MINUTES
BREVARD CITY COUNCIL
Regular Meeting
March 21, 2011 – 7:00 PM

The City Council of the City of Brevard met in regular session on Monday, March 21, 2011 at 7:00 PM in the Council Chambers of City Hall with Mayor Jimmy Harris presiding.

The following were present: Mayor Jimmy Harris, Council Members Larry Canady, Rodney Locks, Mack McKeller, Mayor Pro Tem Mac Morrow and Dee Dee Perkins; City Manager Joe Moore, City Attorney Mike Pratt, and City Clerk Desiree Perry. (Note: Mr. McKeller arrived at 7:20 PM. He was delayed due to a traffic accident upon the roadway.)

Staff: Firefighter Chris Budzinski, Assistant Planning Dir. Brad Burton, Planning Dir. Josh Freeman, Bldg & Grounds Dir Lynn Goldsmith, Police Chief Phil Harris, Public Service Dir. David Lutz, Planner Sarah Lutz-Pietersen, Executive Assistant Jeanette Owen, and Finance Dir. Terry Scruggs.

Press: Derek McKissock, Transylvania Times
Leigh Kelly, Hendersonville Times News

Welcome - Mayor Harris called the meeting to order, welcomed those present and introduced council members and staff.

Invocation and Pledge – Mayor Harris led the invocation by offering a moment of silence, followed by leading in the Pledge of Allegiance.

Certification of Quorum – The City Clerk certified a quorum present.

Agenda – Ms. Perkins recommended Consent Agenda Item #3 be removed and placed under New Business as Item #3 for discussion. Mr. Morrow moved, seconded by Mr. Canady, the Agenda be approved with the change as requested by Ms. Perkins. Motion carried unanimously.

Approval of Minutes – None

Certificates and Awards – Mayor Harris presented a Proclamation recognizing "National Boys and Girls Club Week 2011" to Ms. Shirley Cox, Unit Director, Boys & Girls Club, accompanied by students, Page Whiteside and Kaitlin Hall.

Public Hearing – None

Public Participation - Pre-Budget (FY 2011-12) Public Input Session #2 - Prior to the meeting the following person(s) signed-up to speak:

Ms. Tammy Hopkins, Executive Director, TC Arts Council, 349 S Caldwell Street. The TC Arts Council has 125 volunteers; Art Council's purpose is to promote and enhance the Arts; Brevard has 262 art events per year and at least 45 arts businesses in our downtown; and, the arts bring in 206 million dollars into Western NC. Requested a $5,000 grant consideration.

Mr. Pete Peters, Brevard Fire and Rescue. Brevard Rescue Squad is in a unique position because, unlike fire departments, they do not have taxing ability, yet they provide rescue services for not only the citizens of Brevard but also throughout the County. He believes they are deserving of special consideration and financing by the City.

Public Participation

Mr. Pete Peters, 111 Park Avenue. Stated he read the recent article in the Transylvania Times where the County wants the City to participate in funding the repairing of the storm drainage system for the County's Public Safety building. The County has been in similar situations in the past which he believes is because they did not properly analyze the situation prior to and during construction. Recommends Council have the County give

good reasons as to why they (County) did not handle their mistakes before offering the County any money.

Mr. Terry McCracken, President, Transylvania Little League, 258 Illahee Road. The Little League has been in partnership by leasing the ball fields from the City since 1997. They have spent more than forty years building up the Little League, the largest youth recreation organization in the City and County. The Travel Ball League has asked them if they can use some of the ball fields; however, the Little League has decided not do so due to the limited number of fields available, and, a difference in philosophy as Travel Ball only allows the better skilled players to play. The Little League desires to renew their lease with the City; however, they would prefer to have a multiple year lease rather than the year-to-year lease that is being proposed by the City.

Mr. Brandon Clark, Travel Ball League, 625 Lyday Creek Road. Travel Ball League is a very competitive level of ball with the goal to provide an option for those baseball players who are talented, focused and desire to participate in travel ball. At present they are using a TC Recreation Dept field to play upon; however, come May 1st they can no longer do so. He met with Mr. McCracken in order to see if they (Travel Ball) could work around the Little League's schedule to allow the two to co-exist. He believes both Little League and Travel Ball can and should be allowed to use the City's Sports Complex fields.

Ms. Ann Hollingsworth, Main Street Limited, 146 East Main Street. Speaking on behalf of the Heart of Brevard. Downtown businesses desire to place flower boxes at their businesses either upon the wall, upon the sidewalk at the building wall, and/or hanging baskets. However, to do so will require a text amendment to the City Code. Requested Council direct City staff to initiate a text amendment immediately so that business owners can proceed quickly with this downtown Flower Program proposal.

Mr. Don DeBuious, 62 West Main Street. He spoke in favor of the Flower Program and made mention that the City of Brevard's seal includes "flowers".

Ms. Kristal Brown, 18 Onyx Lane (former address 500 Rosenwald Lane). Came to hear Council's discussion on the "West Main Street Development Project" that is upon tonight's Agenda, and, after hearing she had hoped to then decide if it is a matter she should comment upon. However, if now is the only time to speak, she has heard that perhaps a new roadway or an extension of a road might be a part of the project. If that is so, she is opposed to a new or extended road as it would mean the taking away of their residential yards and the additional traffic within their historical neighborhood would have a negative impact upon their neighborhood.

Ms. Kim Provost, Hunters and Gatherers, 40 West Main Street. Spoke in favor of the proposed Flower Program stating that 23 out of 24 businesses contacted are in favor of participating. Believes the addition of the flower boxes and baskets will be an improvement to the downtown. There are 60 people prepared to make the flower boxes. Asked if there is any way for Council to make an exception to the City Code with respect to the flower boxes upon the sidewalks to please do so.

Ms. Meredith Baldridge, State Farm Insurance at Water Oak Suites, 617 Windover Drive. Spoke in favor of the Flower Program and described the noticeable and impressive difference a similar project has made to the Travelers Rest, South Carolina.

Mr. Scott Carpenter, 1011 Line Runner Ridge Road, Rosman. He is a professional landscape designer and volunteered his services to work with the downtown businesses on the Flower Program project. Showed Council members photographs illustrating the visual impact flower boxes would add to the downtown. Designed are flower boxes in three sizes - four, six and ten feet in length by ten inches in width; boxes for mounting upon walls or for placement upon sidewalks because not all business fronts will accommodate a box upon the wall. With respect to discussion of moving the flower boxes into the businesses to qualify as "temporary" like merchandise upon the sidewalk, handles could be added to allow them to be moved, although moving them would be somewhat difficult with the added weight of the soil and plants.

Motion to Amend Agenda - Ms. Perkins noted several people are present interested in discussing the flower boxes and therefore moved the Agenda be amended to

add this discussion under New Business as Item #4. Motion was seconded by Mr. Morrow and passed unanimously.

Consent Agenda – Mayor Harris explained Consent Agenda items are considered routine and are enacted by one motion. He read aloud the three (3) items listed upon the printed Agenda and asked if Council desired to remove any listed items for discussion, or, recommend adding any items to the Consent Agenda.

Mr. Pete Peters asked Council to remove Consent Agenda Item #4 (Res No 08-2011) and place under New Business for discussion.

Mr. McKeller moved, seconded by Ms. Perkins, the Consent Agenda be amended to add New Business Item #1 (M-1), to remove Item #4 for discussion under New Business, and to approve the Consent Agenda as amended. Motion carried unanimously.

Consent Item #1 – Staff Reports: Public Service Department (on file).

Consent Item #2 – **Resolution No. 06-2011** Recognizing March 29, 2011 as Opal C. Hahn Day in the City of Brevard.

RESOLUTION NO. 06-2011

A RESOLUTION RECOGNIZING MARCH 29th AS OPAL C. HAHN DAY WITHIN THE CITY OF BREVARD

WHEREAS, Opal C. Hahn served the City of Brevard with distinction and extreme dedication for over thirty-six years as City Clerk, Interim City Manager and ultimately as Mayor; and,

WHEREAS, it is befitting the memory of such a distinguished individual to permanently and perpetually remember the contributions for which Opal C. Hahn offered to the City and the legacy which remains from her time shared with our fine community; and,

WHEREAS, to accord such remembrance, on June 20, 1988 the Brevard City Council designated March 29th of each year to remember Mayor Opal C. Hahn.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA:

Section 1. In memory and honor of Mayor Opal C. Hahn, it is hereby declared and proclaimed that March 29, 2011 be known as "OPAL C. HAHN DAY" within the City of Brevard.

Section 2. The City Clerk of the City of Brevard is hereby authorized and directed to record this Resolution within her official records.

Section 3. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 21st day of March, 2011.

Consent Item #4 – **Ordinance No. 06-2011** Establishing a Project Budget for the South Broad Street Storm Water and Public Sewerage Relocation Project – A Collaborative Effort with the Unitarian Universalists of Transylvania County.

ORDINANCE NO. 06-2011

AN ORDINANCE ESTABLISHING A PROJECT BUDGET FOR THE SOUTH BROAD STREET STORMWATER AND PUBLIC SEWERAGE RELOCATION PROJECT: A COLLABORATIVE EFFORT WITH THE UNITARIAN UNIVERSALISTS OF TRANSYLVANIA COUNTY

WHEREAS, in accordance with the applicable provisions of the North Carolina Local Government Budget and Contract Act; and,

WHEREAS the City of Brevard requires certain fiscal actions to effectively provide continued and improved service to its customers; and

WHEREAS, the City of Brevard and the Unitarian Universalists of Transylvania County desire to enter into a financial agreement between the two parties to relocate and reinstall public utility infrastructure on the property of the Unitarian Universalists of Transylvania County; specifically: sewerage and storm water infrastructure, and

WHEREAS, Brevard City Council now desires to establish a project budget to account for the receipt and disbursement of funds for the project, hereafter referred to as the "South Broad Street Stormwater and Sewer Relocation Project,"

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA, THAT:

Section 1. Revenues for this project are budgeted as follows:

REVENUES	
Contribution from the Unitarian Universalists of Transylvania County	$11,682
Transfer from Capital Reserve	$61,786
TOTAL REVENUES	$73,468

Section 2. Projected expenditures are budgeted as follows:

EXPENDITURES	
Easement Acquisition	$4,000
Construction (sewer)	$39,100
Engineering-Sewer (construction oversight, closeout documentation, certification of "as-builts"	$3,500
City Force labor construction (stormwater)	$26,868
TOTAL EXPENDITURES	$73,468

Section 3. Monetary outlay from Capital Reserve less the force labor stormwater construction and easement acquisition expenditures shall be due to the City of Brevard by the Unitarian Universalists of Transylvania County as set forth in a dedication agreement between the City of Brevard and the Unitarian Universalists of Transylvania County. The City Manager is authorized to enter into this dedication agreement with the Unitarian Universalists of Transylvania County.

Section 4. This ordinance shall remain in effect until the completion of the South Broad Street Stormwater and Sewer relocation Project.

Section 5. The Finance Officer and City Manager are instructed to take appropriate actions to implement this ordinance.

Section 6. This Ordinance shall become effective upon its adoption and approval.

Adopted and approved this the 21st day of March, 2011.

Unfinished Business – Second Reading: **Ordinance No. 03-2011** Amending the City of Brevard Code of Ordinances, Unified Development Ordinance Chapters 2 and 3, to Allow Kennels within Neighborhood Mixed Use Zoning Districts by Special Use Permit.

Mr. McKeller moved, seconded by Mr. Locks, Ordinance No. 03-2011 be approved and adopted as presented.
Aye: Mr. McKeller, Mr. Locks, Mr. Morrow
Nay: Mr. Canady, Ms. Perkins
Motion carried by a 3/2 majority vote.

ORDINANCE NO. 03-2011

AN ORDINANCE AMENDING THE CITY OF BREVARD CODE OF ORDINANCES UNIFIED DEVELOPMENT ORDINANCECHAPTERS 2 AND 3, TO ALLOW KENNELS WITHIN NEIGHBORHOOD MIXED USEZONING DISTRICTS BY SPECIAL USE PERMIT

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended a number of text amendments to the City of Brevard Unified development Ordinance; and

WHEREAS, after review and consideration of the proposed amendments, it is the desire of City Council to approve the amendments as recommended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 01. The City of Brevard Code of Ordinances, Unified Development Ordinance, Chapter 2. District Provisions, Section 2.2.B. Use Matrix, is hereby amended to allow "Kennels", as defined in Chapter 19 of the City of Brevard Unified Development Ordinance, within Neighborhood Mixed Use Zoning Districts upon issuance of a Special Use Permit as follows:

-CHAPTER 2, SECTION 2.2.B, EXCERPT-

BASE DISTRICT	**GR**	**RMX**	**NMX**	**DMX**	**CMX**	**IC**	**GI**
Kennels	—	—	SUP	—	PS	—	PS

SECTION 02. The City of Brevard Code of Ordinances, Unified Development Ordinance, Chapter 3. Additional Use Standards, Section 3.6 is hereby amended to read as follows:

-CHAPTER 3, SECTION 3.6, EXCERPT-

3.6 Kennels ~~(CMX, GI) *Permitted with Standards*~~ *(CMX, GI, Permitted with Standards; NMX, Permitted by Special Use Permit)*

The following standards shall apply to all private, public and commercial kennels, breeding facilities, and pet day care establishments.

A. Outside runs, holding pens, exercise areas or other open-air type enclosures and shelters shall be located at least 200 feet from any dwelling, other than that of the owner / operator, and at least 50 feet from adjoining property lines.

B. Kennels shall be located in the side or rear yard area of any principal structure on the same parcel of land.

C. Kennels shall be designed to effectively buffer all noise audible to surrounding properties.

D. All kennels shall be surrounded by fence, wall, earthen berm, or Type B buffer yard.

1. Within NMX districts, all holding pens and runs shall be indoors, within an entirely enclosed structure. The approving authority may permit one outdoor exercise area; provided, however, that animals shall not utilize outdoor exercise areas between the hours of sun set and sun rise as set forth in the most recent Sunrise-Sunset Table as published by the North Carolina Wildlife Resources Commission.

2. Within NMX districts, the barking of dogs and other noises associated with the care and sheltering of animals that originate from within a kennel structure shall not be audible from the exterior of such kennel structure, and solid walls and ceilings, noise-cancelling materials, noise-cancelling electronic devices and other noise-cancelling practices and technologies shall be utilized as necessary and appropriate to achieve this requirement. The approving authority may require the operator to provide documentation and certification that a proposed new or expanding kennel will comply with this requirement.

E. A waste management plan that demonstrates compliance with applicable State and local regulations and which ensures sanitary handling of animal waste and prevents contamination or pollution of adjacent lands or water bodies shall be submitted to and approved by the Administrator prior to establishment of such uses.

F. Kennels shall at all times adhere to all other applicable State and local regulations.

G. Kennels shall at all times maintain a sanitary and humane environment.

H. The approving authority may impose additional conditions upon the operation of any kennel, including but not limited to hours of operation, the size and scale of a kennel, or the number of animals to be housed within a kennel.

I. The Administrator shall conduct an annual inspection of all Kennels and shall report any violation to the approving authority. After reviewing the findings of the Administrator and upon conclusion of the kennel operator's due process procedures as set forth in Chapters 16 and 18 of this Ordinance, the approving authority may revoke permits for the operation of any kennel that has been found to be in violation of this Ordinance.

SECTION 03. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Chapter 18 of the City of Brevard Unified Development Ordinance.

SECTION 04. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 05. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 06. The enactment of this ordinance shall in no way affect the running of any Amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.

SECTION 07. This ordinance shall be in full force and effect from and after the date of its adoption.

Approved and adopted this the 21th Day of March, 2011.

New Business

Item #1 (M-2) – Lease Agreement between the Transylvania Little League, Inc., and the City of Brevard for use of the Brevard Sports Complex.

Ms. Goldsmith presented the staff report (on file). Proposed lease between the Little League and the City would be for $1,500, renewed annually, with the City staff lining the fields during the week and the Little League lining the fields on the weekends. City's cost to maintain the fields last year was $95,000. For the past few years, Council has waived collecting the lease fees from the Little League.

Ms. Goldsmith suggested, as mentioned during the annual retreat, that Council consider scheduling a workshop meeting to discuss recreation.

Mr. McKeller asked if the lease contains "sub lease" provisions.

Ms. Goldsmith replied, "yes".

Mr. Locks asked why the City is proposing to have the lease renewed annually rather than for several years as has been the past practice.

Ms. Goldsmith replied annual renewal would allow review making sure the lease continues to meet the needs of both the community and the City.

Council members discussed among themselves, and in part with Mr. McCracken and Mr. Clark, concerns related to Little League having exclusive rights to the field when some thought that sub-leasing and/or consent for others to use the fields when they are not in use by the Little League was to be allowed; concerned law enforcement officials were recently dispatched because players (other than Little League players) were upon and using a field; briefly discussed pros and cons of an annual versus long-term lease; briefly discussed the "sub lease" provisions – some thinking the provision should allow the Travel Ball League to play, while others held that, as lease holders, that is a decision for the Little League Board to make; and, that much of tonight's conversation should be held between the Little League Board and the Travel Ball League, not Council.

Mr. Moore clarified what is before Council is to consider the lease agreement as drafted and presented, not to try and craft a lease agreement tonight.

Mr. Locks explained they just received the lease and questioned if Council should table the matter rather than proceed in the discussion.

Mr. Pratt explained the law pertaining to a long-term lease (5 to 10 year) calls for Public Notice requirements to be met and Council action. The one-year lease being recommended would allow Council to refer the matter to the City Manager. With the shorter term lease, Council would no longer review future leases. He noted the current lease will soon expire.

~~ At 8:54 Mayor Harris called for a brief recess; at 9:03 PM

Mayor Harris called for the meeting to continue. ~~

Mr. McKeller moved, seconded by Mr. Locks, to table further discussion and consideration of the lease until a report back from the City Manager is received, further directs the City Manager not take any eviction action until this matter has been reviewed, and that the current lease is to be extended on a month-to-month basis. Motion carried unanimously.

Item #2 (M-3) – **Resolution No. 07-2011** Exempting the City of Brevard from the Requirements of Section 143-64-31 of the NC General Statutes with Respect to the Preparation of Construction Drawings for West Main Street.

Ms. Lutz-Pietersen presented the staff report (on file). The West Main Streetscape Improvement Project is a part of the overall downtown master plan project adopted in the Downtown Master Plan (DMP). The project will include streetscape improvements, sidewalks within the existing right-of-way, bike racks, waste cans, lighting, bricks, etc., somewhat similar to the East Main and Gaston Street block where the Cilento Lindo Restaurant is located; however, a downscale version that will be appropriate for the residential portion of the project area. Funding will be from the City's Planning Department budget and Heart of Brevard funds. Budget Ordinance for this project was approved by Council in January 2011.

Mr. McKeller noted the project's area description needs to be corrected to read from Caldwell Street to Mills Avenue, not to Rosenwald Lane.

Mr. Locks recommended Planning staff schedule a small area planning session with the neighbors to share with them what is proposed within the Plan.

Mr. Freeman replied staff already has plans to do so as they too desire the input from those citizens within the neighborhood.

Ms. Perkins asked why this phase of the Downtown Master Plan is proposed for implementation when other projects were identified as a higher priority by the Gateways Corridor and Downtown Committee.

Ms. Lutz-Pietersen explained the reason is twofold, (1) staff believes it is timely to do so with the possible improvements to City Hall, and, (2) the costs to do this phase portion of the DMP are less and is within available funds, unlike the phase for the block the County Courthouse is located which will cost considerably more.

Mr. Moore stated staff is seeking exemption from the NC Statute, the "Mini Brooks Act" allowing Planning staff to proceed with planning the project. If Council desires, staff can come back with a resolution changing the text from "West Main Street" to "Downtown Master Plan" if desired.

Mr. McKeller moved, seconded by Mr. Morrow, to approve the presented **Resolution No. 07-2011** with one minor amendment to change "Rosenwald Lane" to "Mills Avenue". Motion carried unanimously.

RESOLUTION NO. 07-2011

A RESOLUTION EXEMPTING THE CITY OF BREVARD FROM THE REQUIREMENTS OF SECTION 143-64.31 OF THE NORTH CAROLINA GENERAL STATUTES WITH RESPECT TO THE PREPARATION OF CONSTRUCTION DRAWINGS FOR WEST MAIN STREET

WHEREAS, N.C. General Statute Section 143-64.31 requires the initial selection of firms to perform architectural, engineering, and surveying and construction management services be made without regard to price; and,

WHEREAS, Section 143-64.32 of the General Statutes allows cities to exempt themselves from that requirement under certain circumstances; and,

WHEREAS, the City of Brevard proposes to enter into a contact for engineering services to prepare construction drawings for a construction project to rehabilitate West Main Street from Caldwell Street to Mills Avenue; and,

WHEREAS, the City of Brevard has identified a qualified, reputable, and capable engineering firm interested in providing engineering services for the preparation of said construction drawings; and,

WHEREAS, the City Council of the City of Brevard finds that negotiation with the identified engineering firm is necessary and expedient for the timely completion of the preparation of said construction drawings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brevard, North Carolina, that:

Section 1. The City of Brevard is hereby exempt from the provisions of N.C. General Statue, Section 143-64.31 "Mini-Brooks Act" to *allow overall project cost estimates to be provided as apart of the Request for Proposal process,* or *for the reasons stated in this Resolution*.

Section 2. This Resolution shall become effective upon adoption and approval.

Adopted and approved this the 21st day of March, 2011.

Item #3 (M-4) – Flower Box Program in Downtown.

Ms. Perkins stated that during public comment it was explained in order for businesses to be allowed to place the designed flower boxes upon the sidewalk along the face of the building, a text amendment to the City Code will be required which will take several months to accomplish. Trying to figure out how to have this beautification program happen while text amendment considerations can be considered. Questions to be answered: (1) Do we want a text amendment? (2) What do we need to do to allow flowers to be placed in the downtown?

Council members, staff and some business owners present discussed the time frame required for a text amendment; potential of utilizing the brick area to place flower boxes until the matter can be considered in greater detail for possible text amendment recommendation; flower boxes as designed are not "temporary"; and possible short-term solutions for placement such as use of hanging baskets, mounted upon wall when can be done in compliance with the Code, etc.

Mr. Moore shared the long-term question to be considered is, are the sidewalks for pubic conveyance or for merchandise? He further explained that a private initiated text amendment fee is $500; and when submitted staff places it as a priority as it's a citizen driven request. Council direction to staff to initiate a review for potential text amendment would require a few months out as staff is continuing to work on other projects already directed for them to do.

At the conclusion of the discussion, Mr. Moore summarized staff is asked to continue to negotiate with the Heart of Brevard on the matter and that Council is not directing staff to do a text amendment.

Item #4 (M-5, former K-4) – **Resolution No. 08-2011** Exempting the City of Brevard's Kings Creek Flow Study from the requirements of Section 143-64.31 of the NC General Statutes.

In response to Mr. Peters' request that the resolution's purpose be discussed, Mr. Moore explained the benefit of NCGS 143-64.31 wherein a community can seek architectural and engineering not only on qualifications but also allowing for costs to be considered.

Mr. Locks moved, seconded by Ms. Perkins, **Resolution No. 08-2011** be approved as presented. Motion carried unanimously.

RESOLUTION NO. 08-2011

A RESOLUTION EXEMPTING THE CITY OF BREVARD KING'S CREEK FLOW STUDY FROM THE REQUIREMENTS OF SECTION 143-64.31 OF THE NORTH CAROLINA GENERAL STATUTES

WHEREAS, N.C. General Statute 143-64.31 requires the initial selection of firms to perform architectural, engineering, and surveying services without regard to price; and

WHEREAS, the City of Brevard proposes to enter into a contract for engineering services to perform an Inflow and Infiltration assessment of the King's Creek basin; and

WHEREAS, the City of Brevard has identified a qualified, reputable, and capable engineering firm interested in providing engineering services for the Flow Study; and,

WHEREAS, the City Council for the City of Brevard finds that negotiation with the identified engineering firm is necessary and expedient for the timely completion of the Flow Study.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brevard, North Carolina that:

Section 1. The City of Brevard is hereby exempt from the provisions of N.C. General Statute 143-64.32 "Mini-Brooks Act" to *allow overall project cost estimates to be provided as part of the Request for Proposal process, or for the reasons stated in this Resolution.*

Section 2. This Resolution shall become effective upon adoption and approval.

Adopted and approved this the 21st day of March, 2011.

Remarks by Officials

Mayor Harris thanked County Commissioner Larry Chapman for attending tonight's meeting. Reminded members to prepare for the "Council vs Commissioners" American Red Cross fund-raiser bowling event scheduled for March 26th.

Commissioner Chapman invited Council and the public to come for the unveiling of the budget tomorrow night at the Rogow Room at 6:00 PM, and invited Council to the joint meeting with the Board of Education on March 29th.

Mr. Pratt stated he would like to meet with Council members for a closed session to discuss a personnel matter first (GS § 143-318.11. (a)(6), return to open session, and then go into a second closed session to discuss a potential litigation matter (GS § 143-318.11. (a)(3).

Closed Session - Upon motion by Mr. Morrow, seconded by Mr. Canady, and unanimously passed a closed session to discuss a personnel matter was called at 10:05 PM and to convene upon the clearing of Council Chambers. No one was authorized to remain with the City Attorney and Council members. City Attorney will prepare the closed session minutes.

At 10:45 PM, Council returned to Open Session. A motion to go into Closed Session to discuss a matter of potential litigation was made by Mr. McKeller, a second offered by Mr. Locks. The motion passed unanimously, and the Council went into closed session.

At 11:00 PM, Council returned to Open Session. Mr. Locks offered a motion to adjourn, and Mr. McKeller offered a second. The motion passed unanimously.

No official action was taken in closed session and Minutes of the Closed Session are authorized to be sealed.

Adjourn - There being no further business before Council, the Mayor announced that the meeting was adjourned at 11:00 PM.

Desiree D. Perry
City Clerk

Jimmy Harris
Mayor

Minutes Approved:
April 18, 2011