Community Watch groups, and she presented a National Night Out t-shirt to each member of the Board of Aldermen. Alderman White commended the committee for the work they do in the community.

5. **Public hearing and consider condition use permit application for construction of the Epiphany High School addition.**

Bernard George, Land and Community Development Administrator, discussed the conditional use permit application for construction of an additional campus and facilities at 2301 Trent Road. It is currently zoned R10 and C4 neighborhood district and is located in Ward 3. Epiphany plans to continue operations at the Henderson Avenue location, but the new facility would consist of a classroom building, auditorium, dining area, administrative offices, and athletic fields. This would allow the school to increase its enrollment to about 300 students. No citizens have opposed the application. The Planning Board recommends the Board of Aldermen approve the application.

Alderman White asked if concerns over traffic had been ironed out. George stated there is capacity for additional traffic. There was concern that some traffic may filter through the Ghent neighborhood, but it is felt most of the traffic will go directly out toward Highway 70. The expansion should not be a problem to the surrounding neighborhoods. There are no environmental hazards on the site according to the CAMA use plan. The site in question is a former lumber yard industrial site. The land has been vacant several years, and a school is felt to be a very good fit for the area.

The public hearing was opened by the Mayor. Attorney Davis stated the process at hand was a quasi judicial process and explained the steps involved. No one from the public was present for the hearing. George and Mr. Stilley, a representative for the applicant, THBS, Inc., were sworn in by the Clerk to offer testimony. George stated the application had been reviewed by staff and found to be complete. Additionally, the application was within the Board's jurisdiction. Schools require a conditional use permit, which are only issued by the Board. Stilley answered questions regarding all other elements, and there was no rebuttal. The Board had no discussion. Alderman Bucher made a motion to close the public hearing, seconded by Alderman Taylor. The motion carried unanimously.

Alderman Bucher commented that the school started approximately four years ago in what was formerly Temple Baptist Church. The school has done a marvelous job in improving their current facility, and they have grown dramatically. A lot of children in Craven County have traveled to Kinston's Parrott Academy because there was no alternative for those who desired one. The property in question has been an eyesore. The proposed project is a great opportunity for New Bern and for the parents who want an option. In an effort to be transparent, Mayor Bettis stated his stepdaughter attends the school. He feels a Christian education is provided in a wonderful environment.

With regard to element number one, Alderwoman Bengel made a motion that the requested permit was within its jurisdiction according to the table of permissible uses, seconded by Alderman Kinsey. Upon a roll-call vote, the motion carried unanimously. With regard to element number two, Alderman Outlaw made a motion that the application was complete, seconded by Alderwoman Bengel. Upon a roll-call vote, the motion carried unanimously. With regard to element number three, Alderman Bucher made a motion if completed as proposed in the application, the development would comply with all of the requirements of the ordinance, seconded by Alderman Outlaw. Upon a roll-call vote, the motion carried unanimously. With regard to element number four, Alderman Kinsey made a motion the use would not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved, seconded by Alderman Outlaw. Upon a roll-call vote, the motion carried unanimously. With regard to element number five, Alderman Bucher made a motion the use would not substantially reduce the value of adjoining or abutting property and that the use was a public necessity, seconded by Alderman

Outlaw. Upon a roll-call vote, the motion carried unanimously. With regard to element number six, Alderman Outlaw made a motion the location and character of the use, if developed according to the plan submitted and approved, would be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City, seconded by Alderwoman Bengel. Upon a roll-call vote, the motion carried unanimously. Finally, Alderman Bucher made a motion to issue the Special Conditional Use Permit, seconded by Alderwoman Bengel. Upon a roll-call vote, the motion carried unanimously.

Attorney Davis informed the Clerk the permit would be presented at the next meeting for signature since it was approved at this meeting.

6. Public hearing on submission of Justice Assistance Grant and approve Resolution affirming that public hearing was held.

Epperson stated this is one of two public hearings required for the Justice Assistance Grant. It was introduced at the last meeting. The grant allows the Police Department to provide software for online reporting for residents.

The Mayor opened the public hearing, and there was no public comment. Alderman Outlaw made a motion to close the public hearing, seconded by Alderwoman Bengel. The motion carried unanimously. Alderman Bucher made a motion affirming a public hearing was held, seconded by Outlaw. Upon a roll-call vote, the motion carried unanimously.

7. Request and petition of citizens.

a) Stevie Bennett of 1312 National Avenue commented that she did not hold the current Board responsible for anything she was going to speak about at this meeting. The problems were put on the backs of the taxpayers by the irresponsible actions of the past elected administration and several top City employees. The amended plan of reorganization for SkySail discusses on page 11, section 6.3.2 the missing 50 parking spaces that were never acquired by SkySail to meet the conditional use permit issued to them. Bennett asked Attorney Davis if her understanding was correct in that if SkySail were to sell enough units to need the additional parking spaces that the Hilton would lease them from the City. Davis stated that was not correct and explained during the bankruptcy process it became apparent that while under construction the unit layouts changed from the initial plan. Some of the two, three and four-bedroom units became one and two-bedroom units. Parking spaces are driven by the number of bedrooms, so as the number of bedrooms decreased so did the number of required parking spaces. As the changes were analyzed and the spaces on the ground counted, it turned out that the project was within a handful of spaces of having exactly the number of spaces needed under the City's ordinance. Preliminary, it appears it may be seven spaces short. The City has contacted the Hilton and the marina and put the burden on them to find the seven

spaces and bring the entire campus in compliance. Based on recent discussions, Davis believes the seven spaces needed have been located.

Bennett stated the Hilton is a limited liability corporation and SkySail is a limited liability corporation, both owned by the same people. She asked what would happen if the Hilton decided to sell the hotel to a different entity. Davis stated there would not be any shared parking. Each entity would have sufficient parking to support itself. SkySail can support itself with its own onsite parking now. The Hilton and marina are currently the ones that are seven parking spaces short. They are looking for ways to resolve that issue now and several areas have been identified for that purpose, but they need staff approval.

Bennett stated the same section of the amended plan of reorganization refers to the \$67,700 that SkySail owes the City to replace the sidewalk and lights that were destroyed in constructing SkySail. Bennett referred to a letter that was sent to SkySail's attorney in Raleigh referencing the corporation's agreement to pay these funds on or before October 2, 2009 in satisfaction of their obligation. The letter further stated SkySail's letter of acceptance provided surety for the City to sign off on the approval to issue a permanent certificate of occupancy. The letter to SkySail's attorney was dated April 3, 2009. Within the month, SkySail filed bankruptcy and Bennett finds it difficult to believe SkySail did not know that was their plan. In her opinion, the letters are a contract as there was an offer and an acceptance. However, SkySail did not live up to their end of the contract. Thus, the contract should be voided in her opinion and a new contract written for what it would cost to replace the sidewalk and street lights in five years.

Davis stated there was a problem with that and made note that item 15 on the agenda dealt with the bankruptcy plan for New Bern Riverfront Development. At Davis' request, the Mayor stated Bennett's concerns would be addressed when item 15 was discussed. Additionally, he informed Bennett she could ask additional questions on the topic at that time.

b) Anthony Bonnici of 512 Jefferson Avenue also commented on SkySail stating the previous administration gave a lot of concessions. One issue he has a problem with is the tap fees. SkySail was granted permission to hold off on paying their tap fees until 61 units were sold. If a developer or builder wants a certificate of occupancy, they are required to pay tap fees right then and there. If an exception on tap fees is going to be made, it should be made for everyone allowing all developers or builders to pay tap fees upon the sale of the constructed residence.

Bonnici also expressed that he was upset because the request and petition of citizens had previously been item 3 on the agenda, but has moved to item 7. A lot of citizens do not come out because they cannot sit and wait for the agenda to move along to item 7. Citizens should come first and be heard first, not vendors or others who are being paid to perform a service for the City.

Additionally, he spoke of being upset by Mayor Bettis' absence at the last Board meeting at which time the 2011-12 budget was discussed and voted upon. In the event of a tie vote, the Mayor's absence precluded him from being available to break the tie. Does this mean the vote was pre-decided behind closed doors? Since taking office, board members and the Mayor have missed several meetings. There are 24 regularly-scheduled meetings which are set at the same time each month, on the second and fourth Tuesdays at 7 p.m. Bonnici voiced his belief that if a meeting is missed, 1/24th of the absent party's salary should be deducted from their pay. The Board and Mayor work for the taxpayers of New Bern, and the taxpayers are disappointed in them according to Bonnici.

The vote on the budget at the last meeting was very disappointing and even handled improperly. Once a vote is cast and recorded, it cannot be changed during the voting process. Bonnici has contacted the School of Government for clarification and is waiting for the exact verbiage stating when a person casts a vote it cannot be changed. If the motion is not understood, ask for clarification before voting. Being confused is not an excuse to change a vote.

Mayor Bettis stated he was proud of the approved budget. The Board spent five weeks and numerous hours at workshops discussing the budget. He is proud of the work put into the budget by the Department Heads and Board, and the fact that taxes were not raised and safety was upheld. The budget process was transparent, and citizens were allowed to give input.

Bonnici stated conduct of an elected official should be at the highest caliber. Arguing with an employee at the local Verizon store and becoming loud enough for other customers to take notice is unacceptable, as well as making blanket statements that "when the city contract is up for phones, I'll have them cancelled." He asked under what or whose authority, can an elected official do that? One alderman alone has no say-so; it takes a Board. Bonnici stated this person should make a public apology.

Taxpayers pay for four Board members to have cell phones and five to have internet access. Bonnici asked what good is it to have a smart phone if you have no idea how to operate it. After leaving three voice mails, he was told by one alderman that they did not know how to retrieve their messages. Bonnici feels voice mail greetings should be personalized to let the caller know who they have reached instead of just giving the number the reached. Phones are for official use, and the public should be able to reach the Board. It was suggested the Board receive training from Information Technology or Verizon on their smart phones.

3) Edwin Vargas of 230 Attmore Drive commented on an article he wrote to the Sun Journal regarding Mayor Bettis "missing" at the last minute. Vargas suggested at future meetings the Mayor Pro-Tem advise the public why the Mayor is not present to provide clarity on his absence. If people do not know

where you are, the public thinks you are “MIA”. He understands it is natural for the Board or Mayor to miss some meetings, but feels an explanation is needed.

8. **Presentation on Pollock Street/Fleet Street Adopt-A-Block project.**

Epperson reminded the Board one of the sub-objectives of the adopted goals and objectives for the year was the idea of funding and implementing an Adopt-A-Block program. Mark Stephens, Director of Public Works, and Kathy Adolph made a presentation on the recently completed project on Pollock Street. Paula Lindsey, President of New Bern Women’s Club, was also present. The New Bern Women’s Club raised \$2,000 for the project. Adolph thanked the Board for the commitment it made to this project. Adolph has worked with citizens to partnership with the local government to bring some of the corridors back to their glory. The Riverbend and Greenbrier Garden Clubs contributed plants and money to revive the Pollock Street corridor. Broken cement was been replaced with repaired sidewalks, greenery and trees.

Stephens referred to a PowerPoint presentation depicting before and after photos of the 900 block of Pollock Street. It was a huge success both financially and aesthetically for the City. Public Works as well as Parks and Recreation staff provided labor and project management, while the New Bern Women’s Club donated a significant amount of money toward the project. Money was also donated by nonprofits, churches, residents and businesses within the project focus area to the tune of 81.1% of the cost.

The Mayor encouraged the public to make known any ideas they have which would be beneficial to the City. It may require hard work on their part, but the City will work with them to get the job done. Alderman Bengel thanked Adolph for the work on the 900 block of Pollock Street stating it looked great.

Downtown Post Office: Mayor Bettis brought up the potential closing of the downtown post office. Letters were distributed by the Post Office notifying its customers that the downtown location may consolidate with the Old Cherry Point Road post office. The Aldermen and downtown citizens agree that this is not a good idea. Alderwoman Bengel has contacted Congressman Walter B. Jones’ office, and Alderman Kinsey contacted Congressman G. K. Butterfield to express their concerns. Additionally, Mayor Bettis wrote a letter of concern to the postal director. The Mayor read a Resolution opposing the consolidation of the downtown post office with the Old Cherry Point Road post office. Alderwoman Bengel made a motion to adopt a Resolution opposing the consolidation of the downtown post office with the Old Cherry Point Road post office, seconded by Alderman Taylor. Upon a roll-call vote, the motion carried unanimously.

Epperson made note of the address being shown on the screen for City TV-3 viewers. Letters of concern or comments from citizens can be mailed to that address. The City will continue to display the address on its PEG channel for those who may not be watching tonight’s live meeting.

9. **Follow-up discussion on Broad Street flags.**

Gerald Hobbins of 229 New Street attended a Board meeting approximately a month ago to express concern that US flags were not flying on Broad Street on Flag Day. He suggested flag holders be installed on Broad Street similar to those on East Front Street. Mark Stephens, Director of Public Works, explained currently flags are flown on Memorial Day, July 4th and Veterans Day. There are several locations where flags are flown, including East Front Street, a portion of National Avenue, a portion of Queen Street, First Avenue, Highway 70 intersections, and the entrance to Taberna. The particular section of Broad Street mentioned by Mr. Hobbins is part of the new streetscape plan (from the Broad Street traffic circle to the Fire Station). The options available to add flags to this area include adding a bracket to the pole and purchasing traditional flags or purchasing flags that can hang from the banner arms which already exist on the light poles. There are 18 poles in the center median of the area in question, which would require 18 flags or 36 if a flag is placed on each side. The cost for hardware, brackets, flags and flagposts for these poles would cost between \$1,400 - \$1,500. The cost of the 2x3 banner flags would be approximately \$5,000 as there are 89 light posts on Broad Street in the area of concern. That cost could potentially be cut in half if other options are considered, such as placing a red, white and blue flag on one side and a flag depicting New Bern's colors on the other side.

The Mayor suggested this is another opportunity for the community to become involved and partner with the City to raise funds for the project. He called Mr. Hobbins to the podium for his input and comments. Mr. Hobbins felt the citizens were more likely to contribute money for traditional flags versus the banner flags. He expressed willingness to make a personal donation of \$100 and personally solicit donations from others. Epperson suggested the City cover the cost of the flags since it provides flags for display in other areas. It was determined no official action was needed to add an additional day to the list of holidays for which US Flags are flown. Internal procedures would be implemented to add Flag Day. Hobbins was instructed to contact Epperson with respect to monetary donations which he or other citizens would like to make to the project. Otherwise, the City will cover the associated costs.

10. **Presentation by Goody Clancy & Associates, consultant on US EPA Brownfields Area-Wide Planning Pilot Grant program.**

Epperson reminded the Board one of the strategic goals adopted earlier in the year was to lead the efforts in the transformation of the Five Points area, Greater Duffyfield area and other distressed areas of the City. One of the subobjectives was to engage in a detailed planning process of the area. The City obtained an EPA Brownfields planning grant. David Dixon and Steve Carney from Goody Clancy & Associates were introduced and provided information on the project.

Dixon explained with a PowerPoint presentation the objectives, strengths and challenges that have been observed in the Five Points and Duffyfield areas. He noted the region is growing in population and economy, and the neighborhoods in question have real histories. The two areas are close to a vibrant downtown and also have the great resources of parks and a waterfront.

Goody Clancy & Associates has asked two firms to work with them on the project. One is WZHA, who will be represented by Sarah Woodworth. They have worked with her probably 30 times in the last 10 years. Woodworth is good at not only understanding markets, but what kinds of public-private partnerships can unlock opportunities that the public or private sectors cannot do by themselves. Kimley-Horn will also work on the project, which is a well known transportation, civil and environmental engineering firm. They can hopefully solve some of the flooding problems and maybe turn ditches into streams. Dixon will be the leader of the project, and Carney will be project manager.

Alderman Bucher asked about Goody Clancy's past success. Dixon stated the last two consecutive years they have won national awards from the National Planning Association. One of the awards was for implementation of a project in Columbus, Ohio. They have worked a lot with public housing authorities across the nation. Alderman Kinsey asked if it's possible to see the beginning point and end results of some of the projects Goody Clancy has undertaken, and Dixon stated yes. Epperson stated the Columbus, Ohio project was near Ohio State University which bordered one of the worse areas in Columbus in terms of crime, poverty, etc. Through all the investment, that area has been turned into an attractive aspect.

Epperson stated several good firms visited New Bern, but the team reviewing the firms chose Goody Clancy because they have such good implementation strategies. The City wants an achievable plan, and he believes that's possible with Goody Clancy. Carney explained their firm is analyzing data and identifying tools to put a plan to work. A market analysis is felt to be the most critical stage of the implementation task. No plan works without community engagement and thus, the steering committee will work with the community from the beginning. Carney stated their firm is excited about the new challenge in New Bern. They see opportunities in New Bern that other places do not have, for instance a growing population versus one that is shrinking. Goody Clancy has experience working in areas that are similar to New Bern.

The next meeting regarding this project will be held in August. Alderman Taylor requested that the meeting be held in the Five Points area versus downtown, as the meeting last night was held. For some reason, the residents of Five Points and Duffyfield do not like to be downtown per Taylor and he felt the meeting should be held in an area where they are more likely to attend. Epperson stated the initial meeting last night was held downtown so it could be televised, but the plan is to hold the August meeting in the affected area, possibly at Stanley White Recreation Center. Alderman White stated he was present at last night's

meeting and that those in attendance were from different parts of town, including Duffyfield. Everyone had an opportunity to give input and everyone was invited to get involved in the project.

11. Update on Havelock/Craven County/City of New Bern joint dispatch center.

Epperson referred to a May 27th consultant's report giving an analysis of the joint dispatch center. The consultant recommended a move toward consolidation and outlined a four-phase approach. It will require a significant amount of time and effort from City staff to proceed. Epperson recommends the City participate in phase one, which is the establishment of a planning committee to work through some of the tougher issues to see that the three jurisdictions are truly committed to the merger. Havelock's City Council and the Craven County Commissioners have reviewed the analysis and are in agreement with proceeding through phase one. There were no questions from the Board of Aldermen.

12. Adopt Resolution approving final adjustment change order with Insituform Technologies, Inc. for Northwest Interceptor Rehabilitation project.

Jordan Hughes, City Engineer, stated this was the northwest interceptor rehabilitation project along the northern portion of Glenburnie Drive. It has been a very successful project. Part of the process included rehabilitation of nine sanitary sewer manholes. While performing the work, it was noticed the bottom part of the manholes needed to be reshaped and rebuilt, which required additional material. Because of that, there is a change order for \$915. This represents the final adjustment as the project is now complete. Alderman Outlaw made a motion to approve the final adjustment change order with Insituform Technologies, Inc. for the northwest interceptor rehabilitation project, seconded by Alderman Bengel. Upon a roll-call vote, the motion carried unanimously.

13. Adopt Resolution authorizing positions to sign on BB&T banking account.

With the departure of the Director of Finance, Epperson stated it was noted some of the banking documents referenced the Director of Finance by name or did not include a backup position in her absence. This resolution is basically a "housekeeping" matter and would authorize someone else from the City to do business on the account. Alderman Kinsey made a motion to approve the Resolution authorizing positions to sign on the BB&T banking account, seconded by Alderwoman Bengel. Upon a roll-call vote, the motion carried unanimously.

13a. Adopt Resolution amending positions to sign on worker's compensation claims account.

This item is the same situation as item 13. With the departure of the Director of Finance, Epperson stated it was noted some of the banking documents referenced the Director of Finance by name or did not include a backup position in her absence. This resolution basically a "housekeeping" matter and would

authorize someone else from the City to do business on the account. Alderman Kinsey made a motion to approve the Resolution authorizing positions to sign on the BB&T banking account, seconded by Alderwoman Bengel. Upon a roll-call vote, the motion carried unanimously.

14. Approve refund of taxes.

This is an informational item according to Epperson. In 1986, the Board passed a Resolution authorizing the Director of Finance to approve tax refunds of less than \$100 and report annually to the Board the refunds which were approved. The list provided reflects the refunds approved during FY2010-11.

15. Adopt Resolution approving New Bern Riverfront Development bankruptcy plan.

Attorney Davis explained the bankruptcy process by stating on the date a debtor files bankruptcy they submit to the Bankruptcy Court a list of their debts. The claims are categorized as administrative, priority, secured and unsecured, and they are paid in that order. Administrative claims would consist of payment to the accountants and attorneys to administer the claims; priority claims are for taxes; secured claims are those for which there is a deed of trust on real estate or any other item in which a security interest is granted; and unsecured is more or less all other debts and is a broad class of debts. Bankruptcy falls under federal statutes, and there is not a lot of room to maneuver within those laws.

When the debtor in this instance filed its first plan, four specific debts were listed for the City of New Bern. Those included: a) 2009 property taxes, which were listed correctly and with the right priority; the debtor has up to five years to pay off those taxes, or the sooner of the collateral being sold; b) unsecured claim for \$67,600 for the sidewalks; that claim is a little confusing because it is for a number of items, but it is appropriately listed as unsecured; c) the third debt represents an unsecured claim for tap fees; the project was built with a master meter instead of individual meters for each unit, and the error was not detected until a plumbing inspection; the builder tore out the master meter and replaced it at a cost of approximately \$700,000; the builder had anticipated paying \$30-40,000 for a tap fee and not the correct amount of over \$300,000 for tap fees; the builder approached the City and acknowledged the error was their fault, but asked for help in paying the fees by allowing payment to be made in two installments; and d) an unsecured claim for utilities up to the date of the bankruptcy in the amount of \$14,000. All of these claims were submitted and categorized correctly.

The first plan lacked information on the parking, and Davis brought that to the attention of the debtor's attorneys. The attorneys acknowledged the unsecured claim and stated the plan needed to be amended to bring it into compliance. In the last few years, it has been rare for secured creditors to receive their money back under plan payments. Davis stated the City's goal was to be creative in

trying to find a way to ensure it received payment. Otherwise, the City would lose \$230,000. The end result that is reflected in the current amended plan requires for payment of the 2009 taxes within 30 days of plan confirmation, which is expected to be next month. With respect to the tap fees, it was agreed that upon the sale of the 61st unit (which is the mark above one-half of the units) the debtor would start paying the tap fees on an individual basis as each unit is sold. The net effect of that is to treat that unsecured claim as if it were secured. With regards to the sidewalk, it has been agreed that if the debtor will pay that money within five years, the City will take the money and build a walkway. As it stands, we do not have a reciprocal obligation to build the sidewalk. But in fairness, the City has proposed to the debtor if they pay the money within five years that the sidewalk will be built, which is beneficial to them. The claim for utilities will remain unsecured, and there is the potential the City may not receive payment on that claim. There is no guarantee the plan will be approved. However, Wells-Fargo is the largest secured creditor and has agreed to the plan, which is a plus for the City. Of note, Wells-Fargo has stepped in and is now marketing the condos and funding all the work it's going to take to revitalize the project. They have been good folks to work with, and Davis actually views them as a partner.

A member of the audience asked who was now in charge of the SkySail project, as well as asked other inaudible questions. Davis offered the woman a copy of the proposed amended bankruptcy plan and stated Wells-Fargo would step in and fund all of the POA costs to keep things going. Mayor Bettis instructed the woman and her husband as well as another couple present at the meeting to contact Attorney Davis after the meeting with any questions regarding the SkySail project. The couples are owners of units in the project, and the Mayor assured them Attorney Davis would be happy to provide answers to their questions.

Alderman Bucher made a motion to adopt the reorganization bankruptcy plan for New Bern Riverfront Development, seconded by Alderman Taylor. Upon a roll-call vote, the motion carried unanimously.

Stevie Bennett of 1312 National Avenue resumed her comments on the matter asking how this situation ever got to this point and stated someone in the past administration dropped the ball. If she owed \$14,000 for utilities, she has no doubt the City would turn her service off. As a taxpayer, she is fed up with how SkySail has treated the City of New Bern. Pressure should be put on them to make them accountable for what they owe the taxpayers.

Bathrooms which were to be built for the tourists cannot be built partly because SkySail has not paid their taxes. SkySail has not been a good partner to the City of New Bern. Mayor Bettis expressed his agreement with Bennett on most of her comments and stated the current Board has learned from the situation. He also felt Attorney Davis had done a good job in working to have the City's claims paid as outlined in the proposed amended plan.

With respect to the flags discussed earlier in the meeting, Bennett suggested they also be flown on 9/11. The Mayor concurred and stated consideration would be given to her suggestion. Bennett made further comment on the closing of the post office. The downtown post office currently closes from 11:30 a.m. to 1 p.m. Those who own a business would never consider closing during those hours when people are on their lunch breaks and can visit establishments to do business. If the post office would stay open during those hours, they would likely see an increase in their business.

16. **Appointment(s).**

Alderman Outlaw made a motion to appoint Sara Afflerbach to the Planning and Zoning Board, but withdrew the motion. Alderman Taylor made a motion to appoint Sara Afflerbach to the Planning and Zoning Board, seconded by Alderman Kinsey. The motion carried unanimously.

Alderwoman Bengel passed on her appointment.

17. **Attorney's report.**

Attorney Davis had nothing to report.

18. **City Manager's report.**

Epperson asked Mark Stephens, Director of Public Works, to clarify dates for trash removal versus recyclables as there has been some confusion. Rusty Cotton, Director of Solid Waste at Craven County, has informed Stephens a new contractor took over the recycling on July 1st and any kinks are trying to be worked out. Everyone in the City of New Bern should maintain their same collection day, with the exception of the Sandy Point area.

19. **Announcements.**

Alderman Taylor recognized Thurman Hardison, Director of Parks and Recreation, and his crew for the job done in Kafer Park on the previous day when a concert was held. As a reminder, free prostate screenings will be held on September 24th at the oncology lab beside the Urgent Care Center of Carolina East Healthcare Systems.

Alderman White enjoyed seeing the jet being placed at Lawson Creek Park and felt a wonderful job was done. He thanked everyone who participated. With the discussion of sidewalk repairs earlier in the meeting, he suggested that areas without sidewalks be looked at and consideration given for placing sidewalks and curbing in those areas.

Alderman Kinsey thanked Thurman Hardison, Director of Parks and Recreation, for the July 4th presentation stating it was well enjoyed.

20. **Closed session.**

Mayor Bettis made a motion to go into closed session pursuant to NCGS 143-318.11(a)(6) for personnel matters and NCGS 143-318.11(a)(3) for an intervention matter and another bankruptcy issue regarding SkySail and some real property issues under NCGS 143-318.11(a)(5), seconded by Alderman Bucher, time being 9:50 p.m.

21. **Adjourn.**

Alderman Taylor made a motion to adjourn the meeting, seconded by Alderman Outlaw. The motion carried unanimously, time being 10:25 p.m.

Mayor

City Clerk