AGENDA
BREVARD CITY COUNCIL - REGULAR MEETING
Monday, June 17, 2024 - 5:30 PM
City Council Chambers

A. Welcome and Call to Order

B. Invocation

Pastor Dema Brishnikov, Destiny Church

C. Pledge of Allegiance

D. Certification of Quorum

E. Approval of Agenda

F. Approval of Minutes

1. April 12, 2024 Budget Workshop
2. June 3, 2024 Regular Meeting

G. Public Comments

H. Certificates / Awards / Recognition

1. Badge Pinning Ceremony - Chrystal Hibbs Promotion to Detective

I. Special Presentation(s)

J. Public Hearing(s)

1. Amendment to Traffic Schedule to Name and Establish Regulation for New City Street
2. Proposed Amendments to City of Brevard Code of Ordinances Chapters 1, 46, and 62 - Sidewalk Usage Policy
    a. Adoption of Proposed Amendments

K. Consent and Information

1. Tax Settlement Report - May, 2024

2. Resolution of Support re Visual Architectural Standards
3. End of Fiscal Year Budget Amendments
4. Establishing Facilities Improvements Capital Project
5. Council Rosenwald Community Advisory Board Minutes - March 21, 2024
6. Council Housing Committee Minutes - April 9, 2024
7. Council Finance, Human Resources & Citizen Appointment Committee Minutes - April 22, 2024
8. Council Public Works & Utilities Committee Meeting - May 1, 2024
9. Council Downtown Master Plan Committee Minutes - May 8, 2024

L. Unfinished Business

M. New Business

1. Approval of Purchasing Policy
2. Approval of Scope of Work for Wastewater Treatment Plant - KCI Associates of NC
3. Appointment to ABC Board

N. Remarks / Future Agenda Considerations

O. Closed Session(s)

P. Adjourn

Agenda Posted, Website, Sunshine List (June 13, 2024)
D. Hodsdon, City Clerk

To review Agenda materials, go to the City's website www.cityofbrevard.com. Select "Your Government" tab followed by "Agenda Packets" tab. Agenda packet materials are posted on Thursday afternoon prior to Council's Monday meeting.

MINUTES
BREVARD CITY COUNCIL
Budget Workshop
April 12, 2024

The Brevard City Council met for a Budget Workshop on Friday, April 12, 2024, at 8:30 a.m. in the Council Chambers at City Hall, with Mayor Maureen Copelof presiding.

Present - Mayor Maureen Copelof, Mayor Pro Tem Gary Daniel, Council Members Mac Morrow, Aaron Baker, Pamela Holder, and Lauren Wise

Staff Present –City Manager Wilson Hooper, City Clerk Denise Hodsdon, Assistant City Manager/Finance Director Dean Luebbe, Assistant to the City Manager Alex Shepherd, Planning Director Paul Ray, Human Resources Director Kelley Craig, Fire Chief Bobby Cooper, Public Works Director Wesley Shook, Water Treatment Plant ORC Dennis Richardson, Wastewater Treatment Plant ORC Emory Owen, and Community Center Director Tyree Griffin. Police Chief Tom Jordan joined via telephone.

Press – Jon Rich, Transylvania Times

H. **Welcome and Call to Order –** Mayor Copelof called the meeting to order at 8:30 a.m. and welcomed those present.

B. Certification of Quorum – City Clerk Denise Hodsdon certified a quorum present.

C. Approval of Agenda – Mr. Hooper noted that a closed session needed to be added to discuss a pending litigation matter. Mr. Wise moved, seconded by Ms. Holder to approve the agenda as amended. The motion carried unanimously.

D. Review Priorities

1. **Review Priorities** – The following priorities were identified at the February 29, 2024 Strategic Planning Retreat:

- Community safety
- Infrastructure investments
- Economic incentives
- Affordable housing
- Community partnerships & engagement
- Efficient, high-quality organization
- Connected transportation network

2. **Affirm Priorities -** Mr. Hooper noted that the budget has been built around the priorities set by Council at the Strategic Planning Retreat. He asked Council to affirm these priorities. There was consensus to affirm the priorities as listed.

E. General Fund (w/Sanitation)

- **Revenue Review –** Mr. Hooper reviewed General Fund projected revenue. Mr. Hooper is recommending the following changes to our revenue scheme:
    - Increase transfer from Water/Sewer Fund to General Fund from $525,000 to $661,000 to better reflect administration employees' time spent on water/sewer matters, including half of the cost of the new Assistant City Manager/City Engineer position

- Redirect revenue from paid parking kiosks into the General Fund in the amount of $100,000.
- Increases in Sanitation Revenues
    - Increase in refuse collection fee by $1/month from $20 to $21
    - Increase commercial dumpster fee from $20/month for 8 pickups to $100/month for 8 pickups plus $20 for each additional pickup
    - Increase commercial cardboard fee $1/month

- **General Fund Requests for Additional Funding** – Council reviewed the entire list of requests for additional funding. Mr. Hooper noted that most of these requests were submitted by staff, but they are in pursuit of Council's goals. He noted that Scenario 1 would fund all of these requests.

    a. **Notable Service Level Change (SLC) Requests** – Mr. Hooper explained that he wanted to discuss these separately because he thinks these can only be funded if we do so discreetly and in total.

    - **Three Additional Full-time Firefighters** in order to provide two full-time firefighters per shift. The County has declined to fund the additional expense so the City would have to absorb 100% of the cost. To do so would require a 2-cent increase in the tax rate and that is not included in this recommended budget.

    - **Stormwater Maintenance** – Mr. Hooper said he is proposing to establish a stormwater program to raise funds and use them for making improvements to our stormwater system. The proposal is for a $5/month flat fee on all property owners in FY25 and then develop a more equitable fee structure for future years, such as Black Mountain's tiered rating system based on the amount of a property's impervious surface. There was discussion that we need to establish a more equitable fee structure now for FY25, rather than a flat fee across the board.

- **Operating Units Line-Item Detail**

    a. **Governing Board** – Total recommended is $194,410. However, Mr. Hooper noted that this budget includes the Non-profit contributions, and we received more requests than we are able to fund, so this is an area where there will probably be some negotiation.
    b. **Administration** – Total recommended is $1,049,500.
    c. **Finance** – Total recommended is $967,200.
    d. **Planning** – Total recommended is $1,005,400.
    e. **Community Centers** – Total recommended is $155,700.
    f. **Police** – Total recommended is $4,109,600 and includes $125,000 for rent and expenses for the new facility at 132 Commerce Street, and $140,000 for 2 new police vehicles.
    g. **Public Works – Administration** – Total recommended is $626,000 and includes salary for the new Assistant City Manager/City Engineer position. That expense may be moved to the Administration budget.
    h. **Public Works – Buildings and Grounds** – Total recommended is $557,500.
    i. **Public Works – Garage** – Total recommended is $462,800.
    j. **Public Works – Sanitation** – Mr. Hooper is recommending that we fold Sanitation back into the General Fund, rather than as a separate enterprise fund. He noted that there are no significant changes in expenses, but there is an increase in revenue based on

the recommended fee increases. Total recommended is $1,157,600.

k. **Public Works – Streets Local** – Total recommended is $824,400.
l. **Public Works – Streets Powell Bill** – Total recommended is $243,000.
m. **Public Works – Recreation** – Total recommended is $287,900.
n. **Non-Departmental** – Total recommended is $1,484,740. This includes transfers to various other funds and debt service. Mr. Hooper noted that the recommended transfers do not include funding for the Multi-use Path Fund or the Downtown Master Plan Fund, and this would be discussed during the FY24 Supplemental Spending Plan.

- **Reserve Fund Summary** – Mr. Hooper reviewed a summary of current reserve fund balances.

- **Scenario 1 – Fully Fund All Requests with Millage Rate Increase** – Mr. Hooper said he didn't think this was a realistic scenario, but he included it anyway just to illustrate that we can't afford to fund all of the additional funding requests. This scenario would require a 27.5 cent tax rate increase.

- **Scenario 2 – Balance Budget w/Current Revenues** – Mr. Hooper explained that this scenario balances the budget with no changes to our revenue. It would cut pay adjustments for employees, it leaves a lot of our funding needs unfunded, gives our non-profits zero, cuts our housing allocation by ¾ of a penny, and sends nothing to Downtown or the trails.

- **Scenario 3 – Balance Budget with Manager's Proposed Revenue Enhancements** – Mr. Hooper explained that this scenario is a mix of unfunded, fully funded, and partially funded priorities and he believes this is what the budget will ultimately look like. It includes:

    - 3.25% COLA for employees
    - 4% contribution to 401K for all employees rather than the current match
    - Raise on-call pay from $.90/hour to $2/hour
    - Partially funds technology upgrades
    - Rent/utilities for 132 Commerce Street
    - Two police vehicles
    - Tracking software and investigation fund for Police Department
    - Vehicular wayfinding signage update
    - Plusurbia contract Phase 2
    - $100,000 in contributions to non-profits that help us accomplish our stated priorities. It was noted that some of the non-profits we have funded in the past, such as the Farmers Market and Rise & Shine, are not included and it could have a big impact to their budgets. There was considerable discussion of the non-profit requests. There was a proposal to reduce contributions to Pisgah SORBA and to Pisgah Conservancy by $2500 each to fund Rise & Shine's request for $5,000. There was consensus to continue discussion of the budget and try to find $10,000 for the Farmer's Market.
    - Partial funding for Housing at a "Penny and a half for housing"
    - No funding for Downtown Master Plan infrastructure projects, but use existing FY24 sidewalk "fee in lieu" proceeds to fix brick and concrete concerns identified in the HOB walkability study, as part of the FY24 Supplemental Spending Plan.
    - No funding for Estatoe Trail, but Mr. Hooper noted that with current funds work will continue with construction of Tannery North, a wayfinding study on merging the Estatoe and Ecusta Trail names and placing signage at appropriate spots, 30%

design of the Estatoe Trail from Main Street to MCJCCC, funding for trail betterments study needed to integrate the Asheville Hwy portion of the Ecusta Trail into downtown, and in exchange for construction of the Rosman Hwy crossing we will build the sidewalk from the terminus of our Tannery South trail to the gas station.

~~ Council took a 30-minute break for lunch at 12:00 p.m. ~~

F. Fire Department Fund

1. **Revenue Review –** A vast majority of the Fire Department's funding is a General Fund contribution and the remainder is from the County.

2. **Fire Fund Requests for Additional Funding –** The Department has requested funding for three additional full-time firefighters. Mr. Hooper reported that the County has only approved modest increases to current compensation and a few operational increases. They have said no to funding their share of the three new firefighters. If that goes forward it would be entirely underwritten by the General Fund.

3. **Operating Line-Item Detail** – Total recommended is $1,092,900.

G. Water/Sewer Fund

1. **Revenue Review –** Mr. Hooper said he is proposing two changes to our fees in order to start banking money for our wastewater treatment plant project. One is a 4% increase in the water and sewer consumption fees. The second is to establish a high-strength waste surcharge for commercial and institutional users to account for the treatment costs specifically attributable to the high-strength waste they produce.

2. **Water/Sewer Fund Requests for Additional Funding –** Mr. Hooper reviewed the additional funding requests. He noted that it includes adding a full-time utility maintenance position.

3. **Operating Units Line-Item Detail**

   a. **Water Treatment Plant –** Total recommended is $1,081,200.
   b. **Water Distribution –** Total recommended is $744,600.
   c. **Wastewater Treatment Plant –** Total recommended is $1,731,900.
   d. **Wastewater Collections –** Total recommended is $1,151,600.
   e. **Water/Sewer Non-Departmental –** Total recommended is $2,723,500.

4. **Water/Sewer Rate Discussion –** Mr. Hooper reviewed the proposed rates and examples for residential, commercial and industrial customers, including the applicable tiered high-strength waste surcharge.

H. FY24 Supplemental Spending Plan

1. **City Manger's Recommended FY24 Supplemental Spending Plan** Mr. Hooper explained that we can't afford to do everything in the FY25 budget, but he wants to be able to keep Council's priorities going. He is recommending that we dip into some of our reserve funds to pay for some of those items that can be met with one-time payments. His recommended FY24 Supplemental Spending Plan includes:

- City Hall Reconfiguration $ 40,000
- 132 Commerce Street upfits $100,000
- One-time paving supplement $100,000
- Fix brick/concrete concerns in HOB Walkability Study $ 40,000
- Phases 1 & 2 of Probart St. Traffic Calming $ 3,000
- Norton Creek Streambank Restoration Phase 2 $ 72,000
- Estatoe/Ecusta Trail Wayfinding Signage Study $ 50,000
- Estate Trail Main St. to MCJCC 30% design $ 20,000
- R5800 trail betterments study $ 75,000
- Rosman Hwy connecting sidewalks $ 21,000

There was discussion about spending the $100,000 for one-time paving on other items:

Mayor Copelof proposed using $30,000 to complete all of the Probart Street Traffic Calming and $25,000 for engineering for the picnic shelter at Silversteen Park.

Mr. Daniel said he would like to see the Farmers Market fully funded this year. There was some question regarding whether the funding request from the Farmers Market included a portion of their operating budget, which is not allowed. There was a suggestion to fund $10,000 to them in FY24 and $10,000 in FY25, with the caveat that staff will research to assure that it is within the funding guidelines set by the state. Ms. Holder said she would be willing to fund $10,000.

Mr. Baker said he doesn't want to move away from ongoing funding of the Estatoe Trail. He said he would rather split the $100,000 equally to the Multi-use Path Fund and Downtown Master Plan Fund and also find the money to fund the Farmers Market and Probart Street traffic calming.

Mr. Wise suggested dividing the $100,000 as follows: $30,000 for Probart Street; $5,000 for Rise & Shine; $20,000 for Farmers Market; $22,500 for Multi-use Path Fund; and $22,500 for Downtown Master Plan Fund.

a. **Alternatives to Manager's Recommended Supplemental Spending Plan Proposal re Trails** – It was decided to send this to the Parks, Trails & Recreation Committee for discussion/recommendation.

I. Straw Votes

1. **Review Adds and Deletes** – Mr. Hooper reviewed the proposals for add/deletes:

a. Divide the $100,000 one-time paving supplement - $20,000 for Farmers Market; $5,000 for Rise and Shine; $30,000 for Probart Street Traffic Calming; $22,500 for Multi-use Path Fund; and $22,500 for Downtown Master Plan
b. Divide the one-time paving supplement 50/50 between the Multi-use Path Fund and the Downtown Master Plan Fund
c. Take $25,000 from the one-time paving supplement and dedicating it to Silversteen picnic shelter design
d. Take $30,000 from the one-time paving supplement and use it fund Probart Street traffic calming
e. Delay hiring of engineer and use funds to pay for Probart Street
f. Use $10,000 from allocation for downtown planters and $10,000 from the paving supplement to fund Farmers Market
g. Reduce contributions to Pisgah SORBA and to Pisgah Conservancy by $2500 each to fund Rise & Shine's request for $5,000

2. **Conduct Straw Vote** –

   a. Vote to Reduce contributions to Pisgah SORBA and to Pisgah Conservancy by $2500 each to fund Rise & Shine's request for $5,000 – 5 yes; 1 recusal (Holder)
   b. Vote to use $100,000 from one-time paving supplement to fund $30,000 for Probart Street traffic calming; $20,000 for Farmers Market; $25,000 for Multi-use Path Fund; and $25,000 for Downtown Master Plan Fund – 5 yes; 1 no (Holder)

Following discussion, Council asked the manager to prepare his recommended budget to include the 2-cent property tax increase for firefighters, and to include a table showing what the tax increase and all other fee increases will look like for different sized households.

J. Closed Session – At 3:25 p.m. Mr. Baker moved, seconded by Mr. Wise to enter into closed session to discuss a pending litigation matter City of Brevard vs. Bauslaugh - Case No. 21-CVS-381 and to clear Council Chambers. The motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were City Manager Wilson Hooper, City Clerk Denise Hodsdon, Planning Director Paul Ray and Assistant Planning Director Aaron Bland.

Council Returned to Regular Session – at 3:58 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the minutes of the closed session are authorized to be sealed.

K. Adjourn – There being no further business, at 3:58 p.m. Ms. Holder moved, seconded by Mr. Baker, to adjourn the workshop. The motion carried unanimously.

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Maureen Copelof Mayor	Denise Hodsdon, CMC City Clerk

Minutes Approved: June 17, 2024

MINUTES
BREVARD CITY COUNCIL
Regular Meeting
June 3, 2024 – 5:30 PM

The Brevard City Council met in regular session on Monday, June 3, 2024, at 5:30 p.m. in the Council Chambers of City Hall with Mayor Copelof presiding.

Present – Mayor Maureen Copelof, Mayor Pro Tem Gary Daniel, and Council Members Mac Morrow, Aaron Baker, Pamela Holder, and Lauren Wise

Staff Present – City Attorney Mack McKeller, City Manager Wilson Hooper, City Clerk Denise Hodsdon, Assistant City Manager/Finance Director Dean Luebbe, Assistant to the City Manager Alex Shepherd, Planning Director Paul Ray, Assistant Planning Director Aaron Bland, Senior Planner Emily Brewer, Planner Stephanie Holland, Human Resources Director Kelley Craig, Communications Coordinator Becky McCann, Police Captain Aaron Thompson, Fire Chief Bobby Cooper, Public Works Supervisor Cliff Justus, Wastewater Treatment Plant ORC Emory Owen, Water Treatment Plant ORC Dennis Richardson, and Community Center Director Tyree Griffin

Guests/Presenters – Juan Mullerat and Dylan Gehring, Plusurbia

Press – Jon Rich, Transylvania Times

A. Welcome and Call to Order – Mayor Copelof called the meeting to order and welcomed those present.

B. Invocation – Reverend Elizabeth Roles of St. Phillips Episcopal Church offered an invocation.

C. Pledge of Allegiance – Mayor Copelof led the pledge of allegiance.

D. Certification of Quorum – City Clerk Denise Hodsdon certified that a quorum was present.

E. Approval of Agenda – Mr. Daniel recommended moving Item L-1 Personnel Policy Revisions and Item L-3 Ordinance-Voluntary Contiguous Annexation-Pisgah Hospitality to the Consent Agenda. He also asked to remove Item K-3 Bracken Preserve Maintenance Agreement with Pisgah Area SORBA from the Consent Agenda and add it to the discussion of Non-Profit Contributions in the Budget. Mr. Morrow moved, seconded by Mr. Wise to approve the agenda as amended. The motion carried unanimously.

F. Approval of Minutes

F-1. May 20, 2024 Regular Meeting – Mr. Baker moved, seconded by Ms. Holder to approve the minutes of the May 20, 2024 Regular Meeting as presented. The motion carried unanimously.

G. Public Comments

Mary McKeller of 660 E. Main Street said I am here today as representation of Transylvania Young Progressives to show my unwavering support and thanks for the proclamation designating June as Pride Month here for the City of Brevard. Recognizing Pride Month is more than a symbolic gesture. It is an affirmation of our city's commitment to inclusivity, diversity and equality. By acknowledging and celebrating Pride Month, we honor the history, struggles and achievements of the LGBTQ+ community, both here in Brevard and beyond. The LGBTQ+ community has contributed immensely to the cultural and economic vitality of our city. From small business owners to educators, artists and healthcare providers, the LGBTQ+ individuals are integral to the fabric of our community. Recognizing Pride Month is an opportunity for us to show our appreciation and support for their contributions, ensuring that everyone in Brevard feels seen, heard, respected and valued. Furthermore, designating June as Pride Month aligns with a broader goal of fostering a welcome and inclusive environment for all residents and visitors. It sends a clear message that Brevard stands against discrimination and is committed to the principles of equality and human rights. This proclamation is not just about celebrating diversity. It is about ensuring that every individual, regardless of their sexual orientation or gender identity, can live openly and authentically without fear of prejudice or exclusion. In conclusion, I completely support the proclamation designating June as Pride Month for the City of Brevard. Thank you for recognizing the incredible contributions that the LGBTQ+ community has given and will continue to give to our great city.

Ashley Hart of 144 Buckberry Lane said my first visit here to the City Council was on May 20th, 2024 and it was to bring attention to the fact that there was a pride event happening where there was no age restriction. My concerns were how participants would be dressed around the minors and how the behavior would be around while the minors were present. I am happy to report that none of this was an issue. I do, however, recommend to any child who does not want to participate to tell another adult or a safe person and you can do that by calling Hope for NC at 1-855-587-3463. With the remainder of my time, I would like to thank Emmet Casciato for his time served on the Board of Commissioners. However, with his seat being vacant, I would like to step up to fill his seat. I may not look like a county commissioner, but what I bring to the table is a youthful passionate energy, helpful hands and a love for Transylvania County. In addition to that, as a promise to the people here, if I am selected for his replacement, I myself would love to volunteer to do a lot of work on these projects at no additional cost. I also urge city council members, county commissioner members, and school board members to all take some time to volunteer. I hate to have to leave this speech, but now I'm headed to the school board meeting. It would be very accommodating to have city council meetings and school board meetings on different days for those who attend both.

James Carli said I also would like to express my support and enthusiasm and gratitude for the pending proclamation declaring June as Pride Month here in our beautiful mountain city. We all just took a Pledge of Allegiance where we pledged to uphold freedom and justice for all. A free society is one where individuals are free to pursue their full flourishing in peace and safety, free from fear of violence, oppression and persecution. Indeed, fear is the antithesis of liberty. By making this declaration you are telling many members of our community who have for far too long lived in fear that they need not live in fear any longer. You are telling our LGBTQIA+ and gender non-conforming citizens that they are also welcome here in our city. Thank you for making this proclamation. As a planning board member, your agenda item in support of the cottage court issues is very positive and encouraging pro-growth opportunity for the City of Brevard and I look forward to hearing and following up with your discussions on that issue as well, because that will allow for greater housing construction more easily at a lower cost to builders, and on net will help contribute a relative reduction in spiking home prices for all.

Cindy MacConnie said this is my first city council meeting and I am here because the Pride proclamation issue is very near and dear to my heart, so I just simply want to express my gratitude. Mr. Carli and Ms. McKeller have covered all the points beautifully so I will keep mine short and sweet. I am somebody who has family members and friends in the LGBTQ+ community so, I am delighted that Brevard is officially proclaiming June as Pride Month.

Tara McDonald said I have been a resident here for 18 years. There are going to be a lot of comments tonight about Pride Month, those of a religious nature and others of a biological nature. I'm a social scientist and a former campus minister so I am going to speak to both of those. The data from all scientific disciplines has long been in agreement that the phenomenon of gay, bi, non-binary, and trans humans has existed for as long as our species has and is in thousands of other species across the natural world besides ours. So, pretending that some segments of basic biology we disagree with don't exist is kind of like sticking our heads in the sand and it is sad to see some of our citizenry behave that way. I don't like mosquitoes much, but pretending they aren't God's creation too doesn't just magically make them go bye-bye. And in the case of gay and trans people, doing so only causes the highest suicide rates of any demographic except perhaps indigenous people. Others say this is the population from which groomers and pedophiles come and I would argue as a sociologist to show me that data because every single study ever conducted has found no evidence of that. The numbers of that are so incredibly rare as to be what's considered statistically insignificant. If you want to find groomers and pedophiles, look to your straight men. Look at fathers; they are the most likely; stepfathers, pastors, neighbors, trusted friends; and these are all the people that society is the most likely to defend when a victim is strong enough to come forward and we don't believe the victims; we believe the perpetrators. I think acknowledging the existence of gay people and trans people is one step toward protecting victims because it makes the education of the populus important. As to the religious piece, Paul spoke only against pederasty, the Greek phenomenon of having a tutor and tutee be in a sexual relationship. The group of men badgering Locke's house was a drunken group of straight men seeking only to gain grapes. So, the only relevant place in the Bible is Leviticus. If we want to ignore Jesus and imbibe the Levitican law, we'll give up our barbecue, our bacon, our cotton-poly clothes, we will not leave the house on our periods, and we will not plant our beans and taters in the same row. Thank so much for honoring God's creation, all of it, and honoring all of our citizenry. I have the greatest respect for that.

Olivia Tiner said I have lived in Brevard since I was 1½ years old. I have grown up here and my brother was also born and raised here. I want to thank the entire council for declaring June as Pride Month. As someone who is by myself and has lots of friends who are part of the LGBTQIA population, it is really heartening and exciting to see that, while so much on a national level is going against the progress that we've made, that somewhere in a small town in the south, we have a council that is willing to honor all of its people and make all of its constituents feel welcome. I am really proud that a council, where I am often the youngest person in the room when I come to these, and where most are past middle age, is still so willing to stay with the times and to honor the youth and how we are faring to bring up these issues and how we look upon it.

Rodney Locks of 187 S. Rice Street said, from personal experience, I know that you have some hard decisions to make. I urge you to seriously consider and in most cases take the advice of the City Manager and City Attorney, especially when it's not what you want to hear. In 2023 you made affordable housing your number one goal. This year 2024 affordable housing is your number four goal. Your own data shows the people who work here cannot afford to live in Brevard. However, they still want to live, work and raise their children and children's children right here and call Brevard and Transylvania County home. Some think this is a safe environment. You recognize that public safety is a major concern and you made public safety your top priority. You also made capital improvement to water treatment plant and economic vibrancy your second and third goals. Goals 1, 2 and 6 are all related to public safety. Goal 1 says ensure practical safety conditions that is adequate response time, road and traffic safety. Goal 2 says maintain existing public safety infrastructure – sidewalks and streets. Goal 6 says attract and retain high qualified staff, ensure adequate space and equipment for employees to do their job. Goal 1 also says cultivate a positive public perception and trust in the public safety offices. Implementing these goals will enhance public perception and trust in the city council. Your safety officials have given you their data and made their recommendation. In this budget you can now show continued commitment to affordable housing and show your commitment to the best public safety environment money can buy. The public wants to know what is city council going to do about public safety and affordable housing. Finally, you must do something new - that is work with all the elected officials to make the quality of life better for all the citizens you serve. We are an interconnected community with different roles but the same objectives.

David Warren of 36 Downing Park Court said Mayor Copelof, I voted for you and I also read your book "Discovering Germany: The Treasures of Beer, Castles, Food and Friends" published about 12 years ago. I remember how you related your impressions when you visited the town of Weinheim and saw the Schmalste Haus and Gerberbachviertel, the Tanners Quarter, and you ask how could anyone live in these tiny houses. Well, it sounds like you and the city council are now investigating that very question here in Brevard. When does the size get too small? Standards have already been set in the city's Unified Development Ordinance, but now it seems there's going to be amendments made. Who would these proposed amendments really affect? The answer seems obvious: primarily the poor. Those who live in spacious homes on large lots are demanding more density in the use of the land available here in Brevard. But, they're not really the ones who will be impacted by the amendments. I was here two weeks ago and heard several citizens come forward to this very microphone and plead with the city not to raise the city's property taxes. Their backs are already against the wall; they can hardly afford the taxes now, much less a 2-cent hike in the property tax. Of course that's 2-cents per $100 in the valuation of their property, or $20 if you're talking about $100,000 in value. It seems to me that to have a property tax that is 50 cents across the board for anyone at any economic level, on every $100,000 in value disproportionately affects those on the low end of the economic spectrum. For example, when it comes to federal income tax, if one's taxable income is $45,000 then you pay 11% of that as your federal tax; that's for a married couple filing jointly. If your taxable income is $95,000, then it's 12% for the tax. $100,000 jumps up to 22%; at $191,000 or thereabouts, the tax rate is 24%; at $365,000 of taxable income, it is now the rate of 32% in tax. Why is the city's property tax a flat 50 cents across the board for $100 in value? If we are really concerned about density, then shouldn't those whose property takes up more square footage pay a higher rate? Not just a higher amount, a higher rate in the property tax. It seems to me that the same property tax rate across the board disproportionately affects those who are on the other end of the economic spectrum from your city leaders. The same seems true of these proposed amendments, in my opinion, for the Unified Development Ordinance. These amendments really will not impact any of you, will they?

H. Certificates/Awards/Recognition

H-1. Oath of Office – Stephanie Holland, Planner – City Clerk Denise Hodsdon administered the Oath of Office to Planner Stephanie Holland who was accompanied by her husband and children.

City of Brevard, North Carolina
Oath of Office

State of North Carolina
County of Transylvania
City of Brevard

I, Stephanie Holland, do solemnly and sincerely swear that I will support the Constitution and laws of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution and laws of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; and that I will faithfully discharge the duties of my office as Planner for the City of Brevard, North Carolina, so help me God.

Oath Administered by: Denise Hodsdon, City Clerk s/Stephanie Holland

H-2. Proclamation No. 2024-14 Juneteenth – Mayor Copelof read the proclamation aloud and presented it to members of the Mary C. Jenkins Community Board of Directors.

PROCLAMATION NO. 2024-14
JUNETEENTH

WHEREAS, President Abraham Lincoln signed the Emancipation Proclamation on January 1, 1863, declaring the slaves in Confederate territory free, paving the way for the passing of the 13th Amendment which formally abolished slavery in the United States of America; and

WHEREAS, word about the signing of the Emancipation Proclamation was delayed some two and one-half years, to June 19, 1865, in reaching authorities and African Americans in the South and Southwestern United States; and

WHEREAS, Emancipation Day observations are held on different days in different states in the South and Southwest, and in other parts of the nation; and

WHEREAS, June 19th has a special meaning to African Americans, and is called "JUNETEENTH" combining the words June and Nineteenth, and has been celebrated by the African American community for over 150 years; and

WHEREAS, the annual Juneteenth celebration in the City of Brevard this year will be a weekend-long celebration taking place on June 15th and 16th at the Mary C. Jenkins Community & Cultural Center and Silversteen Park; and a film screening commemorating Juneteenth on June 19th at the Mary C. Jenkins Community & Cultural Center; and

WHEREAS, beginning this year Juneteenth is an official City of Brevard holiday and City offices will be closed on June 19th.

NOW, THEREFORE, I, Maureen Copelof, Mayor of the City of Brevard, North Carolina, do hereby declare June 19th, 2024, as JUNETEENTH in the City of Brevard, North Carolina, and urge all citizens to become more aware of the significance of this celebration in African American History and in the heritage of our nation and City.

Proclaimed this the 3rdth day of June, 2024.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

H-3. Proclamation No. 2024-15 Pride Month – Mayor Copelof read the proclamation aloud.

PROCLAMATION NO. 2024-15
LGBTQIA+ Pride Month

WHEREAS, the City of Brevard is committed to promoting equality, diversity, and inclusivity for all its residents; and

WHEREAS, the LGBTQIA+ community has made significant contributions to the social, cultural, and economic fabric of the City; and

WHEREAS, June is widely recognized as LGBTQIA+ Pride Month, commemorating the Stonewall Uprising in 1969, which marked a pivotal moment in the fight for LGBTQIA+ rights and liberation; and

WHEREAS, Pride Month serves as an opportunity to honor the LGBTQIA+ community, celebrate their achievements, and raise awareness about the challenges they continue to face; and

WHEREAS, the community needs to foster an environment of understanding, acceptance, and support for all individuals, regardless of sexual orientation or gender identity; and

WHEREAS, the City of Brevard embraces and values the principles of equality, justice, and respect for all its residents.

NOW THEREFORE, I, Maureen Copelof, Mayor of the City of Brevard, do hereby proclaim the month of June as **LGBTQIA+ Pride Month**. I encourage all residents to engage in educational opportunities and events that promote understanding, respect, and acceptance of the LGBTQIA+ community, and express support for LGBTQIA+ individuals, their families, and allies, and acknowledge the ongoing work needed to achieve full equality and justice.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Brevard to be affixed on this 3rd day of June, 2024.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

I. Special Presentations

I-1. Plusurbia Presentation of Architectural Visual Guidelines – Paul Ray explained that the City has contracted with Plusurbia, Inc. to begin updating the City's architectural standards. Plusurbia and Staff have been working together researching Brevard's current and past architectural styles and envisioning our future vernacular through community engagement. Staff and the Plusurbia team held several design workshops and open houses, a downtown walking tour, launched a project website and created an online survey. Updating the city's architectural standards is a two-part process. The first is the creation of architectural visual guidelines, used for understanding and communicating what we want in terms of quality building design across years of development. He noted that these guidelines are found in a standalone document, the *City of Brevard Architectural Visual Guidelines*, which is a precursor to Brevard's new Architectural Standards in the UDO and offer much needed guidance in architecture and color schemes, especially in Character Areas (Downtown, the Lumberyard District, Pisgah Gateway, US-64 Corridor, and the Rosenwald Neighborhood). The second phase of the project is an actual codification of the design standards into the UDO, which will begin later this year. Once the UDO is amended the Visual Guideline book will act as a companion document helping Staff and design professionals speak the same language in architecture. He introduced Juan Mullerat of Plusurbia who presented the draft Architectural Visual Guidelines. A copy of the draft *City of Brevard Architectural Visual Guidelines* is on file in the Clerk's office and is also available for viewing on the City's website.

During Council comments/questions, Ms. Holder said one of the reasons I ran for Council was for us to work together as a community, and I just didn't feel that in this process. The Rosenwald Community I understand there were several meetings and we didn't know about the meetings. There was a meeting that was held a few weeks ago that for the first time we saw some of the presentation that you shared tonight. I would love to see the process where we would be more involved in totality as a community, where we can all come together and share our thoughts. I think you have some great ideas, but I'm feeling a little left out here. I would love to see where we can get into a process that would involve the community as a whole, regardless of where we live; if it involves Brevard and we are Brevardians, then we can come together as Brevardians and work together.

J. Public Hearing(s) – None.

K. Consent and Information - Consent Agenda items are considered routine and are enacted by one motion. Mayor Copelof read aloud the items listed and asked for a motion to approve the consent agenda. Mr. Morrow moved, seconded by Mr. Wise to approve the consent agenda. The motion carried unanimously.

K-1. Ordinance Declaring Road Closures for Special Event – 4th of July

ORDINANCE NO. 2024-20
AN ORDINANCE DECLARING A ROAD CLOSURE
FOR THE 2024 JULY FOURTH CELEBRATION

WHEREAS, Brevard City Council acknowledges a tradition of providing for festivals and special events downtown for the pleasure and enjoyment of citizens and visitors alike; and,

WHEREAS, Brevard City Council acknowledges that festivals and special events provide an opportunity for family-oriented activities that celebrate our small-town charm; and,

WHEREAS, Brevard City Council acknowledges these events require NCDOT system roads to be closed for setup, activities, and cleanup; and,

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

SECTION 1. Pursuant to authority granted by G.S. 20-169, the City of Brevard hereby declares the following temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

July 4th Celebration	
Date:	Thursday, July 4, 2024
Time:	**3**:00 PM – 10:00 PM
Route Description:	East Main Street (U.S. 276) from Broad Street to Gaston Street North Broad Street (U.S. 64/U.S. 276) from Main Street to French Broad Street

SECTION 2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this the 3rd day of June 2024.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

K-2. Property Tax Releases – May, 2024

RESOLUTION 2024-22
A RESOLUTION APPROVING PROPERTY TAX RELEASES

WHEREAS, The City of Brevard has previously determined to collect property taxes for the City of Brevard and the Heart of Brevard, and it is necessary to release the below shown amount from the city tax records.

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

The Tax Collector is hereby authorized to remove May 2024 property values from the tax scroll in the amount of:

2023: $ 970.83

Adopted and approved this the 3rd day of June, 2024.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

K-4. (L-1) Personnel Policy Revisions

RESOLUTION NO. 2024-24
A RESOLUTION AMENDING THE CITY OF BREVARD PERSONNEL POLICY

WHEREAS, the City of Brevard is a governmental entity employing many persons for the purpose of carrying out the operations of local government; and

WHEREAS, the rules, regulations, mandates, court interpretations and laws governing personnel administration have changed since the last amendment to the Personnel Policy on July 1, 2023; and

WHEREAS, to keep the Personnel Policy current with the revised rules, regulations, laws, etc., and to incorporate voluntary provisions for the employees of Brevard, those responsible for the maintenance of the policy recommend that the Personnel Policy dated July 1, 2023 be repealed and replaced with the updated Personnel Policy effective July 1, 2024.

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

Section 1. The Personnel Policy dated July 1, 2023 is repealed and the updated Personnel Policy will become effective July 1, 2024 as the official policy governing the appointment, classification, salary, benefits, and conditions of employment of the employees of the City of Brevard.

Section 2. This resolution shall become effective upon its adoption and approval on this the 3rd day of June, 2024.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

K-5. (L-3) Ordinance – Voluntary Contiguous Annexation – Pisgah Hospitality, LLC / Intersection of Lambs Creek Road and US Hwy 64

ORDINANCE NO. 2024-22
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF BREVARD, NORTH CAROLINA

WHEREAS, the Brevard City Council has been petitioned under G.S. 160A-31, as amended, to annex the contiguous area described herein, and,

WHEREAS, the City Council has by Resolution No. 2024-11 directed the City Clerk to investigate the sufficiency of said petition; and,

WHEREAS, the Brevard Planning Board reviewed the Petition at their meeting held on April 23, 2024 and recommended approval of the voluntary contiguous annexation; and,

WHEREAS, the City Clerk has certified the sufficiency of said petition (relying on the opinion of the City Attorney) and the City Council adopted Resolution No. 2024-13 fixing a date of public hearing. By authority granted by G.S. 160A-31, a public hearing on the question of this annexation was held at the City Council Chambers at 5:30 P.M. on the 20th day of May, 2024, after due notice by publication on the 6th day of May, 2024; and

WHEREAS, the City Council does hereby find as a fact that the petition meets the requirements of G.S. 160A-31, as amended.

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

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, all of that property lying in Transylvania County, owned by Pisgah Hospitality, LLC, as shown and being a portion of that property described in the deeds recorded in Document Book 1050, Pages 151-153 and Document Book 1057, Pages 393-395, in the Transylvania County Register of Deeds and that certain plat provided by the Petitioners to be duly recorded upon annexation is hereby annexed and made a part of the City of Brevard as of the 3rd day of June, 2024.

Said property is more fully described as follows:

Location: Intersection of Lambs Creek Road and US Highway 64. Transylvania County Tax Property Identification Numbers 8597-01-8529-000; 8597-01-6950-000; 8597-02-9059-000; 8597-12-0348-000; and a portion of 8597-11-1969-000

Property Description:

Beginning on an unmarked point in the existing City of Brevard City Limits, being located in the North boundary line of the property of David Chak Chieu per Deed Book 115, Page 272 and as shown on a plat recorded in Plat File 9, Slide 787. Said point also being located N 74°17’02” W, 164.95’ from an iron rod set at the Northeast corner of the noted Chieu property. Thence running with the Chieu property line and with the existing City of Brevard City Limits two calls: N 74°17’06” W, 295.00’ and N 74°17’08” W, 5.19’ to existing 5/8” iron rod found. Thence running N 74°17’05” W, 83.83’ to an existing 3/4" iron pipe found at a fence corner. Thence running with the Eastern boundary of a 1’ wide greenway area per Plat File 11, Slides 900-902 and generally with an existing wire fence and existing City Limits for two calls: N 16°09’02” E, 183.78’ to an existing concrete monument found at a fence corner and N 17°55’07” W, 446.31’ to an existing concrete monument found at a fence corner. Thence leaving the existing City Limits boundary and running generally with an existing wire fence and with the Violet W. Whitmire property per Deed Book 695, Pages 643-647 two calls: N 25°05’36” E, 282.31’ to an existing 5/8” iron rod and N 25°05’36” E, 38.00’ to an unmarked point in the center of Lambs Creek Road, State Road No. 1359. Thence running with the center of Lambs Creek Road, S 36°07’48” E, 11.33’ to an unmarked point. Thence leaving Lambs Creek Road and running the with the boundary of Roy B. Davis, III per Deed Book 841, Pages 494-498 for three calls: N 11°43’35” E, 33.94’ to an existing 5/8” iron rod found, N 11°43’35” E, 4.71’ to a 62” poplar tree and N 11°43’35” E, 84.25’ to an unmarked point in the center of Lambs Creek, thence running down and with the center of Lambs Creek for three calls to unmarked points: S 25°51’42” E, 44.90’, S 22°20’06” W, 18.08’ and S 23°52’22” E, 60.27’. Thence running with the property of Barbara Merrell per Deed Book 107, Page 224 for four calls: N 80°39’49” E, 15.00’ to an iron rod set, N 80°39’49” E, 175.62’ to a 1/2" iron pipe found, N 27°39’49” E, 96.00’ to an unmarked point and N 27°39’49” E, 78.12’ to a concrete monument found. Thence running with the Enno F. Camenzind property per Deed Book 284, Page 511 for two calls: N 13°53’09” E, 186.82’ to a 1/2" iron pipe found and N 13°53’09” E, 32.18’ to a nail set in the center of Tanglewood Heights Road, State Road No. 1383. Thence generally running with the center of Tanglewood Heights Road, S 51°15’42” E, 25.52’ to a nail found and S 47°19’07” E, 41.28’ to nail found and S 48°58’57” E, 20.25’ to a spike found and still running generally with the center of Tanglewood Heights Road for thirteen calls to unmarked points: S 34°10’10” E, 23.70’ and S 36°14’47” E, 23.40’ and S 32°09’23” E, 24.62’ and S

28°56'00" E, 29.71' and S 23°02'47" E, 24.06' and S 20°28'58" E, 20.46' and S 17°46'17" E, 18.79' and S 14°15'17" E, 16.98' and S 10°23'40" E, 19.15' and S 07°30'45" E, 20.21' and S 04°57'52" E, 121.92' and S 07°12'49" E, 88.49' and S 07°12'49" E, 57.44' to an unmarked point in Tanglewood Heights Road in the City of Brevard City Limits and then running with the City Limits boundary on a curve running in a Southwestern direction with a radius of 1,495' and an arc length of 918.81' with a cord bearing and cord distance of S 16°10'08" W, 904.42' to the unmarked point at the Point of Beginning. Containing 12.23 acres +/- and as shown on a plat recorded in Plat File 22 at Slide 295. Being a portion of the property owned by: PISGAH HOSPITALITY, LLC, a South Carolina limited liability company per Document Book 1050, Pages 151-153 and Document Book 1057 Pages 6-8 and Document Book 1057, Pages 393-395.

Section 2. Upon and after the 3rd day of June, 2024 the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Brevard and shall be entitled to the same privileges and benefits as other parts of the City of Brevard. Said territory shall be subject to the municipal taxes according to G.S. 160A-31.

Also being all of that property described in a plat prepared by E. Roger Raxter, PLS for Pisgah Hospitality, LLC, dated November 6, 2022 and recorded in Plat File ____________, Slide __________, of the Transylvania County Registry.

Section 3. Pursuant to 160A-29 it shall be the duty of the Mayor of the City of Brevard to cause an accurate map of the annexed territory as described in Section 1 hereof, together with a duly certified copy of this Ordinance, to be recorded in the office of the Register of Deeds of Transylvania County, North Carolina, and in the office of the Secretary of State at Raleigh, North Carolina. Such a map shall also be delivered to the Transylvania County Board of Elections as required by G.S. 163.288.1.

Section 4. Notice of adoption of this Ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the City of Brevard.

Adopted and approved this the 3rd day of June, 2024.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

~~ At 7:00 PM Mayor Copelof called for a ten-minute break ~~

L. Unfinished Business

L-2. Adoption of FY 2024-2025 Budget and Ordinance – Mr. Hooper explained that there were a couple of procedural nuances that Council had to follow with regard to the budget. He noted that Mr. Daniel added to that list of procedural nuances with his request to consider the SORBA agreement as part of the budget discussion. He referred to the list of Non-Profit Contributions and explained that state law requires that anyone who sits on the board of directors for a non-profit entity that receives grants or financial support from the local government must recuse themselves from the vote. The list of **Non-Profit Contributions** as listed on Page 34 of the Manager's Recommended Budget is as follows:

Chamber of Commerce	$ 4,000
Rise and Shine	$ 5,000
El Centro	$ 7,000
Heart of Brevard	$39,000
Sharing House	$10,000
Pisgah SORBA	$ 5,600
Pisgah Conservancy	$ 5,710
Transylvania Economic Alliance	$ 5,000

Mr. Baker serves on the board of Transylvania Economic Alliance and Ms. Holder serves on the board of Rise and Shine. Mr. Morrow moved, seconded by Mr. Wise to recuse Mr. Baker and Ms. Holder from discussion and vote of those appropriations. The motion carried.

Mr. Daniel moved, seconded by Mr. Wise to approve the Non-Profit Contributions as presented.

Discussion: Mr. Daniel said my concern is that SORBA is receiving these funds via a contract for services rendered. In the past we have made these non-profit contributions to be 1% of our total budget, but this year we actually didn't use this formula so it does not necessarily apply in this case. However, if and when we do return to the 1%, my feeling is that contractual payments such as this should not be included in this charitable ranking because it takes up money that could be more appropriately allocated to a charitable social service that we need to support in our community. Because it is a contract for services rendered, and I have also raised that same issue with the Heart of Brevard, these should be coming out of the General Fund in my opinion. I'm not saying that I don't want to spend the money, I do, but I don't think the money is coming from the right place and I would like that clarified in future budgets. Mr. Morrow agreed that in this case Pisgah SORBA is no longer a non-profit in the sense that they are providing a service. Mr. Wise also agreed.

Vote on the motion to approve the Non-Profit Contributions was 3-0. The motion carried.

(Item K-3) . Bracken Preserve Maintenance Agreement with Pisgah Area SORBA Mr. Hooper noted that the Parks, Trails and Recreation Committee has reviewed the agreement and recommends approval. Mr. Wise moved, seconded by Mr. Baker to approve the agreement with Pisgah Area SORBA. The motion carried unanimously.

RESOLUTION NO. 2024-23
RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH PISGAH AREA SOUTHERN OFF-ROAD BICYCLE ASSOCIATION FOR BRACKEN PRESERVE MAINTENANCE

WHEREAS, the City of Brevard is desirous to enhance the maintenance and upkeep of the trails and recreational areas at city-owned Bracken Preserve; and

WHEREAS, the Pisgah Area chapter of the Southern Off-Road Bicycle Association (PASORBA) is a non-profit organization dedicated to preserving outdoor opportunities by maintaining and improving trail systems in the Pisgah Ranger District and surrounding region; and

WHEREAS, PASORBA has offered to enter into an agreement with the City of Brevard to practice their maintenance and improvement activities to trails at Bracken Preserve; and

WHEREAS, PASORBA and the City's Parks, Trails & Recreation Committee have negotiated the terms of an agreement that each deem to be mutually beneficial; and

WHEREAS, the Parks, Trails & Recreation Committee endorsed the agreement attached hereto at its May 15, 2024 meeting.

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

Section 1. The terms of the agreement attached hereto and presented to the City Council at its June 3, 2024 meeting are hereby endorsed; and

Section 2. The City Manager or his designee is authorized to make minor adjustment as needed and execute this document on the City's behalf; and

Section 3. This resolution shall be effective upon adoption.

Adopted and approved this the 3rd day of June, 2024.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

Remainder of FY 2024-2025 Budget – Mr. Hooper suggested that any motion to adopt the budget include the recommended budget and any of the eight alternatives that Council wished to adopt.

Mr. Baker moved, seconded by Mr. Daniel to approve the Manager's Recommended Budget with Alternative 1 and Alternative 4.

Mayor Copelof explained that Alternative 1 was to maintain the current tax rate and Alternative 4 is to remove funding for two police vehicles and allocate those funds to the Downtown Master Plan and the Estatoe Trail and designate unobligated Fund Balance to purchase one police vehicle.

Discussion: Mr. Baker reiterated that he didn't think the tax increase was appropriate, given it was directly tied to the increase in the Fire Department personnel, until we address the long-term prospects of the contract with the County. He said I am a proponent of both the Multi-use Path Fund and the Downtown Master Plan as fulfilling the priorities and the vision that this Council and Councils before us have set. I also take this opportunity to correct some comments from public comment regarding the priorities that Council set at our Strategic Planning Retreat. As I understand them, we had eight priorities but they were not listed in our preferred order. I believe this Council still supports the Multi-use Path Fund and the goal of completing the Estatoe Trail and also continuing to fund the Downtown Master Plan, as we have made some improvements recently, but we know there is more to do to fulfill the master plan.

Mr. Daniel said as far as the tax increase goes, I feel that we do need to do this and it is an important goal that we need to have, but we have a particular relationship with the County that is a shared financial responsibility for our fire safety. I know that our Fire Chief has done extensive work on negotiating this, but I feel like it needs to go to the next level. I think that we need to hear a more definitive answer and if the County Commissioners are not going to do this, I want to hear them say that out loud because there is a responsibility that is shared for fire safety. Things have been happening with the Estatoe Trail and the Downtown Master Plan and I personally think when you're rolling, you don't hit the brakes. I would like to see us maintain the momentum that we've had on those projects by continuing to fund them.

Mr. Morrow said you've heard my comments about supporting the tax increase and the Fire Department, but what is wrong with taking Alternative 3 to remove funding for downtown planters and allocating those funds to Downtown Master Plan. Mr. Daniel said I think Alternatives 1 and 4 is the cleanest.

Ms. Holder said I like Alternative 1 that proposes that we maintain the current tax rate. I like Mr. Warren's suggestion maybe next year to study the progression of tax increases based on the property value. I would like to further propose, because one of the key items that we talked about is safety, that we purchase one police vehicle and use that $70,000 and use the $20,000 that Mr. Morrow just mentioned for the planters, and that could go towards a full-time firefighter. We would just need to find $5,000 more. Doing this would help us keep that number one goal of safety, and still talk to the County about adding fire staff members; we need that protection. And we need to know that we're covered prior to taking funds to build trails that will need security coverage and maintenance. If we can't do that, just purchase one vehicle and use $70,000 to go towards housing; or just buy the two vehicles. Going forward I would like to know more about the fleet of vehicles and what is the criteria to replace them, and do we need to each year. I certainly don't want to look at purchasing three next year just because we only purchased one this year.

Mr. Wise said I am also not in favor of the property tax increase for fire. I think there is a lot of negotiation to happen there. I do want to emphasize that the Ecusta Trail and Estatoe Trail are happening and they are going to bring a huge amount of development. We have not planned for that development and as we just saw with Plusurbia, if we don't plan for that we won't have control over it. Although we have funding for some of that, we don't have full funding for those projects. We have funding for construction, but we don't have full funding for everything there. I think it is really important we keep moving those projects forward because they are recreational trails, but more importantly they are engines for development in our communities and they are going to drive people here, drive housing, and drive businesses. We can't lose sight of that.

Mayor Copelof asked Mr. Baker if he wished to amend his motion based on discussion. Mr. Baker said he would leave the motion as is. Vote on the motion was 3 in favor (Baker, Daniel and Wise); 2 opposed (Morrow and Holder). The motion carried.

City of Brevard FY2024-2025 Budget Ordinance

Ordinance No. 2024-21

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

Section 1. It is estimated that the following revenues will be available to the General Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

REVENUES	BUDGET
AD VALOREM TAXES	$ 6,493,600
OTHER TAXES	2,546,850
UNRESTRICTED REVENUES	920,500
RESTRICTED INTERGOVERNMENTAL	271,200
SALES AND SERVICES	1,518,300
MISCELLANEOUS	1,284,805
FUND BALANCE APPROPRIATED	70,000
TOTAL	$ 13,105,255

Section 2. The following amounts are hereby appropriated in the General Fund for the operation of the City Government and its activities for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025 in accordance with the Chart of Accounts heretofore established for the City of Brevard:

EXPENDITURES	BUDGET
GOVERNING BODY	$ 194,410
ADMINISTRATIVE	1,049,500
FINANCE	917,200
PLANNING	1,005,400
COMMUNITY CENTER	155,700
BUILDING AND GROUNDS	557,500
POLICE	3,949,600
PUBLIC WORKS - ADMINISTRATION	626,000
PUBLIC WORKS - GARAGE	462,800
PUBLIC WORKS - STREETS - LOCAL	824,400
PUBLIC WORKS - STREETS - POWELL BILL	243,000
RECREATION	287,900
SANITATION	1,157,600
NON DEPARTMENTAL	1,674,245
TOTAL	$ 13,105,255

Section 3. It is estimated that the following revenues will be available to the Water and Sewer Utility Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

REVENUES	BUDGET
WATER BILLINGS	$ 3,450,500
SEWER BILLINGS	3,480,800
METER FEES	180,000
OTHER REVENUES	321,500
FUND BALANCE APPROPRIATED	-
TOTAL	$ 7,432,800

Section 4. The following amounts are hereby appropriated in the Water and Sewer Utility Fund for the operation of said utilities for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

EXPENDITURES	BUDGET
WATER TREATMENT	$ 1,081,200

WASTEWATER TREATMENT		1,731,900
WATER AND SEWER MAINTENANCE		1,896,200
NON DEPARTMENTAL		2,723,500
TOTAL	$	7,432,800

Section 5. The following revenues will be continued for the Capital Reserve Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

REVENUES		BUDGET
FUND BALANCE APPROPRIATED	$	-
SYSTEM DEVELOPMENT FEES		100,000
TOTAL	$	100,000

Section 6. The following expenditures will be continued for the Capital Reserve Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

EXPENDITURES		BUDGET
INCREASE IN FUND BALANCE		100,000
TOTAL	$	100,000

Section 7. It is estimated that the following revenues will be available to the Fire District Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

REVENUES		BUDGET
TRANSFER FROM GENERAL FUND	$	789,745
FIRE DISTRICT TAX		646,155
OTHER REVENUES		6,000
FUND BALANCE APPROPRIATED		-
LOAN PROCEEDS		1,550,000
TOTAL	$	2,991,900

Section 8. The following amounts are hereby appropriated in the Fire District Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

EXPENDITURES		BUDGET
PERSONNEL, OPERATING, CAPITAL, DEBT		2,991,900
TOTAL	$	2,991,900

Section 9. It is estimated that the following revenues will be available to the Stormwater Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

REVENUES		BUDGET
CHARGES FOR SERVICES		244,000
TOTAL	$	244,000

Section 10. The following amounts are hereby appropriated in the Stormwater Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

EXPENDITURES		BUDGET
OPERATING		244,000
TOTAL	$	244,000

Section 11. It is estimated that the following revenues will be available to the Bjerg Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

REVENUES		BUDGET
INTEREST ON INVESTMENTS		2,800
TOTAL	$	2,800

Section 12. The following amounts are hereby appropriated in the Bjerg Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

EXPENDITURES		BUDGET
INCREASE IN FUND BALANCE		2,800
TOTAL	$	2,800

Section 13. The following revenue amounts will be available in the Health Insurance Fund for Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

REVENUES		BUDGET
FUND BALANCE APPROPRIATED	$	129,900
TRANSFER FROM OTHER FUNDS		1,545,000
DENTAL DEPENDENT PREMIUMS		32,000
HEALTH DEPENDENT PREMIUMS		82,000
RETIREE PREMIUMS		44,000
TOTAL	$	1,832,900

Section 14. The following amounts are hereby appropriated in the Health Insurance Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

EXPENDITURES		BUDGET
HEALTH INSURANCE COSTS		1,832,900
TOTAL	$	1,832,900

Section 15. It is estimated that the following revenues will be available to the Heart of Brevard Municipal Service District Tax Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

REVENUES		BUDGET
SERVICE DISTRICT TAX - CURRENT AND PRIOR YEARS	$	160,000
TRANSFER FROM GENERAL FUND		11,000
TOTAL	$	171,000

Section 16. The following amounts are hereby appropriated in the Heart of Brevard Municipal Service District Tax Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

EXPENDITURES		BUDGET
CONTRACT SERVICES	$	160,000
TRANSFER TO DOWNTOWN MASTER PLAN		11,000
TOTAL	$	171,000

Section 17. It is estimated that the following revenues will be available to the Housing Trust Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

REVENUES		BUDGET
TRANSFER FROM GENERAL FUND	$	198,000
DEVELOPER LOAN PAYMENT		2,000
TOTAL	$	200,000

Section 18. The following amounts are hereby appropriated in the Housing Trust Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

EXPENDITURES		BUDGET
OPERATING	$	50,000
INCREASE IN FUND BALANCE		150,000
TOTAL	$	200,000

Section 19. The Revenues and Expenditures set forth in Section 1 through Section 18 of this Ordinance are hereby summarized as follows:

BUDGET APPROPRIATIONS		BUDGET
GENERAL FUND	$	13,105,255
STORMWATER FUND		244,000

WATER & SEWER FUND		**7,432,800**
FIRE DISTRICT FUND		**2,991,900**
CAPITAL RESERVE FUND		**100,000**
BJERG FUND		**2,800**
HEALTH INSURANCE RESERVE FUND		**1,832,900**
HEART OF BREVARD FUND		**171,000**
HOUSING TRUST FUND		**200,000**
TOTAL	**$**	**26,080,655**

Section 20. There is here hereby levied a tax at the rate of forty eight cents ($0.4800) per one hundred dollars ($100) valuation of property as listed for taxes as of January 1, 2024 for the purpose of raising the revenue listed as Taxes in the General Fund in Section 1 of this Ordinance. This rate is based on an estimated total valuation of property for the purposes of taxation of $1,350,000,000 and an estimated collection rate of 99.3%.

Section 21. There is hereby further levied a tax at the rate of $0.2130 cents per one hundred dollars ($100) valuation of property as listed for taxes as of January 1, 2024 within the boundaries of the Heart of Brevard Municipal Service District for the purpose of raising the revenue listed as Taxes in the Heart of Brevard Municipal Service District Tax Fund in Section 15 of this Ordinance. This rate is based on an estimated total valuation of property for the purposes of taxation of $71,000,000 and an estimated collection rate of 99.3%.

Section 22. There is hereby further attached (Exhibit A) to said Ordinance a schedule of taxes, fees, and charges for the General and Utility Funds.

Section 23. The Budget Officer shall be authorized to reallocate departmental appropriations among the various line item expenditures of that department, as said officer believes necessary. The Budget Officer shall be authorized to effect interdepartmental transfers, in the same fund, provided that no departmental budget shall be reduced by more than ten percent without the prior approval of the City Council. Any such transfers shall be reported to the City Council at its next regular meeting and shall be entered in the minutes.

Section 24. Copies of the Budget Ordinance shall be furnished to the Budget Officer and Finance Officer of the City to be kept on file by them for their direction in the collection and disbursement of funds. Said officials are hereby authorized to receive and expend funds as herein set forth in accordance with the Brevard City Code and the General Statutes of the State of North Carolina.

Adopted and approved this the 3rd day of June, 2024.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

L-2. Proposed Amendments to City of Brevard Unified Development Ordinance, Chapters 1, 2, 3, 4, 5, 6, 8, 9, 10, 12, 13, 14, 16, 17, and 19 – Group Developments and Subdivision Regulations – Emily Brewer recalled that Council held a public hearing on this item at the last meeting. She explained that the *Building Brevard 2030* Comprehensive Land Use Plan calls for "a development pattern that respects Brevard's sense of place and prioritizes livable communities." The Unified Development Ordinance establishes procedures and standards for the development and subdivision of land within its corporate limits and extra-territorial jurisdiction. This staff-initiated text amendment began as a comprehensive review of the City's subdivision regulations, which govern how a property may be divided in order to:

- Provide for the orderly growth and development of the City and its extra-territorial jurisdiction;
- Protect and enhance property ownership and land values;
- Maintain conditions essential to the public's health, safety, and general welfare;
- Facilitate adequate provision of public services; and
- Facilitate the further re-subdivision of larger tracts into smaller parcels of land for development.

During this process, Staff considered when the regulations should encourage subdivision of land and when subdivision wouldn't be necessary. The scope of this effort was expanded to examine development patterns, more generally, in the UDO. This includes revised group development regulations, where more than one principal structure is permitted on a property.

The major changes are as follows:

1. Establishment of a Group Development regulation section and establishing different types of group developments that have different permissions and standards.
2. New Missing Middle Housing Type – Cluster home development which allows for small lot residential development in a manner that organizes multiple dwellings around a common open space, designed as a cohesive whole and maintained in shared stewardship by residents.
3. Location of Off-Street Parking in Group Developments which will allow for denser development with more creative site design and/or more appropriate site design that accommodates topographic and logistical challenges.
4. Types of Subdivisions – revised definitions of exempt, minor and major subdivisions to clarify the processes and submittal requirements. Since the public hearing, Staff made one minor change in response to a Council member's concern about the potential for circumvention. The proposed amendments now include the caveat that developments creating interior lots for development (i.e., not environmental containment and conservation lots) are required to follow the same submittal / review process as major subdivisions. This change ensures the subdivision is subject to review by the Technical Review Committee and shared improvements are reviewed at this stage of the development process.
5. Variances to Subdivision Regulations – the proposed amendments separate the subdivision regulations from the zoning standards and establishes a new Chapter 4 [Lot and Subdivision Requirements] with limited variance authority.
6. Subdivision Approval Procedures – Clarifies the review process and amends the subdivision regulations to be entirely administrative with Staff as the approval authority for all subdivision decisions, and appeals being sent to the Board of Adjustment.
7. Minimum Lot Size to clarify the density requirements.
8. Private Roads for Subdivisions – clarifies what constitutes a public street, but also adds stipulations for when a private street may satisfy road frontage requirements for new lots in the ETJ.
9. Plat Requirements and Certifications have been updated to reflect NCGS and clarify the administrative review items.
10. Connectivity Index Requirements – removes the connectivity index measurements for new neighborhoods found in Section 9.2.

Mr. Morrow moved, seconded by Mr. Wise to adopt the amendments as written. The motion carried unanimously.

ORDINANCE NO. 2024-23
AN ORDINANCE AMENDING MULTIPLE CHAPTERS OF THE CITY OF BREVARD UNIFIED DEVELOPMENT ORDINANCE TO AMEND THE GROUP DEVELOPMENT AND SUBDIVISION REGULATIONS

WHEREAS, the City of Brevard Planning Board has recommended that the Brevard City Code, Unified Development Ordinance Chapter 1 – Purpose and Applicability; Chapter 2 – District Provisions; Chapter 3 – Use Definitions and Standards; Chapter 4 – General Lot and Structure Provisions; Chapter 5 – Building Types and Architectural Standards; Chapter 6 – Environmental Protection; Chapter 8 – Tree Protection and Landscaping; Chapter 9 – Circulation and Connectivity; Chapter 10 – Parking Standards; Chapter 12 – Signs; Chapter 13 – Infrastructure Improvement Requirements; Chapter 14 – Nonconformities; Chapter 16 – Administration; Chapter 17 – Development Plan Requirements; and Chapter 19 – Definitions be amended; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following elements of the City of Brevard Comprehensive Land Use Plan *Building Brevard 2030*:

<u>Goals</u>

- ***GOAL 2:*** *Encourage a* ***development pattern*** *that respects Brevard's sense of place and prioritizes* ***livable communities****.*
- ***GOAL 7:*** *Support economic vitality and* ***grow the tax base****, cultivate local businesses, and attract sustainable industry.*
- ***GOAL 8:*** *Plan* ***for efficient, equitable, and resilient infrastructure*** *and services that maintain and improve quality of life throughout the city.*

<u>Actions</u>

- ***LUH-4:*** *Identify areas across the city that are best positioned to accommodate future growth.*
- ***LUH-9****: Evaluate and amend development ordinances to facilitate infill development on vacant and underdeveloped parcels, as well as revitalization of developed parcels.*
- ***LUH-19****: Enhance communication of land use planning efforts, policy development, approvals and processes.*

WHEREAS, a public hearing was conducted on Monday, May 20, 2024, by the Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard Unified Development Ordinance be amended as outlined below.

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

SECTION 01. Brevard City Code, Unified Development Ordinance is hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 03. 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 04. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved this the 3rd day of June 2024.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

M. New Business

M-1. Authorize City Manager to Enter into Lease Agreement for 132 Commerce Street – Mr. Hooper explained the lease is still under negotiation, but the highlights are as follows:

- A five-year initial term with two optional two-year extensions.
- A regular monthly lease rate of $6,666.67 and a TICAM (taxes, insurance, common area maintenance) charge of $1,100/month.
- A 3% annual increase to the regular lease rate.
- Enumerated maintenance responsibilities for each party.
- Written exceptions to the building's condominium association requirements to accommodate the police department's unique needs.

He explained that the things we are still negotiating are special exceptions to the building's condominium association to accommodate our special needs as a Police Department, such as the landlord's access to the facility. He asked Council to authorize him to continue negotiating and finalize the terms of the lease and sign it on the City's behalf in order to begin the process of relocating the Police Department to their new facility. Mr. Daniel moved, seconded by Mr. Wise to authorize the City Manager to enter into the lease agreement. The motion carried unanimously.

RESOLUTION NO. 2024-25
RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A LONG-TERM LEASE AND OTHER RELATED DOCUMENTS FOR 132 COMMERCE STREET FOR NEW BREVARD POLICE DEPARTMENT HEADQUARTERS

WHEREAS, there is a need to relocate the Brevard Police Department from its current facility in the basement of City Hall; and

WHEREAS, the City has signed a short-term lease to temporarily relocate the Police Department to a facility located at 132 Commerce Street while investigating longer-term options; and

WHEREAS, Staff chose to focus their efforts on using the facility located at 132 Commerce Street as the longer-term solution and has engaged contractors to make upfits to the facility; and

WHEREAS, Staff has negotiated a longer-term lease with the owners of the 132 Commerce Street property.

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

Section 1. The City Manager is authorized to negotiate and execute a long-term Lease Agreement on behalf of the City of Brevard for the facility located at 132 Commerce Street for relocation of the Brevard Police Department, subject to final review and approval of the City Attorney.

Adopted and approved this the 3rd day of June, 2024.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

M-2. Burrell Mountain Water Tank Project Amendment and Funding Increase – Mr. Hooper pointed out that the money for this extra debt service of the 0% loan is already included in the budget. Mr. Morrow moved, seconded by Mr. Wise to approve the funding increase for the Burrell Mountain water tank project. The motion carried unanimously.

RESOLUTION NO. 2024-26
RESOLUTION BY CITY COUNCIL OF THE CITY OF BREVARD TO ACCEPT INCREASE IN LOAN FUND ON BURRELL MOUNTAIN WATER TANK

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects; and

WHEREAS, the City of Brevard has previously accepted $2,143,538 in principal forgiveness and $714,512 in State Revolving Loan for the construction of a new Water Tank on Burrell Mountain; and

WHEREAS, the Project expenditures have exceeded budgeted amounts, mainly due to unexpected change orders related to substandard soils, as highlighted by the engineer, Brown Consultants PA, at the August 21, 2023 City Council meeting; and

WHEREAS, the North Carolina Department of Environmental Quality has offered to increase the State Revolving Loan, from $714,512 to $947,597 to cover the change orders required for the construction of the Burrell Mountain Water Tank; and

WHEREAS, the City of Brevard has constructed said project in accordance with the approved plans and specifications.

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

1. That the City of Brevard does hereby accept the State Revolving Loan, offer of $947,597.

2. That the City of Brevard does hereby give assurance to the North Carolina Department of Environmental Quality that all items specified in the loan offer, Section II - Assurances will be adhered to.

3. That Dean Luebbe, Assistant City Manager and Finance Director, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and

to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted and approved this 3rd day of June, 2024.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

ORDINANCE NO. 2024-24
CAPITAL PROJECT ORDINANCE TO AMEND ORDINANCE NO. 2021-37 BURRELL MOUNTAIN WATER TANK PROJECT

BE IT ORDAINED by the City Council of the City of Brevard, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1: The budgeted expenditures and revenues listed under the ordinance 2021-37 will be increased from $2,915,211 to $3,165,211.

Section 2: The Project replaced a one million gallon water tank on Burrell Mountain that was over sixty years old. The Project was completed in December of 2023

Section 3: The Project exceeded budget, mainly due to the removal of large amounts of substandard soil that was not anticipated.

Section 3: The following amounts are appropriated for the project:

Account Number	Account Name	Budget Amount
31-8540-1000	Burrell Mountain Water Tank	$2,915,211
31-8540-1000	**Burrell Mountain Water Tank**	**$250,000**
TOTAL PROJECT APPROPRIATION		**$3,165,211**

Section 4: The following revenues are anticipated to be available for project expenses:

Account Number	Account Name	Budget Amount
31-3250-0000	Transfer from Water Fund	$57,161
31-3970-0420	NCDEQ Loan Forgiveness	$2,143,538
31-3970-0420	NCDEQ Debt Payable	$714,512
31-3970-0420	**NCDEQ Debt Payable**	**$233,085**
31-3970-0000	**Fund Balance Approp**	**$16,915**
TOTAL PROJECT REVENUE		**$3,165,211**

Section 5: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 6: Funds may be advanced from the General Fund or from any Enterprise Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 7: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 8: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 9: Copies of this capital project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 3rd day of June, 2024.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

M-3. Amendments to City Council Meeting Calendar – Staff recommended changes to City Council's meeting schedule as follows:

1. Addition of an Ecusta Trail Workshop on June 26, 2024
2. Cancel July 15, 2024 meeting
3. Amend location of August 19, 2024 meeting to MCJCCC

Mr. Morrow moved, seconded by Mr. Baker to approve the amendments to the City Council Meeting Calendar. The motion carried unanimously.

N. Remarks/Future Agenda Considerations.

Mr. Wise said I don't want to lose sight of the importance of our two proclamations we had this evening, both for Juneteenth and for Pride Month. I think these are fantastic for our city to show people that we are an all-inclusive caring community. I would argue that Juneteenth is one of the most important holidays our country has and it goes a little distance in fixing something that is so egregious it's hard to actually conceptualize. Pride Month hopefully begins to bring people into our community that have been marginalized for far too long for no reason at all. I think these are both really important and really joyous things to think about as we are kind of moving some difficult other issues happening in our community. They reemphasize the strength of our community and the importance of all the people here.

Ms. Holder said I want to say again how important I feel it is that we come together as a community. I don't want to belabor the point, but there was one meeting in Rosenwald, but there were several in the community. It would have been good for us to come together and I think this is an opportunity for us to explore that. We're not going to always agree, but at least we can come together and make the effort. Deep down, I think that we are all willing to do that; I certainly am. I would like to see this as an opportunity to move forward in a different way.

Mr. Morrow said ditto.

Mr. Daniel said I think that this meeting, and I would include the White Squirrel Festival, exemplifies the hard work that our staff does. It is reflected in several of these presentations and our budget as well. I would like to thank them for that.

Mr. Baker said this is the first meeting since the White Squirrel Festival and I want to thank Nicole and the Heart of Brevard. It felt like we were back to normal and even exceeded what was normal before Covid. By all accounts it was a great festival and very well organized. Saturday night was wild and it was incredible to see that many people on Main Street. Also, it was the first year that we had the Social District open during the festival and downtown did not burn down surprisingly. I was anticipating that based on earlier comments. It was a great event and I look forward to more in the future.

Attorney McKeller said I want to thank you folks sitting up here. It has become apparent over the last week or so that not all meetings are done or performed in such a genteel honest way. Sometimes you hear stuff during public comments that you don't necessarily like and that every fiber of your being wants you to jump over the table and take a swing at somebody. I just appreciate that you take public comment for what it is – taking input from the public and listening to what's being said by the constituents that put you up here. I want to thank you for doing that and I really appreciate it.

Mr. Hooper referred back to a comment that Mr. Warren and Ms. Holder made earlier about exploring the possibility of a differentiated property tax rate for different income levels. He said that is a meritorious idea, but unfortunately it is not legal in the state of North Carolina according to the State Constitution. Another nuance is that any exemption you make for property tax has to be made statewide and has to be set by the General Assembly. With that said, there is a movement afoot amongst county commissioners in the western and eastern counties of the state to get the General

Assembly to pass a different tax rate for second homes. And so communities like ours that have a lot of vacation homes and second homes that sit vacant most of the year, but still burden our services, would have to pay a different rate. It is the first time in a long time that notion has got some momentum. Our own County Manager Jaime Laughter is on the North Carolina Association of County Commissioners Legislative Committee and she is helping push this effort. Perhaps in sessions to come, we might have the ability to charge a different tax rate to second homes and that would benefit the tax base of our community greatly. Mr. Hooper added that our Public Works Director Wesley Shook welcomed his second grandchild today.

Mayor Copelof said I want to thank the staff and I want to thank the public for the budget that we now have. I appreciate all of the time, the effort, the comments, the people that came that made us think about it, and as you can see we have listened to a lot of the comments. That 2-cent tax increase did not go into the budget this year. I know how much work it took for the staff and I particularly want to thank our City Manager for all of the effort that went into the budget. I think this is a budget that is going to balance and allow us to go forward in the areas that we are so committed to moving forward on. About the White Squirrel Festival – for a little town of 8,000 and for our partner Heart of Brevard who has two full-time employees and one part-time employee to put on a 3-day festival that rivals any festival in a gigantic city is absolute amazing. You guys rock and you absolutely brought it home; that was the best White Squirrel Festival and this community has the best main street organization ever! Thank you. I am really proud today that we were able to recognize Juneteenth and Pride Month here in the city. Brevard is a very special place. Brevard has an incredible heart; we have an incredible welcoming nature and I hope that we all embrace that. I encourage you to come to our Juneteenth celebration on Saturday and Sunday June 15th and 16th. Please come and join us in fellowship, in community, in inclusion, and in learning more about what Juneteenth is about; about the past that we need to understand in order to be able to move forward.

O. Closed Session – None.

P. Adjourn – There being no further business, at 8:06 p.m. Mr. Morrow moved, seconded by Ms. Holder, to adjourn the meeting. The motion carried unanimously.

________________________	________________________
Maureen Copelof Mayor	Denise Hodsdon, CMC City Clerk

Minutes Approved: June 17, 2024

STAFF REPORT
City Council, Monday, June 17, 2024

Title:	Amendment to Traffic Schedule to Name and Establish Regulation for New City Street
Speaker:	Aaron Bland, Asst Planning Director
Prepared by:	Aaron Bland, Asst Planning Director
Approved by:	Wilson Hooper, City Manager

Background
Recently the City accepted the dedication of the access road off Deerlake Road behind the EnMarket gas station. Now that this is a city owned and maintained street, it must be named and have appropriate traffic regulations codified.

Discussion
The attached amendments to the Traffic Schedule will establish a name, speed limit, and no parking for the new city street. The speed limit is being set at 15 MPH with the entirety of the road designated as a no parking area. The requirement to stop before entering Deerlake Road will also be codified.

The biggest question before Council is establishing a name for the new street. City Code Section 62-169 establishes the following guidelines for the naming of roads:

A. Choose a unique name (Dogwood Lane and Dogwood Drive are considered to be duplicate names). Under no circumstances will duplicate road names be accepted.
B. To avoid confusion, do not select names that sound similar to other road names or subdivision names.
C. Use short names that are easier to understand when spoken and will be cost efficient when purchasing road signs. Choose names with fewer than 15 characters in total length, including spaces, but not including suffixes.
D. Avoid special characters such as hyphens, apostrophes, periods or decimals.
E. Do not use north, south, east or west.
F. Do not use numbers as part of a road name.
G. Do not select discriminatory names.
H. Names that have historical or geographical significance may be selected.
I. Select names of birds, fish, animals, plants, trees or flowers that are indigenous to the area.
J. When selecting a road name, choose two alternate names in case the primary name has already been selected or is already in use.

Most common native plants and animals found in the area already have roads named after them in the County’s E911 system. To avoid confusion, it is advisable to not duplicate these, even with slight variations, e.g. Poplar Street vs. Yellow Poplar Street.

For discussion purposes, Staff has compiled a list of possible names:

- Lambo Court – nearby creek that runs through the nearby Deerlake neighborhood
- Eldridge Court – former owner of the property
- Ironwood Court – colloquial name of a tree that is found nearby
- Catbrier Court – name of an understory plant that is found nearby
- Carolina Lily Court – the official state wildflower
- Brookie Court – the official state freshwater fish which is native to our local rivers

Policy Analysis
Ensuring motorist safety on all streets is harmonious with the goals of the Active Transportation & Community Health topic area, specifically to "enhance transportation network for all modes of travel."

Fiscal Impact
Minor costs of purchasing and installing new signage.

Action
For information and public hearing only. Staff will request action at the next City Council meeting.

Attachments:
1. Ord_2024-XX_New_Road_Traffic_Schedule_Amendments

ORDINANCE NO. 2024-XX

AN ORDINANCE ESTABLISHING TBD COURT
AND AMENDING THE BREVARD TRAFFIC SCHEDULE
AND BREVARD CITY CODE CHAPTER 66

WHEREAS, an unnamed street off of Deerlake Road was dedicated to the City on April 18, 2024 (Plat File 24, Slide 136); and

WHEREAS, following a public hearing held on June 17, 2024, the City of Brevard wishes to add this street and its pertinent regulations to the City of Brevard Traffic Schedule.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT THE TRAFFIC SCHEDULE AND THE BREVARD CITY CODE SHALL BE AMENDED AS FOLLOWS:

Section 1. The previously unnamed street located along Deerlake Road approximately 220 feet west of Asheville Highway is hereby named "TBD Court."

Section 2. Chapter 66, Schedule I, Section 66-122 of the Brevard City Code and the City's Traffic Schedule is hereby amended as described below:

a) Both sides of TBD Court in its entirety.

Section 3. Chapter 66, Article IV, Schedule XI, Section 66-72 of the Brevard City Code and the City's Traffic Schedule is hereby amended as described below:

a) Add Deerlake Road from TBD Court.

Section 4. Chapter 66, Schedule XVIII A, Section 66-87(6) of the Brevard City Code and the City's Traffic Schedule is hereby amended as described below:

a) Add TBD Court.

Section 5. The City Clerk of the City of Brevard is hereby authorized and directed to revise and amend the official records and the Brevard Traffic Schedule to reflect the change as set forth herein.

Section 6. The City Manager of the City of Brevard is hereby authorized and directed to cause the appropriate signs to be installed and enforcement of the foregoing provisions to be implemented.

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

Adopted and approved this 17th day of June 2024.

____
Maureen Copelof
Mayor

ATTEST:

____

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

____
Michael K. Pratt
City Attorney

STAFF REPORT
City Council, Monday, June 17, 2024

Title:	Proposed Amendments to City of Brevard Code of Ordinances Chapters 1, 46, and 62 - Sidewalk Usage Policy
Speaker:	Emily Brewer, AICP, Senior Planner
Prepared by:	Emily Brewer, Senior Planner
Approved by:	Wilson Hooper, City Manager, Paul Ray, Planning Director

Background
North Carolina General Statutes §160A-296 states that cities have general authority and regulatory authority over all public sidewalks within its corporate limits. It is the stated duty of a municipality to keep the public sidewalks "open for travel and free from unnecessary obstructions."

In 2020, the City permitted the usage of the sidewalk by businesses in response to the COVID-19 pandemic. The success of this program prompted the City to sign a Sidewalk Dining Agreement with NCDOT that allows the City to permit sidewalk dining areas on NCDOT rights-of-way. One of the provisions of this agreement is that the City must adopt a sidewalk dining ordinance that aligns with the terms of the agreement as NC General Statutes. Staff, in consultation with the Downtown Master Plan Committee, prepared comprehensive amendments to the City's sidewalk usage policies and added the required provisions to the Code. The amendment was adopted by City Council on January 19, 2021. Shortly thereafter, the City adopted the Downtown Master Plan with two of the primary objectives being to "enhance mobility, accessibility, and safety in Downtown" and "create an attractive and engaging pedestrian experience."

The City recently completed the Main Street improvements from the Downtown Master Plan, added new public amenities, and established a social district in Downtown. The steps made to improve the pedestrian experience prompted Staff to revisit the sidewalk usage ordinance.

The North Carolina League of Municipalities (NCLM), the City's insurance provider, advised Staff that, in order to be adequately covered, all items placed in the public rights-of-way need to be permitted with insurance naming the City as an additional insured and an executed hold harmless agreement. Additionally, the City needs to proactively monitor the sidewalk encroachments and take enforcement actions to remedy violations when necessary.

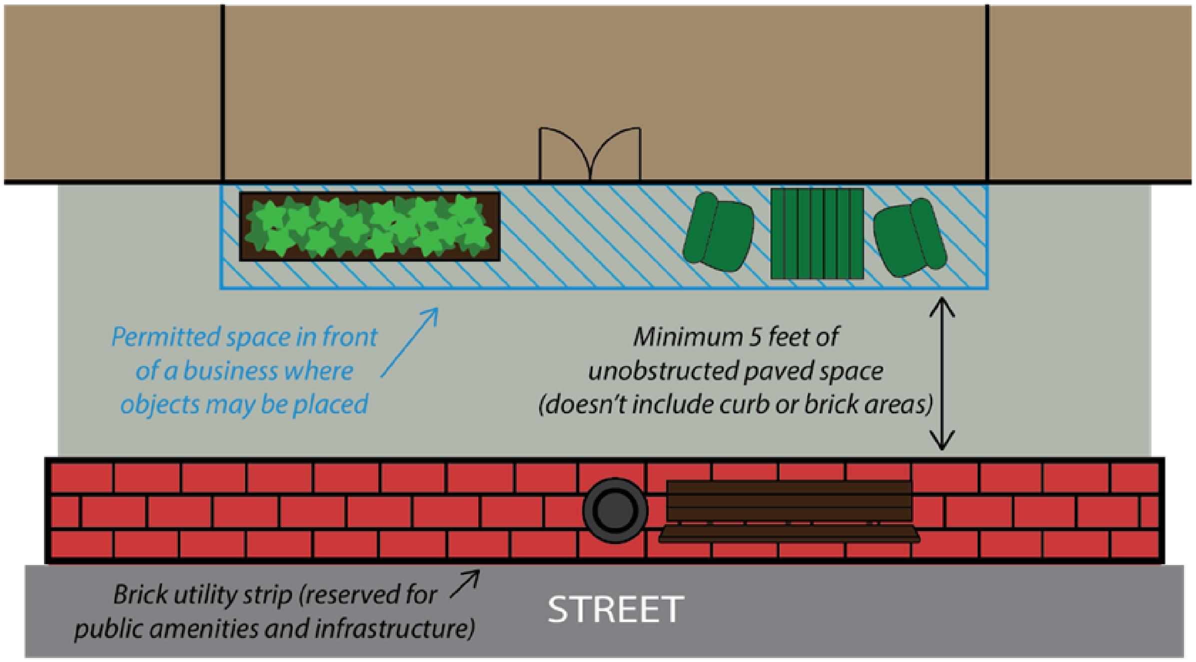
This is a staff-initiated text amendment to ensure that all items (e.g., merchandise, planters, furnishings) placed in City or State rights-of-way have insurance and meet the minimum separation requirements as set forth by State law. The proposed changes also aim to reduce the burden on business owners by making it a one-time permit.

Discussion
Below is a summary of the proposed changes and Staff's rationale.

<u>*Permitted Space for Obstructions on the Sidewalk*</u>:
The current regulations have different requirements for merchandise (*Section 46-1*) and permanent or semi-permanent objects that stay outside at all times (*Section 46-6*). The proposed amendments consolidate the regulations for placing obstructions on the sidewalk to *Section 62-1 – Placing objects on streets and sidewalks* and requires a business to secure a permit for a space in front of the establishment where objects may be placed. The new section requires the business owner to provide proof of insurance, a site plan that meets the setback requirements, and an executed encroachment / hold harmless agreement. This approach still allows merchants to place merchandise, furnishing or decorations while ensuring that the City is not liable, in accordance with NCLM's advice.

The setbacks and separation requirements align with those in North Carolina General Statutes §136-27.4 for sidewalk dining, which states that a minimum of five feet of unobstructed paved space of sidewalk remains clear for the passage of pedestrians. These are unchanged from the current regulations except that no objects may no longer be placed in the bricked utility strip. (Note that permitted A-frame signs and objects installed by the City or NCDOT may still be placed in the bricked utility strip).

In preparing these amendments, Staff prepared an updated Encroachment / Hold Harmless Agreement for the City and the business owner will sign to place objects in a permitted space. The new agreement removes the additional burden on the business owner to secure an annual permit but instead requires them to advise the City of any changes to the insurance policy. The agreement template, which is included as Attachment 3, has been reviewed by NCLM and the City Attorney.



Sidewalk Dining:
Sidewalk dining is governed by an agreement signed between the City of Brevard and NCDOT, which includes minimum requirements for permitting dining on the sidewalk. The minor changes include expanding the allowable furnishing materials and consolidating the setback requirements in the revised Section 62-1.

A-Frame Signs:
A-frame signs are regulated in the Unified Development Ordinance Chapter 12. No changes are proposed to these regulations at this time.

Policy Analysis
In recent years, the City of Brevard prioritized creating a safe and enjoyable, walkable environment.

- The Downtown Master Plan, adopted in 2021, two of the primary objectives being to "enhance mobility, accessibility, and safety in Downtown" and "create an attractive and engaging pedestrian experience."
- The *Building Brevard 2030* Comprehensive Land Use Plan, adopted in 2023, includes goals and actions related to safe pedestrian connections, including Goal #4: *Create a built environment that prioritizes a safe, active, multi-modal transportation system and community health and wellness.* More specifically, action item ATCH-11 calls for the prioritization of pedestrians Downtown.
- The Brevard Pedestrian and Bicycle Plan, adopted in 2023, had a stated goal of "creating safer conditions for walking and biking." Though it did not discuss sidewalk usage specifically, the Plan calls for improvements to pedestrian

accessibility and mobility city-wide, with many of the priority projects being concentrated in Downtown.

Downtown Master Plan Committee Review and Recommendation

These changes were first discussed by the Downtown Master Plan Committee in January 2024, and the Committee reviewed a full draft of the amendments on April 10th, May 8th, and June 11th. Ultimately, the Downtown Master Plan Committee unanimously recommended in favor of the amendments with some minor changes.

Action

Because these amendments directly impact the City's liability coverage, Staff is requesting a vote on these amendments following the public hearing. By voting on the matter tonight, Staff will immediately begin working on resolving the outstanding liability questions over the summer, instead of waiting for a vote at the next Council meeting in August.

Council has the following options:

1. Adopt the amendment as written;
2. Revise the amendment and adopt as revised by Council;
3. Reject the amendment; or
4. Table the amendment for further consideration.

Attachments:

1. Summary of Proposed Amendments by Type of Sidewalk Obstruction
2. Proposed Text Amendment - Strikethrough Version
3. Sidewalk Dining Agreement between Brevard and NCDOT
4. Encroachment and Hold Harmless Agreement Template
5. Draft Enacting Ordinance

Summary Table of Proposed Amendments by Type of Sidewalk Obstruction

<table>
<tr><th>Type of Sidewalk Obstruction</th><th>Current Regulations</th><th>Proposed Changes to Current Regulations</th></tr>
<tr><td>Merchandise</td><td>No permit or insurance required
Can be placed adjacent to wall or in the brick area
Must be removed at the end of the day</td><td rowspan="2">Permit, insurance, and hold harmless agreement required for <u>a space where obstructions can be placed</u>
Can be placed within the <u>permitted space</u> adjacent to the building
Cannot be in the brick area
Furnishings may remain outside after hours, but merchandise and stands must be removed</td></tr>
<tr><td>Permanent / Semi-permanent Objects</td><td>Permit, insurance, and hold harmless required <u>for specific items</u>
Can be placed adjacent to wall or in the brick area
Furnishings must be placed 6 ft from travel lanes</td></tr>
<tr><td>Sidewalk Dining</td><td>Permit, insurance, and hold harmless required
Furnishings must be placed 6 ft from travel lanes
Barricades / signage required if serving alcohol (unless participating in the Social District)
Furnishings must be metal</td><td>Furnishings must be metal or other similarly durable material
Furnishings may remain outside after hours</td></tr>
<tr><td>A-Frame Signs</td><td>Permit required
Dimensional standards for the sign
Can be placed abutting the wall or in the brick area
Must be removed at the end of the day</td><td>No changes proposed.</td></tr>
<tr><td colspan="3">*All objects must have 5ft of unobstructed sidewalk for pedestrians and cannot obstruct fire lanes, driveways, alleyways, building entrances, utility access, fire hydrants, ADA ramps, etc.</td></tr>
</table>

PART II: CODE OF ORDINANCES

CHAPTER 1. GENERAL PROVISIONS

1-2. Definitions and rules of construction.

Obstruction: An object that is placed on public streets, sidewalks, and alleyways. Such objects include but are not limited to displays, fixtures, inventory racks, display cases, planters, and seating. See also obstruction – permanent or semi-permanent.

Obstruction - ~~(~~permanent or semipermanent~~)~~: An obstruction or object that is kept out on public streets, sidewalks, and alleyways after business hours. Such objects include but are not limited to displays, fixtures, inventory racks, display cases, planters, vending machines, and seating. Also referred to as a semipermanent or permanent object.

Sidewalk dining: Serving food and beverages from a restaurant abutting a public right-of-way to customers seated in the public right-of-way.

CHAPTER 46. PEDDLERS AND SOLICITORS

ARTICLE I. IN GENERAL

46-1. Selling on streets and sidewalks.

~~A. *Permission for sidewalk merchandise.* Merchants lawfully conducting and operating a business from permanent physical business facilities which front on and abut a city sidewalk may display and sell goods, wares and merchandise from the sidewalk without need of application and approval from the city council; provided, however, that such merchandise, along with all racks, display cases and other accessories thereto, shall be removed from all public sidewalks at the end of every business day during which the same may have been displayed.~~

~~B. *Setback.*~~

~~1. On sidewalks at least 12 feet in width, excluding the curb, the maximum distance that the goods, wares or merchandise may be placed from the wall or front of the place of business shall be 36 inches.~~

~~2. On sidewalks at least seven feet in width, excluding the curb, the maximum distance shall be 24 inches.~~

~~3. On sidewalks less than seven feet in width, excluding the curb, no goods, wares or merchandise shall be placed on the sidewalks or streets.~~

~~4. On sidewalks that include a brick section adjacent to the curb, goods, wares and merchandise may be placed in the brick area as long as at least five feet of unobstructed concrete paved space, measured from any permanent or semi-permanent object, remains on the sidewalk or pedestrian way for the passage of pedestrians.~~

~~5. *Additional restrictions.* Notwithstanding the other provisions of this section, authority for merchants to sell from city sidewalks does not extend to city streets, and is limited to those sidewalk areas immediately abutting their own property. Further, the setback requirements of subsection 46-1.B shall apply to all obstructions of every description.~~

~~C. *Special events.* The city manager may waive the setback requirements for special events recognized by the city, such as the Brevard/Transylvania Festival of the Arts, but in no event shall any merchant be permitted to fully obstruct a city sidewalk.~~

~~D.~~A. ~~*Selling from streets and vehicles.*~~ It shall be unlawful for any vendor, or for any person whatsoever, to sell, barter, exchange or attempt to sell, barter, or exchange any goods, wares or merchandise from any city street, city sidewalk or pedestrian way, or from any vehicle except:

1. As may be authorized with respect to vending carts in CHAPTER 3 of the City of Brevard UNIFIED DEVELOPMENT ORDINANCE; or
2. As the prohibition may be waived by the approving authority for special events recognized by the city provided that the applicant satisfies all permit requirements of Section 66-13 and complies with Article I of CHAPTER 66 and other applicable provisions of this Code.

~~E.~~B. Merchandise or other obstructions may be placed on the sidewalk or pedestrian way pursuant to Section 62-1; provided no transactions occur outside of the business' legal premises.

46-6. ~~Placement of permanent and semipermanent obstructions.~~Reserved.

~~Except as authorized herein, it shall be unlawful to place permanent and semipermanent displays, fixtures, inventory racks, display cases, planters, vending machines and other obstructions of a permanent or semipermanent nature on city-maintained sidewalks, streets, or alleyways without first obtaining a permit from the city manager in accordance with the requirements of this article. As used in this section, the term city manager includes his or her authorized designee.~~

~~A. *Application.* Any business owner desiring to install a permanent or semipermanent obstruction shall prepare and file an application with the city manager which shall contain the following information:~~

~~1. The name, addresses, and telephone number of the business desiring to install the obstruction.~~
~~2. The name, address, and telephone number of the business owner.~~
~~3. A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the object, and the section to be kept clear for pedestrian and fire lane use, and depicting the proposed dimensions and placement on the sidewalk or pedestrian way.~~
~~4. A description and images, drawings or other illustrative graphics of the semipermanent or permanent obstruction(s) to be installed.~~
~~5. Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the permittee, the city, and NCDOT, if applicable, from all claims for damages to the property and bodily injury, including death, which may arise from placement of the object under or in connection with the permit. Such insurance shall name the city and, if applicable, NCDOT as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without advance written notice to the city. Such insurance shall afford minimum limits of $2,000,000.00 aggregate annually.~~
~~6. The business operator shall provide an agreement to indemnify and hold harmless the city and, if applicable, NCDOT from any claim resulting from placement of the permanent or semipermanent obstruction.~~
~~7. Additional information may be requested by the city manager or his designee in order to determine compliance with this section.~~

~~8. At the time the application is filed, the applicant shall pay the city a fee as set forth in the schedule of taxes, fees and charges.~~

~~B. *Standards for placement of permanent and semipermanent obstructions.* No permit for the placement of permanent and semipermanent obstructions may be issued unless the application is complete and the following standards are met:~~

~~1. The business seeking to place or install a semipermanent or permanent obstruction must abut and front on the sidewalk or pedestrian way.~~

~~2. The placement of the obstruction(s) as shown in the drawing submitted with the site plan must be done in such a manner that at least five feet of unobstructed space, excluding the curb, measured from any permanent or semi-permanent object, remains on the sidewalk or pedestrian way for the passage of pedestrians. In accordance with North Carolina Fire Code, no fire exits or lanes may be blocked and must remain clear at all times.~~

~~3. The objects shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilation areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.~~

~~4. The obstructions shall be allowed to remain in place until such time as the business establishment vacates the premises or until such time as replacement is warranted due to a deterioration of physical condition or appearance, whichever might first occur. At such time the business will reapply.~~

~~C. *Administrative review procedure.*~~

~~1. The administrator shall review and comment on the application and supporting materials.~~

~~2. If deemed necessary by the administrator, the application and supporting materials may be circulated to the Downtown Master Plan Committee and any other relevant city, county, and state agencies, committees, and officials for comment(s) as to the proposed obstruction's conformance to all applicable standards and requirements and whether approval is recommended.~~

~~3. The administrator shall approve, approve with conditions, or deny the application.~~

~~4. *Permit denial.* A permit may be denied if it is found that the application does not demonstrate compliance with this section and/or that the granting of the permit would not be in the public interest or would jeopardize public safety. Any applicant denied a permit to place a semipermanent or permanent object shall receive a written statement outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the board of adjustment (BOA) within 15 days after the certified receipt of the written denial, and the BOA may take such action as it shall find necessary.~~

~~D. *Permit revocation.* In the event the city manager, or his or her designee, determines good grounds exist for the revocation of a permit issued under this section, he or she shall provide the business owner written notice stating the violation; provided, that if, in the opinion of the administrator, police department, or fire department, the unlawful condition is such that is of imminent danger or peril to the public, the public services department may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property. The city manager, or his or her designee, shall give written notice to the business owner regarding a permit issued pursuant to this section if he or she finds that the business owner has:~~

~~1. Deliberately misrepresented or provide false information in the permit application.~~

~~2. Placed or moved the object in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare.~~

~~3. Placed or moved the object in violation of any city, county or state law, ordinance, or regulation.~~

~~Such notice shall direct that all violations existing thereupon be resolved within 15 days from the certified receipt of the such written notice. If the violation is not resolved within 15 days of receipt of the written warning, the city manager shall revoke the permit. The business operator may appeal any such order by filing a written notice of appeal with the city clerk within 15 days of receipt thereof. The board of adjustment (BOA) shall conduct a hearing on the appeal and render its decision thereon. Such notice of appeal shall stay the revocation of the permit by the city until a final determination by the BOA.~~

~~E. *Permit exemptions.* The following types of semipermanent and permanent obstructions shall not require a permit.~~

~~1. Holiday decorations placed in the space directly adjacent to the building as permitted in Section 46-1.B. Such decorations shall only be placed in the space directly adjacent to the building and not the brick section adjacent to the curb. Lighting shall comply with the City of Brevard Unified Development CHAPTER 11.~~

~~2. Objects owned, installed, and placed by the city, county, or NCDOT.~~

ARTICLE II. SIDEWALK DINING AREAS

46-34. Standards for sidewalk dining areas.

No permit for the operation of a sidewalk dining area may be issued unless the application is complete and the following standards are met:

A. The sidewalk dining area must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities, and other customer convenience facilities as the restaurant. The sidewalk dining must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business.

B. The operation of the sidewalk dining area must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk dining area may not be more than 50 percent of the interior seating capacity of the associated restaurant.

C. The restaurant seeking to operate the sidewalk dining area must abut, front on, and open onto the sidewalk or pedestrian way. Tables, chairs, and other furnishings may be placed on the sidewalk which fronts the business and on the sidewalk on the side of the business if located on a street corner. Furnishings and barricades may extend up to eight feet onto adjacent property frontage in either or both directions with the written permission (provided at the time of application) of the occupant of the adjacent property.

D. Tables, chairs and other furnishings shall be placed a minimum of six feet from any travel lane.

~~**E.**~~ The placement of tables, chairs and other furnishings as shown in the drawing submitted with the site plan must be done in such a manner that complies with Section 62-1. ~~at least five feet of unobstructed space, excluding the curb, measured from any permanent or semi-permanent object, remains on the sidewalk or pedestrian way for the passage of pedestrians. In accordance with North Carolina Fire Code, no fire exits or lanes may be blocked and must remain clear at all times. The pedestrian passage way may not be used for the display of merchandise or for signs.~~

~~**F.**~~**E.** ~~Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilation areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.~~

~~G.~~F. The tables, chairs and other furnishings used in the sidewalk dining area shall not be anchored and shall be made of a type of street furniture that is ~~easily~~ movable. Furnishings must be constructed of metal (aluminum, steel, wrought iron, etc.) or other non-combustible material of similar durability. Commercial umbrellas must be made with outdoor fabric and a metal or commercial grade plastic stand. Advertising messages may not be displayed from tables, chairs, umbrellas, or other furnishings.

~~H.~~G. Tables, chairs, and other furnishings that remain on the sidewalk at times when the business is not in operation shall be secured in a manner that allows clear access from the street, and umbrellas shall be taken inside.

~~I.~~H. Merchants with sidewalks dining are responsible for cleanliness and are subject to all applicable health department regulations.

~~J.~~I. Umbrellas over tables are permissible but must provide a clearance of a minimum of 78 inches from the lowest point of their canopy.

~~K.~~J. The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.

~~L.~~K. The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the city, its agents or employees, or by any other governmental entity or public entity.

CHAPTER 62. STREETS, SIDEWALKS AND OTHER PUBLIC WAYS

ARTICLE I. IN GENERAL

62-1. Placing objects on streets and sidewalks.

A. No ~~brick, stone or wood or other substance obstructing~~obstruction of any kind shall ~~the free passage of persons or vehicles shall~~ be placed or allowed to lie in any of the alleys, streets, sidewalks or other public ways of the city obstructing the free passage of persons or vehicles except as permitted by the provisions of ~~Subsection 62-1.C~~this subsection~~, nor, except as permitted in this chapter or by the provisions of Section 46-1, shall any person place or allow to lie on or in any of the streets, sidewalks, alleys or other public ways of the city any boxes, crates, casks or barrels of any description, or any other obstruction of any kind~~; provided, any person erecting a building may, with the permission of the city manager or his/her designee, place building materials for immediate use on the streets or sidewalks in such a way as to not unduly interfere with vehicular or pedestrian traffic.

B. ***Setbacks and separation requirements.*** Obstructions of any kind of public sidewalks or other pedestrian way closed to vehicular traffic shall adhere to the following setback requirements:

1. The placement of the obstructions shall be done in such a manner that at least five feet of unobstructed paved space of sidewalk, excluding the curb, bricked utility area, or any planting strip, measured from any permanent or semi-permanent object for the passage of pedestrians.
    a. On sidewalks at least twelve feet in width, excluding the curb, the maximum distance that the obstruction may be placed from the wall or front of the place of business shall be 36 inches.
    b. On sidewalks at least seven feet in width, excluding the curb, the maximum distance that the obstruction may be placed from the wall or front of the place of business shall be 24 inches.

c. On sidewalks less than seven feet in width, excluding the curb, no obstructions shall be placed on the sidewalks or streets.

d. Tables, chairs and other furnishings shall be placed a minimum of six feet from any travel lane.

2. In accordance with North Carolina Fire Code, no fire exits or lanes may be blocked and must remain clear at all times.

3. The placement of the obstructions shall not impede any driveway, alleyway, building entrance or exit, visibility sight distance triangle, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilation areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.

4. The obstructions shall not impede any public infrastructure or amenities, such as bicycle racks, benches, utility poles, trashcans or other similar objects.

5. Alleyways closed to vehicular traffic shall not be subject to the sidewalk setback requirements ~~as defined in Subsection 46-1.B,~~ so long as a minimum at least ~~36 inches~~ five feet of unobstructed travel way must remain open and clear.

C. *Permission for obstructions*. Businesses operating from a permanent physical facility desiring to place obstructions on the sidewalk adjacent to the premises may do so after obtaining a permit in accordance with the requirements of this section.

1. *Permitted space.* The permit shall be for the space on the sidewalk where the objects will be placed, provided that:

a. The business seeking to place obstructions must abut and front on the public sidewalk or pedestrian way, and the permitted space immediately abuts their business.

b. The permitted space complies with the setback and separation requirements of subsection 62-1.B.

2. *Allowable objects*. Within the permitted space, the permit holder may place merchandise, displays, planters, seating, furnishings, or other obstruction, provided that it does not extend beyond the permitted space, does not endanger public safety, and complies with the standards of this section.

a. The obstructions shall not be anchored or otherwise permanently affixed to the sidewalk or building, unless explicit authority is granted but the City and NCDOT, if applicable.

b. The administrator and/or the police department reserve the right to inspect the obstructions and remove hazardous materials.

c. Merchandise, along with all racks, display cases and other accessories thereto, shall be removed from all public sidewalks at the end of every business day during which the same may have been displayed.

d. Tables, chairs, and other furnishings may remain on the sidewalk at times when the business is not in operation so long as they are secured in a manner that allows clear access from the street.

e. Any lighted obstructions, including but not limited to holiday decorations, shall comply with CHAPTER 11 of the City of Brevard Unified Development Ordinance.

f. Signage may only be included as obstructions if permitted in accordance with CHAPTER 12 of the City of Brevard's Unified Development Ordinance.

g. No moving or other device to attract attention, including but not limited to pennants, flags, propellers, discs, or inflatables, whether or not any said device has a written message, shall not be allowed as obstructions.

3. *Application.* The business owner shall file an application with the administrator which shall contain the following information:

   a. The name, address, and telephone number of the business owner.

   b. A drawing or site plan showing the section of sidewalk or pedestrian way to be used, and the section to be kept clear for pedestrian and fire lane use, and depicting the proposed dimensions of the desired area on the sidewalk or pedestrian way.

   c. Descriptions and/or photos of the objects or the types of objects to be placed in the permitted space.

   d. Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the permittee, the city, and NCDOT, if applicable, from all claims for damages to the property and bodily injury, including death, which may arise from placement of obstructions under or in connection with the permit. Such insurance shall name the city and, if applicable, NCDOT as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without advance written notice to the city. Such insurance shall afford minimum limits of $2,000,000.00 aggregate annually.

   e. An agreement to indemnify and hold harmless the city and, if applicable, NCDOT from any claim resulting from placement of obstructions.

   f. Additional information that may be requested by the administrator in order to determine compliance with this section.

   g. A fee as set forth in the schedule of taxes, fees and charges.

4. *Administrative review procedure.*

   a. The administrator shall review and comment on the application and supporting materials.

   b. If deemed necessary by the administrator, the application and supporting materials may be circulated to the Downtown Master Plan Committee and any other relevant city, county, and state agencies, committees, and officials for comment(s) as to the proposed obstruction's conformance to all applicable standards and requirements and whether approval is recommended.

   c. The administrator shall approve, approve with conditions, or deny the application.

5. *Permit denial.* A permit may be denied if it is found that:

   a. The application does not demonstrate compliance with this section;

   b. The application is not consistent with adopted plans or policies of the city; and/or

   c. The granting of the permit would not be in the public interest or would jeopardize public safety.

6. *Obstructions placed in violation.*

   a. Obstructions placed in violation include, but are not limited to:

      1. Placed or moved obstructions in violation of any city, county or state law, ordinance, or other regulation.

2. Placed or moved obstructions in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare.
3. Violation of the approved permit, insurance requirements, or hold harmless agreement.

b. In the event the administrator determines an obstruction is placed in violation, he or she shall provide the business owner written notice stating the violation. Such notice shall direct that all violations existing thereupon be resolved within 15 days from the certified receipt of the such written notice.

1. The business operator may appeal any such order by filing a written notice of appeal with the city clerk within 30 days of receipt thereof. The board of adjustment (BOA) shall conduct a hearing on the appeal and render its decision thereon. Such notice of appeal shall stay the revocation of the permit and/or abatement by the city until a final determination by the BOA.
2. However, if, in the opinion of the administrator, police department, or fire department, the unlawful condition is such that is of imminent danger or peril to the public, the city may, without notice, proceed to abate, and the cost thereof shall be charged against the property.

c. Violations not resolved within 15 days from the certified receipt of the written notice shall be subject to the following:

1. City abatement and/or object removal with the cost thereof charged against the property;
2. Permit revocation; and /or
3. Civil penalties in accordance with North Carolina General Statutes or any executed encroachment agreements.

7. *Permit exemptions.* The following types of obstructions shall not require a permit.

a. Objects owned, installed, and placed by the city, county, NCDOT, or any other state or federal agency.
b. Temporary objects placed as part of a permitted special event, provided the setback and separation requirements of this section are met.

~~B.~~**D.** Any existing door which opens outward over a public sidewalk may remain in place so long as the building owner executes an agreement acknowledging that the door could present a safety hazard to pedestrians and holding the city harmless for any and all costs to the city, including attorney's fees, court costs and all damages suffered by any pedestrian claiming injury from such door, provided that (1) no such door shall occupy more than 24 inches of space over the public sidewalk and (2) the city manager reviews, approves and accepts the specific provisions contained in the hold harmless agreement. Should no such agreement be made within 30 days' notice to the building owner, then all doors on such building which open over the public sidewalk shall be removed by the building owner.

~~C. An elevated pedestrian boardwalk may be placed within the northeastern portion of south alley, subject to the following provisions:~~

~~1. Such boardwalk shall be handicapped accessible and compliant with all applicable provisions of the Americans with Disabilities Act, the North Carolina Accessibility Code, and the North Carolina Building Code.~~

~~2. Such boardwalk may be permitted at the discretion of the city manager, and may be removed at the discretion of the city manager.~~

~~3. Such boardwalk is a public way, and shall remain open to the general public at all times.~~

~~4. Such boardwalk may extend along the northeastern portion of south alley, and may extend in a southwestern direction for a distance not to exceed the length of the building located at 36 East Main Street.~~

~~5. Such boardwalk shall be constructed at the expense of one or more adjacent property owners and shall be warranted by the same for a period not less than three years; such warranty shall be provided in a manner that is approved by the city manager.~~

~~D.~~A. ~~Alleyways closed to vehicular traffic shall not be subject to the sidewalk setback requirements as defined in Subsection 46-1.B, as a minimum at least 36 inches of unobstructed travel way must remain open and clear.~~

62-2. ~~Newsracks~~Reserved.

~~Notwithstanding the provisions of Section 62-1, racks for the display of newspapers, magazines and other printed material may be placed on sidewalks or other exterior areas if specific locations do not interfere with parking and loading areas or pedestrian traffic, or otherwise create safety problems, subject to the provisions of Section 46-1.~~

NORTH CAROLINA

TRANSYLVANIA COUNTY

SIDEWALK DINING AGREEMENT

DATE: 8/11/2020

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

AND

CITY OF BREVARD

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department", and the City of Brevard hereinafter referred to as the "Municipality."

W I T N E S S E T H:

WHEREAS, the North Carolina General Assembly (NCGA) has enacted legislation to allow sidewalk dining (or the serving of food and beverage) on property within or adjacent to State right of way; and,

WHEREAS, this AGREEMENT is made under the authority granted to the Department by the NCGA including, but not limited to, the following applicable legislation: North Carolina General Statutes (NCGS), Section 136-18(9) and Section 136-27.4; and,

WHEREAS, this AGREEMENT is made in accordance with the most recent *Stewardship and Oversight Agreement on Project Assumption and Program Oversight*, executed between the Federal Highway Administration (NC Division) and the Department; and,

WHEREAS, this AGREEMENT outlines the Municipality's administrative rights and responsibility to enact a Sidewalk Dining Ordinance and issue Permits for such;

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

I. SIDEWALK DINING ORDINANCE AND PERMITS - CONDITIONS OF APPROVAL-

The Municipality is given approval to administer a sidewalk dining ordinance and issue approval of permits allowing such in State right-of-way in or near the vicinity of the Municipality under the condition that the Municipality meets the following criteria:

A. The Municipality shall enact an ordinance that meets the requirements of, but not necessarily limited to the requirements of the General Statutes of North Carolina (NCGS), Section 136-27.4.

B. The Municipality shall provide the Department a copy of the ordinance once enacted and shall provide the Department any updates to the ordinance.

C. The permit issued by the Municipality shall require the restaurant operator to provide evidence of adequate liability insurance in an amount satisfactory to the local government, but in no event in an amount less than the amount specified by the local government under G.S. 160A-485 as the limit of the local government's waiver of immunity or the amount of Tort Claim liability specified in G.S. 143-299.2, whichever is greater. The insurance shall protect and name the Department and the local government as additional insureds on any policies covering the business and the sidewalk activities.

D. The permit issued by the Municipality shall require the restaurant operator to provide an agreement or evidence to indemnify and hold harmless the Department or the local government from any claim resulting from the operation of sidewalk dining activities.

E. The permit shall require the restaurant operator to provide a copy of all permits and licenses issued by the State, county or city, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued to the Municipality. This requirement includes any permits or certificates issued by the county or city for exterior alterations or improvements to the restaurant.

F. The Municipality shall also meet any other requirements deemed necessary by the Department, either for a particular local government or a particular component of the State highway system to safely allow sidewalk dining.

G. The Municipality may impose additional requirements on a case-by case basis and nothing in this AGREEMENT requires the Municipality to issue or maintain any permit for sidewalk dining activities if, in the opinion of the Municipality, such activities cannot be conducted in a safe manner in the State right-of-way.

H. The Department shall cancel this AGREEMENT and revoke the permission of the Municipality to issue permits if at any time the Department considers that the safety of the traveling motorist, pedestrians, or any other third party may be compromised.

I. The Department reserves the right to cancel this AGREEMENT on a case-by-case basis if the Department deems the activities permitted by the Municipality cannot be conducted in a safe manner.

J. No permits may be issued for sidewalk dining on any interstate route.

K. The Municipality shall obtain permission from the Department to permit the right-of-way of any federal-aid route on or off the National Highway System to be used for sidewalk dining. A request for permission should be coordinated with the Department's Division Engineer.

L. The Municipality shall keep and maintain a list or database of all current permits and issued parties that may be requested by the Department at any time. A copy of all paperwork and submitted documents shall be kept on hand and provided to the Department if requested. If the permit is incomplete or does not meet the standards of this AGREEMENT, the Department reserves the right to cancel this AGREEMENT.

II. SIDEWALK DINING ORDINANCE AND PERMITS - MINIMUM CONDITIONS OF ORDINANCE

The ordinance enacted by the Municipality shall be consistent with, but not necessarily limited to, the following minimum criteria:

A. Tables, chairs, and other furnishings shall be placed a minimum of six feet from any travel lane.

B. Tables, chairs, and other furnishings shall be placed in such a manner that at least five feet of unobstructed paved space of the sidewalk, measured from any permanent or semi-permanent object, remains clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act.

C. Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilations areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.

D. The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.

E. The standards set forth by this AGREEMENT are minimums according to General Statute. Every potential site for Sidewalk Dining shall be reviewed by the Municipality for safety. Meeting these minimum guidelines alone does not imply that minimum standards for safety have been met. NCDOT reserves the right to limit or restrict application of this AGREEMENT along specific corridors or locations if safety becomes an issue.

F. The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by the Department, the local government, its agents or employees, or by any other governmental entity or public utility.

III. SIDEWALK DINING ORDINANCE AND PERMITS - TIME FRAME

This AGREEMENT shall remain in place until canceled in writing by either party with thirty (30) days written notice to the other party.

IV. ADDITIONAL PROVISIONS

A. This AGREEMENT shall not preempt or override local ordinances which have been enacted within the authority of the NCGS that are currently in place.

B. The Department shall not be held liable for any damages resulting from implementation of any ordinances or issuance of any permits under the terms of this AGREEMENT.

C. This AGREEMENT contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this AGREEMENT except as expressly set forth herein.

D. The parties hereby acknowledge that the individual executing this AGREEMENT on their behalf is authorized to execute this AGREEMENT on their behalf and to bind the respective entities to the terms contained herein and that he has read this AGREEMENT, conferred with his attorney, and fully understands its contents.

E. A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the AGREEMENT as binding as an original, and the parties agree that this AGREEMENT can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the AGREEMENT.

F. By Executive Order 24, issued by Governor Perdue, and N.C. G.S.§ 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

IN WITNESS WHEREOF, this AGREEMENT has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:	**CITY OF BREVARD**
BY: Denise Hodsdon	BY:
TITLE: Executive Assistant	TITLE: City Manager
DATE: August 19, 2020	DATE: August 19, 2020

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

(SEAL)

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(FINANCE OFFICER)

Federal Tax Identification Number

56-6001186

Remittance Address:

95 W. Main Street

Brevard, NC 28712

DEPARTMENT OF TRANSPORTATION

DocuSigned by:

BY:

FE1674ADD2D24F8...

(CHIEF ENGINEER)

DATE: 9/15/2020

APPROVED BY BOARD OF TRANSPORTATION ITEM O: 9-3-2020 (Date)

DS

CITY OF BREVARD
ENCROACHMENT & HOLD HARMLESS
AGREEMENT

This ENCROACHMENT & HOLD HARMLESS AGREEMENT is given this ____ day of ________, 202__, by _____________________________, ("Grantor") to the City of Brevard, a North Carolina incorporated City (the "City").

THAT WHEREAS, the Grantor desires access to encroach on the public right-of-way designated as (address) _____________________________________, adjacent to the parcel identified as (PIN) __________________________________, with the placement of _________________________________
____
____
("Encroachments"); and that the Grantor will construct, install, and maintain the Encroachments in accordance with the site plan attached hereto as Exhibit A and incorporated herein by reference, and any other such standards or requirements as the City has required as of the date hereof; and

WHEREAS, the City, in the exercise of authority conferred upon it by ordinance, is willing to allow Encroachments within the limits of the right-of-way as indicated, under the terms and conditions herein set forth; and

WHEREAS, the Grantor has paid to the City the applicable fee to defray the administrative costs of the City in processing this request.

NOW, THEREFORE, in consideration of these promises, the required development fees in hand paid, the receipt and sufficiency of which are hereby acknowledged, and other consideration, the Grantor and the City hereby agree that the Grantor is hereby granted a license to encroach upon the right-of-way by constructing, installing, and thereafter maintaining the Encroachments for its sole interest and convenience in accordance with the following stipulations:

1. The Grantor is responsible for any and all expenditures of labor or materials required for the planning, installation, erection, repair, maintenance and removal ordered by the City of the Encroachments.

2. The Grantor is to be fully responsible for any and all property damage or injury or death of any person which results from any and all negligence, omission, defect in design, maintenance, or workmanship created by the Grantor, its agents or contractors relating to the Encroachments, or any cause of action arising out of the installation, erection, repair, maintenance, location or removal of said Encroachments.

3. The Grantor agrees to and does hereby hold the City, its officers, agents, and employees

harmless from any and all liability arising out of such negligence, omission, defect, or other cause of action; that it will defend the City, its officers, agents, and employees, and pay all attorney fees in any and all actions brought as a result of such; and that it will indemnify the City, its officers, agents, and employees against any and all loss sustained by reasons of such negligence, omission, defect, or other cause of action arising out of the installation, erection, repair, maintenance, location or removal of said encroachments.

4. The Grantor agrees to abide by all applicable laws, statutes, ordinances and code provisions.

5. This agreement shall not divest the City of any rights or interest in said right-of-way, and for any reason the City may terminate this encroachment agreement by giving the Grantor 15 days advance written notice of termination. Prior to the termination date, the Grantor shall remove or relocate, at its own expense, all or part of the encroachments as specified by the City.

6. The City further retains the right and privilege to remove or alter the encroachments whenever an emergency or other situation requires prompt action, and the City may recover the cost associated with removing or altering the encroachments from the Grantor.

7. The Grantor, during the life of this agreement, agrees to procure an insurance, issued by an insurance company licensed to do business in the State of North Carolina, in the minimum amounts of $2,000,000.00 covering full liability for any and all personal injury, property damage or wrongful death caused by the construction, maintenance, location, repair, removal or visual obstruction of said Encroachments. The Grantor shall furnish the City on the Effective Date of this Encroachment Agreement certification from the insurance carrier or carriers with whom the insurance herein mentioned is carried, stating that such compensation is covered by such carrier or carriers and showing such insurance to be in full force and effect. The Grantor, the City, and if applicable North Carolina Department of Transportation, shall be named as insured parties. In the event of any change in the insurance policy, the Grantor shall give the City thirty (30) days' notice of such change. The City may, at any time, request proof of adequate insurance from the Grantor. Should Grantor fail to pay premiums upon said insurance or to perform any of the agreements, terms or conditions herein contained, the City, at its option, by written notice may declare this agreement cancelled and terminated and all rights acquired hereunder by Grantor shall thereupon terminate.

8. The Grantor shall obtain all necessary permits from the City prior to the placement or installation of the encroachments.

9. The rights conveyed to the Grantor under this Agreement shall be personal to the Grantor and non-transferrable to any other party unless the City provides its prior written consent thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this ________ day of ____________, 202__.

ATTEST:		CITY OF BREVARD:	
Sign Name:	_______________________	Sign Name:	_________________________
Print Name:	_______________________	Print Name:	_________________________
Title:	_______________________	Title:	City Manager or Designee

STATE OF NORTH CAROLINA,
COUNTY OF TRANSYLVANIA.

I, ______________________________, a Notary Public for said County and State, do hereby certify that _____________________ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the ___ day of _______________, 202__.

(SEAL) __________________________________
Notary Public

My Commission expires: ____________________.

EXHIBIT A

SITE PLAN AND LOCATION OF ENCROACHMENTS

ORDINANCE NO. 2024-____

AN ORDINANCE AMENDING THE CITY OF BREVARD CODE OF ORDINANCES CHAPTERS 1, 46, AND 62

WHEREAS, the City Chapter 1 – General Provisions; Chapter 46 – Peddlers and Solicitors; and Chapter 62 – Streets, Sidewalks and Other Public Ways; and,

WHEREAS, the Downton Master Plan Committee reviewed the proposed amendments on multiple occasions and recommended approval of the amendments on June 11, 2024; and

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following elements of the City of Brevard's adopted plans and policies:

- Downtown Master Plan Goals:
  - Enhance mobility, accessibility, and safety in Downtown
  - Create an attractive and engaging pedestrian experience.

- *Building Brevard 2030* Comprehensive Land Use Plan, Goal #4:
  - *Create a built environment that prioritizes a safe, active, multi-modal transportation system and community health and wellness.*

- The Brevard Pedestrian and Bicycle Plan Goal:
  - Creating safer conditions for walking and biking.

WHEREAS, a public hearing was conducted on Monday, June 17, 2024, by the Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard Unified Development Ordinance be amended as outlined below.

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

SECTION 01. Brevard City Code, is hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 03. 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 04. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved this the 17th day of June 2024.

____
Maureen Copelof
Mayor

ATTEST:

____

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

____
Mack McKeller
City Attorney

City of Brevard

The mission of the City of Brevard is to promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture

TAX SETTLEMENT REPORT

FOR MONTH ENDED

MAY 31, 2024

Tina Tanner

Certified Tax Collector

Finance Department | (828) 885-5600
95 West Main Street | Brevard, North Carolina 28712 | www.cityofbrevard.com

CITY OF BREVARD TAX SETTLEMENT REPORT
MONTH ENDING MAY 31, 2024

UPDATED: 06.05.2024

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
2023		$ 3,999,226.23	$ 423,200.72	$ 153,930.97	$ 103,115.62	$ 616,739.15
2022-2011	$ 8,264.83	$ 22,421.57	$ 1,772.62	$ 2,221.69	$ 1,183.95	$ 312.17
2010 - Prior	$ -	$ -	$ -	$ -	$ -	$ -
TOTAL:	$ 8,264.83	$ 4,021,647.80	$ 424,973.34	$ 156,152.66	$ 104,299.57	$ 617,051.32

	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
2023	$ 506,950.24	$ 102,189.95	$ 40,655.56	$ 42,874.32	$ 15,994.73		$ 6,004,877.49
2022-2011	$ 3,161.49	$ 6,266.33	$ 2,853.22	$ 2,261.79	$ (2,665.91)		$ 48,053.75
2010 - Prior	$ -	$ -	$ -	$ -	$ -	$ -	$ -
TOTAL:	$ 510,111.73	$ 108,456.28	$ 43,508.78	$ 45,136.11	$ 13,328.82	$ -	**$ 6,052,931.24**

HEART OF BREVARD TAX SETTLEMENT REPORT
MONTH ENDING, MAY 31, 2024

UPDATED: 06.05.2024

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
2023		$ 84,666.91	$ 4,920.46	$ 2,272.69	$ 2,148.37	$ 11,868.43
2022-2011		$ 4,227.80		$ 535.70		$ 35.52
2010 - Prior	$ -	$ -	$ -	$ -	$ -	$ -
TOTAL:	$ -	$ 88,894.71	$ 4,920.46	$ 2,808.39	$ 2,148.37	$ 11,903.95

	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
2023	$ 19,913.88	$ 6,524.43	$ 1,321.17	$ 1,700.61	$ 1,779.06		$ 137,116.01
2022-2011							$ 4,799.02
2010 - Prior	$ -	$ -	$ -	$ -	$ -	$ -	$ -
TOTAL:	$ 19,913.88	$ 6,524.43	$ 1,321.17	$ 1,700.61	$ 1,779.06	$ -	**$ 141,915.03**

STAFF REPORT
City Council, Monday, June 17, 2024

Title:	Resolution of Support re Visual Architectural Standards
Speaker:	Paul Ray, Planning Director
Prepared by:	Paul Ray, Planning Director
Approved by:	Wilson Hooper, City Manager

Background
In December of 2023 City Council passed a resolution authorizing the City Manager to sign a contract with the planning and urban design consulting firm Plusurbia Inc to begin updating the City's architectural standards, which are found primarily in Chapter 5 of the City's Unified Development Ordinance (UDO).

Since that time, Plusurbia and Planning Staff have been working together researching and defining Brevard's architecture styles and vernacular. A big component of the process was community engagement. Staff and the Plusurbia team engaged with an estimated 400 individuals during public input process, which consisted of design workshops and open houses, a downtown walking tour, project website, online survey, and neighborhood meetings.

Plusurbia presented their findings and recommendations to the City Council at the June 3, 2024 meeting.

Discussion
Plusurbia's work is generally defined by two phases. The first is the creation of building design guidelines. These guidelines are found in a standalone document, the City of Brevard Architectural Visual Guidelines, which is the precursor to Brevard's new Architectural Standards in the UDO. The second phase is actual codification of the design guidelines into the UDO; this process will begin in the second half of calendar year 2024 pending passage of the FY25 budget.

These guidelines on the identity of Brevard and its Character Areas (Downtown, the Lumberyard District, Pisgah Gateway, US-64 Corridor, and the Rosenwald Neighborhood) are produced first to ensure that the forthcoming standards accurately direct new development and renovations to contribute to Brevard's desired character. Critically, this means all of the public engagement findings that directed these guidelines will also be translated into the codified Architectural Standards.

The guidelines have "General to All" best practices for introducing new buildings throughout Brevard and its zoning jurisdiction, including building elements, colors, and materials commonly found and recommended throughout the city. Additionally, five key character areas are described: Downtown, the Lumberyard District, Pisgah Gateway, US-64 Corridor, and the Rosenwald Neighborhood. Each character area is detailed for its unique characteristics and includes variations from the “General to All” section specific to that district, neighborhood, or area.

On May 28th, Plusurbia presented the document to the Planning Board and had a discussion about the results of the community engagement process. Planning Board unanimously supported the document and offers a favorable recommendation to City Council. A member of the Board voiced concerns that the document may be misconstrued as a regulatory document instead of guidance for development of the standards. With that in mind, please note that pages 7 and 8 outline the purpose of the document and how the document is intended to be used.

The full Architectural Visual Guidelines, along with more information about the project, can be found at www.cityofbrevard.com/architectural standards. Hard copies of the document have been provided to Council members.

Policy Analysis
Updating the City's architectural and building design standards, particularly using a more form-based approach, is mentioned numerous times throughout the Building Brevard 2030 Comprehensive Land Use Plan, such as recommendations LUH-7, LUH-8, LUH-9, LUH-10, and ATCH-3.

Action
Council is asked to approve the attached resolution supporting the design standards included in Plusurbia's document. If offered, this support will be a message to staff to begin the process of incorporating the standards into the city's Unified Development Ordinance.

Attachments:
1. Resolution_Architectural Guidelines

RESOLUTION NO. 2024-XX

RESOLUTION BY BREVARD CITY COUNCIL ADOPTING ARCHITECTURAL VISUAL GUIDELINES

WHEREAS, the City of Brevard recognizes the importance of adopting architectural visual guidelines for identifying and communicating building typology; and

WHEREAS, the architectural visual guidelines serves to express a desired stylistic character to endure across years of future development; and

WHEREAS, the 2030 Comprehensive Land Use Plan recommends evaluating the City's existing built form and updating its architectural standards in which architectural visual guidelines may inform; and

WHEREAS, architectural visual guidelines may influence the evolution of the Unified Development Ordinance depicting "General to All" for introducing universal building types in Brevard, and variations of building types in unique character areas such as Downtown, Lumberyard District, Pisgah Gateway US-64 Corridor and Rosenwald Neighborhood.

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

1. The City of Brevard City Council hereby approves and adopts the Architectural Visual Guidelines.
2. The Architectural Visual Guidelines is a best practice, urban planning document.
3. The Architectural Visual Guidelines may serve as a companion to the Unified Development Ordinance.
4. Staff is hereby directed to proceed with updating the architectural standards of the Unified Development Ordinance

Adopted and approved this the 17th day of June 2024.

____
Maureen Copelof
Mayor

ATTEST:

____
Denise Hodsdon
City Clerk

STAFF REPORT
City Council, Monday, June 17, 2024

Title:	End of Fiscal Year Budget Amendments
Speaker:	Dean Luebbe, Assistant City Manager/Finance Director
Prepared by:	Dean Luebbe, Assistant City Manager/Finance Director
Approved by:	Wilson Hooper, City Manager

Background
Certain departments within the government are in need of budget amendments as the City approaches the end of the fiscal year. Following, each individual budget amendment is described in detail. Fund balance is not affected by these budget amendments.

1. The Governing Board Department is in need of a $5,000 budget amendment due to higher than budgeted cost for elections and the moderator for the strategic planning session being underbudgeted. Fortunately, current year property taxes are exceeding budgeted amounts by $60,000 at this time.

2. The Building and Grounds Department is in need of a $20,000 budget amendment as overtime amounts are exceeding budgeted amounts and the contracted services is over budget as the lower level of City Hall required unbudgeted expenditures to correct a mold issue. Again, the offsetting entry will be to current year property taxes.

3. The Public Works - Garage Department is in need of a $30,000 budget amendment as maintenance and repairs for County vehicles is exceeding budgeted amounts. The City collects a fixed fee from the County of $6,387.50 per month, and bills the County monthly for all fuel and maintenance and repairs related to County vehicles, so the offset to this entry will be to the revenue account, 10-3970-1100 (County - maintenance and fuel).

4. The Public Works - Streets - Local Department is in need of a $20,000 budget amendment as multiple line items related to maintenance and repair and contracted services are exceeding budget. Again, the offsetting entry will be to current year property taxes.

5. The Water Distribution Department is in need of a $40,000 budget amendment. In November of 2023, the Finance Department corrected certain utility accounts, (mostly involving Duke Energy) within the Water and Sewer Fund, to record their expenditure in the proper department. Department supplies are also overbudget. The offsetting entry will be to the revenue account, 30-3710-0200 (Charges for Utilities - Sewer) which is projected to be overbudget at this time.

6. The Wastewater Collections is in need of a $75,000 budget amendment primarily due to reallocated utility expenditures, as described in #5. The electricity bills associated with sewer pump stations were originally incorrectly budgeted under the Wastewater

Treatment Department. The offsetting entry will reduce the budgeted amounts in the utilities account in the Wastewater Treatment Department.

7. The City has incurred insurable events in the Fire and Police Departments exceeding the deductible during FY24. The proposed amendment will increase maintenance and repair accounts and insurance proceeds in both departments.

Recommendation
Adopt budget amendments as presented.

Attachments:
1. Budget Amendment $211,600 - Assorted end of fiscal year entries
2. Budget Amendment 24-10

ORDINANCE NO. 2024-XX
AN ORDINANCE AMENDING THE FY2023-2024 BUDGET.
BUDGET AMENDMENT NUMBER 24-10

SUBJECT: Budget Amendment at fiscal year to increase expenditures in various departments by a total of $211,600 to cover budget overages.

AGENDA INFORMATION

Agenda Location:	**New Business**
Department:	**Finance**
Contact:	**Dean Luebbe, Assistant City Manager and Finance Director**

BRIEF SUMMARY: At fiscal year end, actual City expenditures may not exceed budgeted amounts at the department level. During the fiscal year, general ledger accounts can go over budget for a variety of reasons, including unforeseen cost increases for products, unexpected events (higher than normal maintenance and repair is one example), or budgeting errors by staff. The following departments within the government currently require budget amendments to assure that they are not over budget at fiscal year end. Fund balance is not affected by this budget amendment.

MOTION FOR CONSIDERATION: To approve Budget Amendment 24-10 as submitted, increasing the budget in expenditure account:

10-4100-4500 (Contracted Serv – Gov Board)	$5,000
10-5000-0210 (Overtime – Building Grounds)	$10,000
10-5000-1500 (MR Buildings - Building Grounds)	$10,000
10-5550-3120 (MR – County Veh – Garage)	$30,000
10-5600-1600 (MR Equipment – Streets)	$10,000
10-5600-4500 (Contracted Serv – Streets)	$10,000
30-8140-1300 (Utilities – Water Dist)	$15,000
30-8140-3300(Dept Supplies – Water Dist)	$25,000
30-8280-1300 (Utilities – Wastewater Coll)	$75,000
10-5100-1700 (MR Auto – Police)	$15,000
40-5300-1500 (MR – Buildings)	$6,600
TOTAL	**$211,600**

And increasing the budget in the revenue account (or decreasing the budget in expenditure accounts):

10-3010-0423 (Current Year Ad Val Tax)	$45,000
10-3970-1100 (County Reimb – MR)	$30,000
30-3710-0200 (Charges for Service – Sewer)	$40,000
30-8220-1300 (Utilities – Wastewater Treatment)	$75,000
10-3600-0000 (Insurance Proceeds – Police)	$15,000
40-3600-0000 (Insurance Proceeds – Fire)	$6,600
TOTAL	**$211,600**

ATTACHMENTS: None.

MANAGER'S RECOMMENDATION: Adopt as presented.

Approved and adopted this 17th day of June, 2024.

Maureen Copelof

Mayor

ATTEST:

____

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

____

Mack McKeller
City Attorney

Budget Amendment Number 24-10
Fiscal Year 2023-2024

	ACCOUNT NUMBER	ACCOUNT DESCRIPTION	DEBIT	CREDIT
	10-4100-4500	Contracted Services	5,000.00	
	10-3010-0423	Ad Val Taxes - 2023		5,000.00
		(Gov Board)		
	10-5000-0210	Overtime	10,000.00	
	10-5000-1500	MR Buildings	10,000.00	
	10-3010-0423	Ad Val Taxes - 2023		20,000.00
		(Building and Grounds)		
	10-5550-3120	Maint and Repair - County	30,000.00	
	10-3970-1100	County Reimb - MR and Fuel		30,000.00
		(Public Works - Garage)		
	10-5600-1600	MR Equipment	10,000.00	
	10-5600-4500	Contracted Services	10,000.00	
	10-3010-0423	Ad Val Taxes - 2023		20,000.00
		(Public Works - Streets - Local)		
	30-8140-1300	Utilities	15,000.00	
	30-8140-3300	Dept Supplies	25,000.00	
	30-3710-0200	Charges for Services - Sewer		40,000.00
		(Water Distribution)		
		TOTAL DEBITS/CREDITS	115,000.00	115,000.00

EXPLANATION:

FY24 End of fiscal year budget amendments

JE# _______________ **SYSTEM #** ______________________ **Date Posted** ________________ **BY:** ______

Fiscal Year _______ **Month** ________ **Finance Director Signature** _______________ **Date** ______________

Budget Amendment Number 24-10 (continued)
Fiscal Year 2023-2024

	ACCOUNT NUMBER	ACCOUNT DESCRIPTION	DEBIT	CREDIT
	30-8280-1300	Utilities	75,000.00	
	30-8220-1300	Utilities		75,000.00
		(Wastewater Collections)		
	10-5100-1700	MR Auto and Trucks	15,000.00	
	10-3600-0000	Insurance Proceeds		15,000.00
	40-5300-1500	MR Buildings	6,600.00	
	40-3600-0000	Insurance Proceeds		6,600.00
		(Insurance Proceeds - Police and Fire)		
		TOTAL DEBITS/CREDITS	96,600.00	96,600.00

EXPLANATION:

FY24 End of fiscal year budget amendments

JE# ______________ **SYSTEM #** ____________________ **Date Posted** _______________ **BY:** ______

Fiscal Year _______ **Month** ________ **Finance Director Signature** ______________ **Date** _____________

STAFF REPORT
City Council, Monday, June 17, 2024

Title:	Establishing Facilities Improvements Capital Project
Speaker:	Dean Luebbe
Prepared by:	Dean Luebbe, Assistant City Manager/Finance Director
Approved by:	Wilson Hooper, City Manager

Background

City Hall and the new Police facility at 132 Commerce Street are in need of renovations to make them more functional for staff and the citizens of Brevard. The City Manager has communicated with City Council throughout the budget process concerning the improvements needed at both locations. The funding for this project will come from a General Fund transfer, as the Police Department is projected to have significant savings in their Personnel line items due to staff vacancies. Finance staff has created a new Capital Project Fund which is named the General Capital Project Fund. This newly established Capital Project Fund fund will be used for all projects within the government except for Capital Projects which fall under one of the following:

Water and Sewer Utility Fund Capital Project Fund
Rosenwald Revitalization Capital Project Fund
Multi-Use Path Capital Project Fund
Downtown Masterplan Capital Project Fund

Both of these projects are expected to be completed within the first quarter of FY25.

Recommendation

Adopt Project Ordinance and budget amendment as presented.

Attachments:

1. Capital Project Establishment - Facilities Improvements
2. Budget Amendment $190,000 transfer to Facilities Improvements Cap Project
3. FY24 budget amendments 24-11

ORDINANCE NO. 2024-XX

CAPITAL PROJECT ORDINANCE TO ESTABLISH PROJECT FOR FACILITY IMPROVEMENTS

BE IT ORDAINED by the City Council of the City of Brevard, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project will make necessary improvements to City Hall, and the new Police facility at 132 Commerce Street. City Hall is in need of one additional office space at this time, and the rented Police facility is in need of upgrades to make it more functional for the Police Department and the citizens of the City.

Section 2: The City has contracted with G & M Construction Company, Weaverville, NC in the amounts of $145,166 for the Police Department facility at 132 Commerce Street. The City has contracted with Radar Contruction, Brevard, NC in the amount of $36,347.09 for the work at City Hall.

Section 3: The following amounts are appropriated for the project:

Account Number	Account Name	Budget Amount
32-4400-4500	Contracted Services	$40,000
32-5100-4500	Contracted Services	$150,000
TOTAL PROJECT APPROPRIATION		**$190,000**

Section 4: The following revenues are anticipated to be available for project expenses:

Account Number	Account Name	Budget Amount
32-3750-0000	Transfer from General Fund	$190,000
TOTAL PROJECT REVENUE		**$190,000**

Section 5: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 6: Funds may be advanced from the General Fund or from any Enterprise Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 7: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 8: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 9: Copies of this capital project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 17th day of June, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

ORDINANCE NO. 2024-XX
AN ORDINANCE AMENDING THE FY2023-2024 BUDGET.
BUDGET AMENDMENT NUMBER 24-11

SUBJECT: Budget Amendment transferring funds for building improvements at City Hall and 132 Commerce Street.

AGENDA INFORMATION

Agenda Location:	**New Business**
Department:	**Finance**
Contact:	**Dean Luebbe, Assistant City Manager and Finance Director**

BRIEF SUMMARY: This budget amendment is in conjunction with the establishment of the Facilities Improvement Capital Project, involving work to be conducted at City Hall and 132 Commerce Street. City Hall is in need of additional office space, and the Police Department is in the process of relocating to 132 Commerce Street, as their offices in the lower level of City Hall have had mold and mildew issues, and have not provided adequate office space for the Police Department.

MOTION FOR CONSIDERATION: To approve Budget Amendment 24-11 as submitted, increasing the budget in expenditure account:

10-6600-9267 (Transfer to GCPF – Facilities Improvements)	$190,000
TOTAL	**$190,000**

And decreasing the budget in expenditure account:

10-5100-0200 (Salaries – Regular)	$190,000
TOTAL	**$190,000**

ATTACHMENTS: None.

MANAGER'S RECOMMENDATION: Adopt as presented.

Approved and adopted this 17th day of June, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

Budget Amendment Number 24-11
Fiscal Year 2023-2024

	ACCOUNT NUMBER	ACCOUNT DESCRIPTION	DEBIT	CREDIT
	10-6600-9267	Transfer to General Capital Proj Fund	190,000.00	
	10-5100-0200	FT Salaries		190,000.00
		TOTAL DEBITS/CREDITS	190,000.00	190,000.00

EXPLANATION:

To fund renovations to City Hall and 132 Commerce Street.

JE# _______________ SYSTEM # _____________________Date Posted________________BY: ______

Fiscal Year _______ Month________ Finance Director Signature_______________ Date______________

MINUTES

Rosenwald Community Advisory Board

Thursday, March 21, 2024 - 6:00 PM
Mary C. Jenkins Community & Cultural Center

Members Present:	Pamela Holder, Co-Chair, Council Member Randy Lytle, Co-Chair Gary Daniel, Council Member Victor Foster, Citizen Member Susan Threlkel, Citizen Member Edith Darity, Citizen Member Ella Jones, Citizen Member Mayor Maureen Copelof, Ex-Officio
Staff Present:	Alex Shepherd, Assistant to the City Manager Tyree Griffin, Community Center Director

A. Welcome & Call to Order

Co-Chair Pamela Holder welcomed everyone and called the meeting to order at 6:00 PM.

B. Invocation

Ms. Holder offered an invocation.

C. Certification of Quorum

Quorum was certified by Assistant to the City Manager Alex Shepherd.

D. Approval of Agenda

Ms. Holder made a request to add item H. Memorial Bricks Update to the agenda. Motion by Mr. Daniel, seconded by Mr. Foster, to approve the agenda as amended. The motion carried unanimously.

E. Approval of Minutes from January 11, 2024 and February 15, 2024

Motion by Ms. Threlkel, seconded by Mr. Lytle to approve the minutes of the January 11, 2024 and February 15, 2024 as presented. The motion carried unanimously.

F. Juneteenth Celebration Update

Mr. Griffin updated the Board that the Juneteenth event is scheduled for Saturday, June 15th, starting at 11 am and concluding at 5 pm. He mentioned that everything on the City's side is still progressing, including obtaining the permit, organizing ice cream, and coordinating with the police and fire departments.

Ms. Holder informed the Board that on Sunday, June 16th, we are planning to hold a joint service with historically African American churches. She mentioned that we have already met with all the pastors, who are in agreement with the plan.

Mr. Lytle mentioned that we are still making progress. We have vendors lined up, and he will collaborate with Mr. Hooper to establish a budget for them. He added that we are actively involving more people, filling booths, and arranging music for the event, and everything is proceeding smoothly.

G. Green Space Adoption

Mr. Shepherd informed the Board that typically, when we receive green space applications, they flow through the Parks, Trails, and Recreation Committee. However, since this request is for the Cashiers Valley parking lot, we felt it was necessary to bring this to the Rosenwald Community Advisory Board first. He stated that Ms. Haight would like to replace all the plants currently there with her landscaping map and cover the expenses fully.

Mr. Daniel asked if the Board approves this, would it go back to the Parks, Trails, and Recreation Committee.

Mr. Shepherd confirmed.

Mr. Daniel mentioned that because she is removing everything, there should be a guaranteed bond to cover us in case she doesn't replant after removing the current plants.

Mayor Copelof noted that we have never dealt with someone wanting to replace all the plants before. She said the adopt-a-green-space program was created to maintain what we currently have planted. The idea is to help us weed, pick up trash, and notify us of any problems with the green space. Mayor Copelof mentioned that she liked the suggested plants, as they are native and already planted in our other green spaces. She added that we already have a problem maintaining the Tannery Skatepark Green Space, where someone planted plants and said maybe she would be interested in the Tannery Green Space instead. There is also no near by water source.

Mr. Lytle asked if there is a contract if someone promises to maintain the green space.

Mayor Copelof explained that the agreement is for one year and only states that they agree to maintain it and not use chemicals during that year.

Mr. Foster asked which plants the applicant is looking to remove.

Mr. Shepherd explained that she wants to remove everything, as stated in the staff report.

Ms. Threlkel informed the Board that we have an empty backyard where we could relocate these plants.

Mr. Daniel mentioned that it's a good idea, but his concern is what happens if she backs out halfway through.

Ms. Jones mentioned that the Mayor alluded to a water source. She said there is one in the community area but not near the parking lot, making it difficult to maintain without a water source.

Ms. Holder asked if she has staff and how large the plants would get.

Mr. Shepherd answered that it's just her.

Mayor Copelof mentioned that she would be installing red maple trees, which can get large, as well as butterfly weed, mountain mint, phlox, and perennials.

Ms. Holder expressed concern about security because a big tree could block the streetlight.

Ms. Threlkel asked if Ms. Haight would have the opportunity to address our concerns.

Mr. Daniel agreed that she should. He wasn't sure how she would complete this in one year.

Mr. Shepherd noted the questions the committee wanted to ask Ms. Haight. He said he would ask her if there is no cost to the city, if she would be interested in the Tannery Skatepark, if she can complete the project in one year, if she plans to plant trees that don't interfere with street lighting, if she has staff to water and maintain them, if she would sign a three-year agreement, if she would be interested in planting in another area, and if she would attend the next meeting.

At 6:20 PM, Mr. Foster motioned, seconded by Ms. Jones, to invite Ms. Haight to the next meeting. The motion passed unanimously.

H. Memorial Bricks Update

Mr. Griffin mentioned that before he started working here, there were supposed to be memorial bricks placed at Mary C. Jenkins and at Silversteen Park. He said he has a list of names and where the bricks will be laid.

Mayor Copelof said Ms. Pinson in planning should also have a list of where all the bricks should be placed. She said the bricks are currently stored at public works.

Mr. Lytle asked if it's feasible to place the bricks somewhere visible, and if needed, move them later.

Ms. Darity mentioned that the church had donated $10,000 for a picnic shelter. She emphasized the importance of following through on that commitment. She suggested that if the original planned site is not available, it could be placed near the playground. Mayor Copelof recalled that the original plan was to place it on the far side of the playground near the house. She noted that there is still room for it there, although there is a pathway in that area.

Ms. Darity reiterated the importance of ensuring that the project is not forgotten.

Mr. Lytle turned to Mr. Daniel, asking for clarification if the pathway would pose an issue, suggesting it could be removed if necessary.

Mr. Daniel acknowledged that although it would involve money spent, the pathway could indeed be removed.

Mayor Copelof emphasized the significant cost involved, mentioning that just the engineering design drawings for the shelter and bathroom alone cost $15,000. She highlighted the financial constraints, indicating that there aren't sufficient funds for both the design work and construction.

I. Set Date for Next Meeting

The next meeting was scheduled for Thursday, April 18, 2024 at 6:00 PM at the Mary C. Jenkins Community & Cultural Center.

J. Adjourn

There being no further business, the meeting was adjourned at 6:40 PM.

X Pamela Holder

Pamela Holder
Co-Chair

Minutes Approved: May 16, 2024

X

Alex Shepherd,
Assistant to the City Manager

MINUTES

CITY COUNCIL HOUSING COMMITTEE

Tuesday, April 9, 2024 – 3:45 PM
City Hall Council Chambers

Members Present:	Pamela Holder, Chair, City Council Member Aaron Baker, City Council Member Victor Foster, Citizen Member Mayor Maureen Copelof, Ex-Officio
Staff Present:	Wilson Hooper, City Manager Dean Luebbe, Finance Director Paul Ray, Planning Director Alex Shepherd, Assistant to the City Manager Emily Brewer, Planner
Guest Present:	City Attorney Mack McKeller, Sara VanLear from UNC DFI

A. Welcome and Call to Order

Aaron Baker welcomed everyone and called the meeting to order at 3:45 PM.

B. Certification of Quorum

Quorum was certified by Assistant to the City Manager Alex Shepherd.

C. Approval of Agenda

Motion by Mr. Foster, seconded by Mr. Baker to approve the agenda as presented. The motion carried unanimously.

D. Approval of Minutes

Motion by Mr. Foster, seconded by Mr. Baker to approve the minutes of the February 13, 2024 meeting as presented. The motion carried unanimously.

E. Closed Session – Property Acquisition: GS § 143-318.11.(a)(5)

At 3:47 p.m. Mr. Baker moved, seconded by Mr. Victor, to enter into closed session to discuss a property acquisition matter pursuant to GS § 143-318.11.(a)(5). The motion carried unanimously.

At 4:28 p.m. the motion was made and seconded to come out of Closed Session and resume the meeting in open session. The motion carried unanimously.

F. Set Date for Next Meeting

The next meeting was scheduled for Tuesday, May 14, 2024 at 3:45 pm.

G. Adjourn

There being no further business, the meeting adjourned at 4:29 P.M.

Minutes Approved: June 11, 2024

X

Pamela Holder
City Council Member

X

Alex Shepherd
Assistant to the City Manager

MINUTES

COUNCIL FINANCE, HUMAN RESOURCES and CITIZEN APPOINTMENT COMMITTEE

Monday, April 22, 2024 – 11:00 AM
City Hall Council Chambers

Members Present:	Lauren Wise, Chair, Council Member Gary Daniel, Vice-Chair, Council Member (Arrived at 11:05 AM) Susan Miller, Citizen Member
Staff Present:	Wilson Hooper, City Manager Kelley Craig, Human Resources Director Becky McCann, Communications Coordinator Dean Luebbe, Finance Director Alex Shepherd, Assistant to the City Manager

A. Welcome & Call to Order

Committee Chair Lauren Wise welcomed everyone and called the meeting to order at 11:00 AM.

B. Certification of Quorum

Quorum was certified by Assistant to the City Manager Alex Shepherd.

C. Approval of Agenda

Motion by Mr. Daniel, seconded by Ms. Miller to approve the agenda as presented. The motion carried unanimously.

D. Approval of Minutes of March 25, 2024 Meeting

Ms. Miller proposed a few revisions in the minutes. Motion by Mr. Daniel seconded by Ms. Miller to approve the minutes of the March 25, 2024 meeting as revised. The motion carried unanimously.

E. Purchasing Policy

Mr. Shepherd said at the last meeting that he was not in attendance, but from the minutes, the committee wanted to go with the stricter options for the purchasing threshold. I have added those revisions. However, regarding the purchasing thresholds, you all had approved that as long as it was in the adopted budget, if something costs more than $75,000 and Council approved it, it wouldn't need to come back to the

Council for approval. When looking back through the general statutes, even though the Council originally approved it when adopting the annual budget, it still needs to come back for separate approval.

Ms. Miller said that while they were trying to give staff more flexibility, it looks like the policy was not consistent with State law.

Mr. Hooper said those items will typically appear on the consent agenda for Council meetings, but we will follow the general statute to ensure compliance with State law.

Mr. Luebbe asked if we should consult with the School of Government on this topic

Ms. Miller mentioned that, in her experience, she always treated them as two separate transactions: one when the Council approves the annual budget and another when the Council approves the contract.

Mr. Hooper informed the committee that we will research this matter further and bring it back to the committee.

F. ARPA Financial Policies

Mr. Luebbe informed the committee that representatives from ARPA have recently contacted him about suggested policies they think local governments like ours should adopt. He asked the City Clerk and Human Resources Director if the City has a records retention policy or a non-discrimination policy. Mr. Luebbe mentioned that while we are already following these types of policies, he is unsure if we have any officially approved policies.

Ms. Craig mentioned that we have non-discrimination policies in our personnel policy, but it does not specifically include all of the ARPA items.

Mr. Wise asked how we store our digital files.

Mr. Luebbe said we store our data with Advance Data, which also provides security.

Mr. Daniel asked if we provide interpreters.

Mr. Hooper said yes, we have one on call for any language if needed. However, translation is not part of the ADA requirement, but we do provide reasonable accommodation if someone needs an interpreter.

G. Non-Profit Funding Application Criteria

Mr. Hooper mentioned that he was not present at the last meeting and asked the committee for their thoughts on the policy.

Ms. Miller said that she thinks if City were to provide funding to a non-profit, it should enhance or further the goals and objectives of the City Council and be closely related to the comprehensive plan.

Mr. Daniel mentioned that each Council will have its own priorities regarding funding

Mr. Wise said he likes the idea of requiring non-profits to submit business plans and audits to provide insights into the organization. However, he does not want to place restrictions on what the Council can fund and how much.

Mr. Hooper asked if staff should have this committee review funding applications before recommending them to the Council.

Mr. Wise said yes, that makes sense, but he wanted the opinion of the committee.

Ms. Miller said she is comfortable with a cap on funding.

Mr. Hooper said bringing applications before the committee would be helpful to filter ones that don't help the City achieve our goals or ones that are not legal to fund.

Mr. Daniel agreed that having the committee filter the applications would be helpful.

H. Public Comment

No public comment was noted.

I. Set Date for Next Meeting

The next meeting of the Finance & Human Resources Committee will be on Monday, June 3, 2024, at 11:00 AM.

J. Adjourn

There being no further business, the meeting was adjourned at 11:43 PM.

X

Lauren Wise

Minutes Approved: June 3, 2024

X

Alex Shepherd
Assistant to the City Manager

MINUTES
City Council Public Works & Utilities Committee

Wednesday, May 1, 2024 – 3:30 PM
City Council Chambers

Members Present:	Mac Morrow, Chair, Council Member Lauren Wise, Vice-Chair, Council Member Owen Carson, Citizen Member Mayor Maureen Copelof, Ex-Officio
Staff Present:	Wilson Hooper, City Manager Wesley Shook, Acting Public Works Director Dennis Richardson, Water Treatment Plan Supervisor Emory Owen, Wastewater Treatment Plant Supervisor Aaron Winans, WWTP Staff Alex Shepherd, Assistant to the City Manager Becky McCann, Communications Coordinator
Guests:	Harvey Sankey, Billy Parrish, Burton Hodges

A. Welcome and Call to Order

Committee Chair Mac Morrow called the meeting to order at 3:35 pm.

B. Certification of Quorum

Assistant to the City Manager Alex Shepherd certified that a quorum was present.

C. Approval of Agenda

Motion by Mr. Wise, seconded by Mr. Carson to approve the agenda as presented. The motion carried unanimously.

D. Approval of Minutes

1. April 3, 2024

Motion by Mr. Carson, seconded by Mr. Wise to approve the minutes of the April 3, 2024 meeting as presented. The motion carried unanimously.

E. WWTP Engineering Firm Selection

Mr. Hooper said that last meeting the committee asked us to compile the scorecards from each engineering participant. We have averaged the scores based on how the committee and staff rated each one and a combined rating of committee and staff. What you will discover from analyzing the scores is that KCI seemed to be everyone's top choice. Mr. Hooper asked the committee if they were ready to make a recommendation.

Mr. Carson mentioned that the tabulations were very close.

Mr. Wise said he is comfortable with KCI and they seem like they have a good understanding of our project.

At 3:39 p.m., a motion by Mr. Wise, seconded by Mr. Carson to select KCI to provide professional engineering services at the Wastewater Treatment Plant. The motion carried unanimously.

Mr. Hooper asked at the next meeting would the committee like to have a draft of the scope of work to review and are you interested to look at pricing.

The committee came to a consensus that they would like to see the scope of work and pricing.

F. Public Comment

Mr. Sankey asked if during the scope of work would the engineering firm provide a completion date of the whole project.

Mr. Hooper said most likely not but they would give us a completion date of their analysis.

Mr. Sankey asked what would you want them to provide.

Mr. Hooper answered that he would hope that the engineering firm would be able to provide an opinion of probable cost of the total project.

G. Closed Session – Economic Development: GS § 143-318.11(a)(4)

At 3:51 p.m. Mr. Owen moved, seconded by Mr. Wise, to enter into closed session to discuss an economic expansion matter pursuant to GS § 143-318.11.(a)(4). The motion carried unanimously.

At 4:14 p.m. the motion was made and seconded to come out of Closed Session and resume the meeting in open session. The motion carried unanimously.

H. Set Date for Next Meeting

The next regular meeting of the Public Works & Utilities Committee was scheduled for Wednesday, June 5, 2024 at 3:30 p.m.

I. Adjourn

There being no further business, the meeting was adjourned at 4:18 p.m.

Minutes Approved: June 5, 2024

X Mac Morrow

Mac Morrow
Chair, Council Member

X

Alex Shepherd
Assistant to the City Manager

MINUTES

COUNCIL DOWNTOWN MASTER PLAN COMMITTEE

Wednesday, May 8, 2024 – 4:00 PM
City Hall Council Chambers

Members Present:	Gary Daniel, Chair, Council Member Pamela Holder, Vice Chair, Council Member Nicole Bentley, Exec Dir. Heart of Brevard Billy Parrish, Heart of Brevard Representative Lee McMinn, Citizen Member Parker Platt, At-Large Member (Left at 5:13pm) Mayor Maureen Copelof, Ex-Officio Member
Staff Present:	Wilson Hooper, City Manager Alex Shepherd, Assistant to the City Manager Becky McCann, Communications Coordinator Aaron Bland, Assistant Planning Director
Guests:	Kristen Necessary, Douglas Miller, Kevin MacDonald, Monica Driscoll
Media:	Jon Rich, T-Times

A. Welcome & Call to Order

Committee Chair Gary Daniel welcomed everyone and called the meeting to order at 4:00 PM.

B. Certification of Quorum

Quorum was certified by Assistant to the City Manager Alex Shepherd.

C. Approval of Agenda

Motion by Ms. Holder, seconded by Mr. Bentley to approve the agenda as amended. The motion carried unanimously.

D. Approval of Minutes of April 10, 2024 Meeting

Motion by Ms. Bentley, seconded by Ms. Holder to approve the minutes of the April 10, 2024 meeting as presented. The motion carried unanimously.

E. Sidewalk Usage Policy Update

Mr. Hooper provided a copy of the sidewalk usage policy with revisions.

Mr. McMinn mentioned that in Chapter 46-34, Letter F, he would like to see other durable composite materials included, not only metal furnishings.

Ms. Copelof said that would be included under the section where it states non-combustible materials can also be used.

Mr. Hooper said the main item they are trying to prevent is the use of cheap lightweight plastic that would blow away in the event of a storm.

Mr. Daniel mentioned that the Sidewalk Policy should clearly state that the furniture placed at outside dining locations needs to be durable and have enough weight not to fly away.

Mr. McMinn noted that the policy requires umbrellas to be taken inside when the business is not in operation. He asked if the City will itself follow that policy.

Mr. Bland confirmed that umbrellas used for sidewalk dining must be taken inside when the business is not open.

Mr. McMinn said this implies that the government is exempt.

Mr. Parrish said the policy should apply to both private and public entities if it concerns umbrellas and outside dining. He noted that people use public tables and umbrellas for dining.

Mr. Hooper said the purpose of this policy is to ensure public safety and that the umbrellas used are of much higher quality, like the ones the City uses.

Ms. Bentley asked if Planning could put together a list of those currently holding sidewalk dining permits.

Mr. Bland said they can provide a list.

Mr. McMinn said he would like to add to Chapter 62 7a to maintain the safety and appearance of streets, sidewalks, and other public ways.

Mr. Parrish asked if they could add to Chapter 62 C.2.C. to include tables, chairs, and umbrellas so they do not dissuade non-restaurant customers.

Mr. Hooper said he will research the NCDOT agreement to ensure that it is a statewide policy or if other municipalities have different agreements that allow for different setbacks.

F. Times Arcade Alley Update

Mr. Hooper said the planned outage that was scheduled for tonight has been postponed.

Ms. Bentley said it was rescheduled to Sunday.

Mr. Hooper said that Tennoca has missed the substantial completion date set in their contract. He said that he and the City Attorney have discussed the matter and decided not to take legal action due to the circumstances. However, if sufficient progress is not made in the future, they will explore legal options. Later this week, they expect an updated schedule from the contractor, which will be based on their work now that Duke Energy has completed their part. Tennoca has been delayed by a few issues, including multiple rescheduling by Duke Energy and difficulty sourcing a concrete junction box. Mr. Hooper said he will not be able to provide a schedule of road closures until Tennoca provides him with an updated schedule. He added that the City has been working hard to minimize the impact of the construction on businesses, incurring an additional $9,000 in expenses, 50 hours of staff time, and at least $4,000 in lost parking revenue by offering free parking to businesses.

Mr. Platt asked what the best guess for completion is.

Mr. Hooper said that from the time they receive the junction box, it would probably be another six weeks.

Mr. Platt said that he appreciates the extra costs the City has incurred, but this should have been anticipated. The reality is that these businesses are the City's clients, and they have been let down. He said the contractor has failed, and so the City has failed. He stated that the City should be doing everything it can to help these businesses, especially during their busy season.

Mr. Parrish mentioned that at the end of the day, we need to show empathy toward the businesses because they help make the City what it is. He said that what the City has done to help accommodate the construction is less than what these businesses have at stake.

Mr. Daniel said it seems that this needs further attention. He wants to ensure that our businesses are taken care of and that we need to do a better job moving forward.

Mr. Platt said the City needs to invest in a walkway mat to lay over Times Arcade Alley to make it easier to access.

Mayor Copelof said that they hear the concerns of the local businesses, and as elected officials and staff, they are evaluating solutions to do as much as they can to take care of the affected businesses.

G. Mural Painting Next Steps

Ms. Bentley said that this committee has received an overview of the mural painting that was presented at the last committee meeting. We are asking the committee to approve this so that the artist can paint the mural during the Plein Air Festival in September.

Mr. Hooper asked who is securing funds for this project.

Ms. Bentley said that the Heart of Brevard will secure the funds for this project, and we are not asking for funds from the City.

Ms. Holden asked what the lifespan of a mural is.

Ms. Bentley said that for a mural like this, it's typically five years. However, his contract provides for maintenance and touch-ups. It will also have an anti-graffiti coat.

At 5:10 p.m., a motion was made by Mr. McMinn, seconded by Mr. Parrish, to recommend the mural application to the City Council. The motion passed unanimously.

H. Downtown Beautification Grant – Dogwood Trust

Mr. Hooper said that we recommend our application for the Dogwood Trust Downtown Beautification grant be for the mural.

The committee recommended that the mural application be used for the Dogwood Trust grant.

I. Public Comment

Mr. McMinn asked for a map of the city bicycle routes.

Mr. Hooper said that Mr. Bland could provide a map like that.

Mr. Miller said that he appreciates all the concerns from the committee. He said that the businesses downtown are the lifeblood of the community. Mr. Miller said that the City should have devoted someone or hired a project manager to help with the management of the project to ease the stress on businesses.

Ms. Necessary asked if the City could improve communication when the street is going to be closed for construction. She said that her business is down around 25% year over year, and although she does not blame the City for all of that, she feels that the City has been dismissive.

Ms. Holder asked if an alert can be provided when the road is going to be closed.

Ms. McCann said that the criteria for announcing street and sidewalk closures to the general public typically includes how far in advance they were made aware of it, how long it will last, the proximity of other streets for bypasses, the time of day, and how many lanes will be closed.

J. Set Date for Next Meeting

The next meeting of the Council Downtown Master Plan Committee was scheduled for Wednesday, June 12, 2024 at 4:00 PM.

K. Adjourn

There being no further business, the meeting was adjourned at 5:28 PM.

Minutes Approved - June 12, 2024

X

Gary Daniel
Chair, Council Member

X

Alex Shepherd
Assistant to the City Manager

STAFF REPORT
City Council, Monday, June 17, 2024

Title:	Approval of Purchasing Policy
Speaker:	Dean Luebbe, Assistant City Manager/Finance Director
Prepared by:	Alex Shepherd, Assistant to the City Manager, Dean Luebbe, Assistant City Manager/Finance Director
Approved by:	Wilson Hooper, City Manager

Background

Local governments in North Carolina must abide by certain laws governing purchasing and contracting. In addition to the NC General Statutory provisions pertaining to local governmental purchasing, the City should also have its own local purchasing policy that staff are required to adhere to for all purchasing and contracting. The policy of the City is to maintain a responsible procurement process that obtains the best apparatus, supplies, materials, equipment, and services at the best price and in compliance with all applicable laws. The purpose of this policy is to establish guidelines for the expenditure of funds used to procure goods and services by City departments.

Discussion

In January 2024, staff brought a drafted purchasing policy before the Finance/HR and Citizen Appointment Committee, which provided their input and suggestions. Necessary revisions were made over the next several monthly meetings. The committee recommended that staff draft a policy with stricter thresholds governing purchasing and contracts than the limits set by the NC General Statutes.

The thresholds set forth in the purchasing policy are as follows: formal bids will be required for purchases over $75,000 and construction-type services over $250,000. Informal bids will be required for purchases over $25,000 but less than $75,000, and construction-type services over $30,000 but less than $250,000.
The policy notes that purchases in the formal range require the approval of the City Council. Alternatively, the City Council may delegate this authority to the City Manager for each fiscal year, with the delegated authority expiring at the end of that fiscal year, at which point the authority must be renewed by the City Council. However, construction-type services in the formal bid range must be approved by the City Council and cannot be delegated.

Fiscal Impact

No monetary impact.

Action

Staff request Council approve the policy as written. The policy has been reviewed by the Finance/HR and Citizen Appointment Committee, which recommends its approval.

Attachments:
1. Brevard Purchasing Policy - Final Draft
2. Resolution Adopting City of Brevard Purchasing Policy

CITY OF BREVARD

PURCHASING POLICY

Purchasing Policy
Adopted by the City Council: XXXXXXX

I. FORWARD

This Purchasing policy and procedures manual is intended for use as a guide to the City of Brevard's Purchasing methods and practices. When used properly and with common sense, the policies and procedures established herein will enable the City to obtain needed materials, equipment, supplies, and services efficiently and economically.

The understanding and cooperation of all employees is essential if the City is to obtain the maximum value for each dollar spent. While this manual does not answer all questions related to Finance, it does provide the foundation for a sound purchasing and procurement system.

The goals of the City of Brevard purchasing program are as follows:

1. To comply with legal and ethical requirements of public purchasing and procurement.
2. To assure vendors and the public that impartial and equal treatment is afforded to all who wish to do business with the City.
3. To receive maximum value for each dollar spent by awarding purchase orders to the lowest responsible, responsive bidder.
4. To provide City departments with the required goods, equipment, and services at the time and place needed and in the proper quantity and quality.

If the procedures and guidelines established in this manual are followed, each department can efficiently manage, control and plan its' available resources to meet present and future department needs and help the City to meet these goals. Should you have any questions about this manual or its' procedures, please contact the Finance Department.

This manual is effective immediately upon issuance and supersedes all previous Finance instructions or directives.

II. GENERAL GUIDELINES

2.1 Incurring Obligations

No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget ordinance unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project, or a grant project authorized by a project ordinance unless that project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction as required by N.C. G.S. 159-28 (a).

2.2 Preaudit Requirement

If an obligation is reduced to a written contract or written agreement requiring the payment of money or is evidenced by a written purchase order for supplies and materials, the written contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been pre-audited and shall be signed by the Finance Director to assure compliance with N.C.G.S §159-28 (a1).

2.3 Local Buying

It is the desire of the City of Brevard to contract with vendors and contractors located within the City of Brevard and Transylvania County. The City also has a responsibility to its residents to ensure that maximum value is obtained for each dollar spent. **The City will not make purchasing decisions solely on the basis of vendor residence.**

2.4 Planning

Planning should be done to minimize small orders and last-minute purchases. Approval of purchase orders will generally be made within two business days of submission.

2.5 Buying Proper Quality

Quality and service are as important as price when considering goods for purchase; it is the duty of the requesting department to secure the most cost-effective good or service that will meet but not exceed the requirements for which the goods or services are intended. In some instances, the lowest price does not necessarily mean the lowest cost. A higher price, higher quality product may save the City from excess expenses in the future. The requesting department should take this into consideration when making a purchase. However, when making a purchase of other than the lowest cost goods or services, the purchasing department should be prepared to justify such a purchase both to City administration and to the public based on standards directly related to the quality of the goods or service to be obtained, or the terms on which such goods or services are to be provided.

2.6 Authorization

The Department Head or their designee must authorize each invoice with signature and date before forwarding to the Finance Department for payment. This authorization verifies that the goods and or services have been received, the budgeted funds are available, and the invoice has been coded to the proper account number.

2.6 Standard of Award

Vendors will be selected on a competitive basis. Bid awards, purchase orders and/ or contracts will be issued to the lowest, responsive, responsible bidder. The City of Brevard is prohibited from and will not use vendors who have been debarred by Federal, State, or Local governments. Vendor verification can be made through SAM (System for Award Management) and the NC Debarred Vendor List, and any City list maintained by the Finance Department.

2.7 Limitations of Procurement

A. E-Verification Requirement

No contract can be entered into unless the contractor has complied with NC E-Verify hiring requirements pursuant to N.C. G.S. 143-133.3. Under the law the entity must possess 25 or more employees E-Verify to be applicable.

The following exceptions apply:

1. Expenses related to travel, including transportation and lodging, for employees, officers, agents, elected officials, or members of State or local boards, commissions, committees, or councils.
2. Contracts *solely* for the purchase of goods, apparatus, supplies, materials, or equipment (contracts that involve a combination of purchase and construction, or purchase and service would not be exempt).
3. Contracts let under N.C. G.S. 143–129(e)(1), (9), or (9a) (the exceptions to competitive bidding requirements for purchases made directly from another unit of government or from a vendor under contract with the State of North Carolina or a federal agency).
4. Contracts let under N.C. G.S. 143–129(g) (the piggyback exception to competitive bidding requirements).

B. Contracts spanning more than one City Fiscal Year

Under the Local Government Budget and Fiscal Control Act, all expenditures must be supported by an appropriation. In N.C. G.S. 159-28 (b), bills, invoices, or other claims against a local government or public authority may be approved if 1) the amount is determined to be payable and 2) the budget or project ordinance includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed. Contracts, including purchase orders, must include a pre-audit certificate signed by the Finance Officer. Encumbrances include all outstanding purchase orders, unpaid invoices and agreements or contracts that have not been completed for which the City has an obligation to expend funds. Encumbrances against an appropriation are a reduction in the amount available for future expenditures, and only when the encumbrances are recorded is a true report of the financial condition of a department or City evident.

2.9 Vendor Selection

A. Vendor Section Policy

Vendors will be selected on a competitive basis. Depending on the amount of the purchase, formal bids, informal bids, or other forms of price solicitation will be requested by the appropriate department. Bid awards will be awarded to the lowest responsive, responsible bidder.

B. Vendor Set Up

Vendors will complete the vendor packet prior to being entered as a City of Brevard vendor. The vendor packet includes a W-9 form, a vendor registration form, and an insurance certificate (if required).

C. Gifts and Gratuities

City employees are expressly prohibited from soliciting or accepting any rebate, money or costly entertainment, alcohol, gift, or gratuity (with the exception of mementos and novelties of nominal value) from any person, company, firm, or corporation to which the City can potentially do business with. The City of Brevard will not tolerate circumstances that produce, or reasonably appear to produce, conflicts between the personal interest of an employee and the interests of the City.

D. Selection Procedures

For the procurement of supplies, materials, services, equipment, and for construction services, the Finance Department will observe the following procedures:

1. North Carolina General Statute 143-129, states that formal bids will be used for purchases over $90,000 and construction type services over $500,000. NCGS 143-129 further states that informal bids to be used on purchases over $30,000 but less than $90,000, and for construction type services over $30,000 but less than $500,000.

2. **The City of Brevard wishes to enact a stricter limit to both formal and informal bid amounts than those listed by N.C. G.S. 143-129.** Formal bids will be required on purchases of over $75,000 and construction type services of over $250,000. Informal bids will be required on purchases over $25,000 but less than $75,000, and construction type services over $30,000 but less than $250,000.

2.10 Finance Procedures

A. Capital Project Funds

All construction contracts within Capital Projects Funds will require City Council approval. Engineering contracts that are over 5% of the project budget or $50,000 (whichever is higher) will require City Council approval. The City Manager will notify City Council at least quarterly with a financial report concerning the status of capital projects.

B. Recurring Purchasing Agreements

Contracts and purchasing agreements of over **$10,000** will be reviewed at least every three years, to ensure that the City continues to spend wisely. For contracts and purchasing agreements expected to exceed **$100,000**, the City will perform the review annually except for insurance, information technology services, or other agreements that would guarantee long-term savings which would be reviewed every three years.

C. City Manager Authority

The City Manager will have the authority to approve change orders, as long as the change order amount is within the overall Project budget. For change orders that exceed the overall Project budget, City Council approval will be required. **The City Manager retains the right to deviate from this policy, particularly in those situations involving critical timing issues. Whenever the City Manager deviates from any part of the purchasing policy the City Council will be notified in a timely manner.**

III. PROCUREMENT WITH THE USE OF NON-FEDERAL FUNDS

3.1 General Procurement Standards and Procedures:

All purchases $5000 and above require a requisition and purchase order (PO).

3.2 Purchase Procedures

A. Purchases between $5,000 and $9,999.99

Purchases in this price range may be obtained by the requesting department(s) through an informal quote process. No minimum number of quotes is required however, it is encouraged that every attempt is made to acquire multiple quotes. The informal quotes may be received through verbal communications, email, or fax. Verbal quotes must be noted in typed or hand-written form documenting price, date quoted, name of vendor, and name of the individual representative of the vendor.

B. Purchases between $10,000 and $24,999.99

Purchases in this price range are obtained through the formal quote process. In the formal quote process, the requesting department is required to receive at least three (3) quotes via U.S. Mail, email, fax, or hand delivery.

C. Purchases between $25,000 and $74,999.99

Purchases in this range must be obtained through informal bids. Departments are responsible for sending a request for quote (RFQ) and will allow vendors sufficient time to respond to the request based on the complexity of the request. RFQs in the informal bid range may or may not be advertised to the public. A minimum of three (3) vendors, if available, will receive the RFQ. Every effort will be made to obtain at least three (3) quotes. Quotes in the informal bid range may be submitted through U.S. Mail, email, fax, or hand delivery. No verbal quotes are acceptable in the informal bid price range. The required three written informal bids are to be scanned and submitted with/ attached to the purchase requisition prior to purchase; after the purchase order is issued and approved, a purchase may be made. **Purchase orders in this range require the approval of the City Manager.**

D. Purchases $75,000 and above

Purchases in this range must be obtained through a formal bid process in accordance with Chapter 143, Article 8 of the North Carolina General Statutes. Departments are responsible for working with the Finance Director to develop the RFQ/RFP and act (including advertisement and bid opening) in compliance with the relevant North Carolina law. **Purchases in the formal range require the approval of the City Council. Alternatively, the City Council may delegate this authority to the City Manager for each fiscal year, with the delegated authority expiring at the end of that fiscal year, at which point the authority must be renewed by the City Council.**

3.3 Special Considerations for Construction or Repair

No contract may be divided for the purpose of avoiding bidding or notice requirements with the approval of the City Council granted pursuant to N.C. G.S. 143.133.

3.4 Construction and Non-Emergency Repair Procedures

The majority of construction type contracts will occur in Capital Project Funds. All construction type contracts in Capital Project Funds are required to be approved by City Council.

A. Construction and Repair less than $29,999.99

For construction and non-emergency repair contracts in this price range are obtained through the informal quote process. The requesting department is required to receive at least three (3) quotes via U.S. Mail, email, fax, or hand delivery. The required three written quotes are to be scanned and submitted with/ attached to a proposed contract prior to the entry of the contract. Entry of the contract The Finance Department may request additional quotes if deemed necessary during review of the purchase requisitions. **Formal recommendation of award will be made to City Manager for approval.**

B. Construction and Repair $30,000 to 249,999.99

For construction and non-emergency repair contracts in this price range are obtained through the informal quote process. The requesting department is required to receive at least three (3) quotes via U.S. Mail, email, fax, or hand delivery. The required three written quotes are to be scanned and submitted with/ attached to a proposed contract prior to the entry of the contract. Entry of the contract The Finance Department may request additional quotes if deemed necessary during review of the purchase requisitions. **Formal recommendation of award will be made to City Manager for approval.**

C. Construction and Repair $250,000 and above

For construction and non-emergency repair contracts in excess of $250,000 shall require City Manager review and assistance prior to procurement of the work or service. In order to contract for construction or non-emergency repair work in this range, formal bids must be obtained, after listing on the City's website and on appropriate project websites. A minimum of three (3) bidders, if available, will receive the request for bids in addition to the listing required above. N.C. G.S. 143-129 will be followed including advertisement and receipt of sealed bids. **Formal recommendation of award will be made to City Council for approval.**

3.5 Architectural, Engineering and Surveying Services

Procurement of architectural, engineering and surveying services shall be accomplished pursuant to Article 3D of Chapter 143 of the North Carolina General Statutes.

3.6 Services

Contracts directly authorized by the City Council through direct award or budget authorization may be executed by the City Manager. Subsequent orders changing the original contract, which do not exceed the approved cost of the contract, will be executed by the City Manager.

3.7 Special Procurement Procedures

A. Technology Goods and Services

All technology purchases require the approval of the Finance Director. This includes, but is not limited to; hardware, software, licensing, maintenance, and all technology related service contracts.

B. Items Not Requiring a Requisition or Purchase Order

1. Emergency Purchases – In cases of emergency, the City may purchase supplies or services whose immediate procurement is essential to prevent delays in work which may affect the life, health, or safety of City of Brevard employees or citizens.
2. Sole Source of Supply – In the event there is only one vendor capable of providing a product or service, the competitive pricing procedures outlined may be waived by the City Manager or Assistant City Manager/Finance Director. The requesting department will document why only one company or individual is capable of providing the good or service.
3. Purchase of Routine Services – Such as utilities, insurance, fuel, and other items that do not require the department to request this service each time it is purchased.

C. "Piggybacking" on Previously Bid Contracts:

There is a way to let other governmental units do the work for us: it is called "piggybacking" on their previously bid contracts. Many times, a vendor will sell to us under the same terms they agreed upon with another governmental unit – although this must first be confirmed. It is not necessary that the unit of government be in North Carolina or that North Carolina's statutory requirements be exactly followed, only that a reasonably similar public competitive bid process be performed.

There are some special requirements for this form of procurement N.C. G.S. 143-129(g):

1. The original contract must have been executed within the past twelve months (does not apply to NC statewide contracts discussed above).
2. The items being purchased must the identical to as specified in the original contract – no substitutions.
3. The City must verify that it likely will not be able to secure better terms from another vendor or through another procurement method; this can be done through some informal research, documentation of which should be attached to the requisition.
4. Contracts made under this exception must be approved by the City Council at a regularly scheduled meeting; notice of intent to award the contract without bidding must be published no less than ten days prior to the meeting. (Does not apply to NC statewide contracts discussed above.)

In addition to contacting various nearby units of local government, there is also a national program to facilitate "piggybacking." US Communities enables us to piggyback on nationwide contracts for a number of goods that are commonly used by municipal governments. Because these contracts were negotiated as large-volume purchases, we gain the benefit of higher negotiating leverage than we would have on our own.

US Communities: http://www.uscommunities.org/

IV. PROCUREMENT WITH THE USE OF FEDERAL FUNDS

Contracts funded with federal grant or loan proceeds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200), to the extent the standards do not violate state law**.**

Further information on dollar thresholds can be found here:
http://www.sog.unc.edu/sites/www.sog.unc.edu/files/Dollar%20Thresholds%20Chart%202013.pdf

The State of North Carolina Interactive Purchasing System can be found on the web at www.ips.state.nc.us/ips/Default.aspx.

The North Carolina E-Procurement System can be found on the web at http://eprocurement.nc.gov/

CFR-Code of Federal Regulations
http://www.ecfr.gov/cgi-bin/text-idx?SID=889c09dd91de78500ad88b2f32662996&mc=true&node=sg2.1.200_1316.sg3&rgn=div7

Exceptions to State Competitive Bidding Requirements
https://www.sog.unc.edu/sites/www.sog.unc.edu/files/additional_files/Competitive%20bidding%20exceptions%20chart.pdf

Federal System for Award Management (SAM)
https://www.sam.gov/portal/SAM/?portal:componentId=24f38525-a064-4a77-b09f-3fa5986c2b48&interactionstate=JBPNS_rO0ABXc0ABBfanNmQnJpZGdlVmlld0lkAAAAAQATL2pzZi9uYXZpZ2F0aW9uLmpzcAAHX19FT0ZfXw**&portal:type=action##11

NC Debarred Vendor List
https://ncadmin.nc.gov/government-agencies/procurement/contracts/debarred-vendor

RESOLUTION NO. 2024-XX

A RESOLUTION ADOPTING THE CITY OF BREVARD PURCHASING POLICY

WHEREAS, it is the policy of the City of Brevard to maintain a responsible procurement process that obtains the best apparatus, supplies, materials, equipment, and services at the best price and in compliance with all applicable laws; and

WHEREAS, Staff has drafted a Purchasing Policy establishing guidelines for the expenditure of funds used to procure goods and services by City departments; and

WHEREAS, the City Council Finance, Human Resources and Citizen Appointment Committee has reviewed the draft Purchasing Policy and recommends approval.

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

Section 1. The City of Brevard Purchasing Policy attached hereto and presented to City Council at its June 17, 2024 meeting is hereby adopted.

Section 2. The City of Brevard Purchasing Policy shall become effective on July 1, 2024 .

Adopted and approved this the 17th day of June 2024.

____

Maureen Copelof
Mayor

ATTEST:

____

Denise Hodsdon, CMC
City Clerk

STAFF REPORT
City Council, Monday, June 17, 2024

Title:	Approval of Scope of Work for Wastewater Treatment Plant - KCI Associates of NC
Speaker:	Wilson Hooper, City Manager
Prepared by:	Emory Owen, Wastewater Treatment Plant ORC, Wesley Shook, Acting Public Works Director, Wilson Hooper, City Manager
Approved by:	Wilson Hooper, City Manager

Background
City Council has named replacement/upgrade of Brevard's wastewater treatment plant (WWTP) as one of its top priorities for two consecutive years. The current plant is reaching the end of its useful life and uses old technology that is expensive to maintain. The current plant also has a limited physical capacity that may prevent new development from coming to the area. Finally, state code requires that utility systems begin planning plant replacements once existing facilities reach 80% capacity; Brevard's plant hovers around 79%.

Brevard wishes to begin the project by having a professional engineering firm assess the situation and make recommendations as to whether the city should pursue upgrade or replacement, the type of treatment process that should be used, what technology should be deployed, etc. The product of that firm's work, called a Professional Engineer's Report (PER), will objectively and scientifically establish what's needed and give the City the information we need to pursue funding.

Late last year the City hired AECOM to help us though a qualifications-based selection for the PER firm. With AECOM's support, the City released an Request for Qualifications RFQ to which four highly qualified firms responded.

The Public Works and Utilities Committee (PWC) acted as the selection committee, holding interviews with each of the four firms, and follow-up interviews with two finalists. The PWC spent an additional meeting deliberating amongst itself before finally selecting the firm KCI as its finalist.

Discussion
After selecting KCI, the PWC instructed the City Manager to begin negotiating a scope of work with the firm. Working in concert with WWTP staff, the parties made several refinement, which were included in the scope of work to the City Manager brought to PWC for consideration at its June 5, 2024 meeting. After discussion the PWC referred the scope of work on to full City Council for approval.

The scope includes the following tasks:

1. Defining project goals
2. Collecting data and reviewing existing equipment/infrastructure
3. Projecting future flows
4. Engineering Alternatives Analysis (EAA) and site selection
5. Evaluating treatment technologies
6. Preparing final recommendations and consolidated report

The scope of work includes an allowance for assistance with funding applications, but additional funding support may be needed from another firm.

Fiscal Impact
As presented the cost of the work is $352,000. The City intends to submit an application to the North Carolina Department of Environmental Quality's Division of Water Infrastructure (DWI) to fund this work with a portion of Brevard's $13M direct appropriation from the state's 2023 budget. Early conversations with DWI staff suggest that the project is eligible and will be awarded funds. If not, the water/sewer capital reserve fund has a balance of approximately $501k and is budgeted to have an additional $390k added to it on July 1.

Attachments:
1. Brevard WWTP PER Scope of Work - Draft 5-23-24-1
2. Resolution 2024-XX KCI PER Resolution

Exhibit A

STATEMENT OF WORK

to the

MSA for Professional Services

KCI Project Number _____TBD_____

This Statement of Work effective as of the date of the last signature ("Effective Date") is entered into by **City of Brevard** ("Client") and **KCI Associates of North Carolina, P.A.** ("KCI") with regard to the project identified below ("Project"). Client and KCI shall collectively be referred to herein as the "Parties."

The Project:	**Brevard WWTP Preliminary Engineering Report**
Project Address:	**3226 Wilson Rd, Pisgah Forest, NC 28768**
Client's Representative:	**Wilson Hooper, City Manager**
KCI's Representative:	**Project Manager: Matt Broderick** **Contract Manager: D. Mack Kelly, Jr.**

All services provided by the Parties on the Project shall be governed by the terms of this Statement of Work and those in the Master Services Agreement for Professional Services ("MSA") attached hereto as Attachment A and incorporated by reference herein.

The Parties shall complete this Statement of Work in accordance with the contract documents listed on and attached as Attachment B (the "Contract Documents").

Scope of Services

KCI's scope of services, including deliverables (the "Services"), is detailed in Attachment C excluding any terms and conditions provided therein.

Project Schedule

KCI shall perform the Services in accordance with the schedule ("Project Schedule") detailed in Attachment C.

Fee and Payment

KCI's fee for completion of the Services in accordance with the Contract Documents is $352,000.

KCI shall comply with the invoicing procedures described in the MSA.

Client shall render payment to KCI in accordance with the payment schedule below. ***If left blank, the payment schedule in the MSA shall apply.***

Special Terms and Conditions

In the event of a conflict between the following terms and conditions and the MSA with regard to the Services, the terms and conditions listed in this Special Terms and Conditions Section shall govern.

In the event of any other conflict between the terms hereof and the MSA, the terms of the MSA shall govern.

IN WITNESS WHEREOF, the Parties have caused this Statement of Work to be duly executed. Each Party warrants and represents that its respective signatories whose signatures appear below have been and are on the date of signature duly authorized to execute this Statement of Work.

City of Brevard
BY:

____
Signature

____
Name

____
Title

____
Date

KCI Associates of North Carolina, P.A.
BY:

____
Signature

____
Name

____
Title

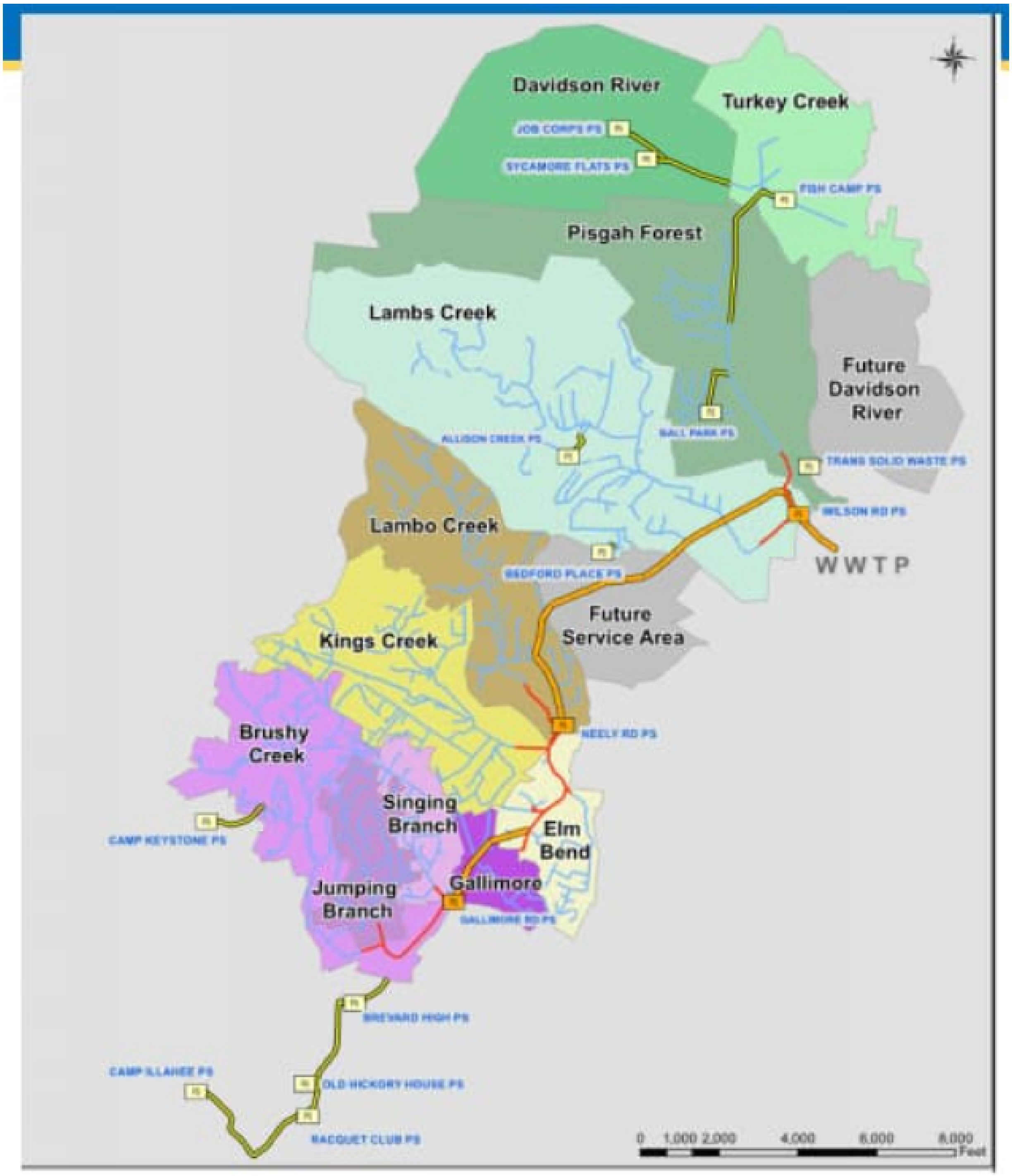
____
Date

Attachment A to Statement of Work

(Insert MSA)

Attachment B to Statement of Work

Figure 1 – Brevard WWTP Service Area (provided in RFP)



Attachment C to Statement of Work

Proposed Scope

BACKGROUND

The Client owns, operates, and maintains the City of Brevard WWTP, which is located northeast of the City on Wilson Road adjacent to the French Broad River. The City of Brevard WWTP began operation in 1984 and has a permitted capacity of 2.5 MGD. There is significant interest in developing portions of the WWTP service area, expansion of the existing service area, and potential for increased wastewater from the brewery industry located in the area. The Client has Requested assistance from KCI to develop a Preliminary Engineering Report (PER)/Engineering Alternative Analysis (EAA) for expansion, improvement, or replacement of the existing WWTP.

SCOPE OF SERVICES

The project scope includes completing a comprehensive PER / EAA ("Project") for possible upgrade, expansion, or and/or relocation. The scope is further defined in the tasks below:

- Task 1 – Project Goal Definition
- Task 2 – Data Collection and Existing Equipment Review
- Task 3 – Flow Projections & Design Basis
- Task 4 – Engineering Alternatives Analysis – Site Selection
- Task 5 – Treatment Technology Evaluation
- Task 6 – Prepare Final Recommendations and Consolidated Report
- Task A-1 – Funding Assistance Allowance

TASK 1 – PROJECT GOAL DEFINITION

In Task 1, we will perform the following:

- In-person kickoff meeting with stakeholders and Client staff.
  - Discuss and document overall goals and objectives for the project.
  - Receive input on current technical and operational challenges from the Client's operations and maintenance staff. Obtain feedback on initial design concepts.
  - High-level review of available information to guide development of request in Task 2.
  - Discuss potential regionalization options and setup preliminary meetings with potential stakeholders.
- Summarize the project goals in a brief memorandum.
- Establish project schedule and identify project milestones.
- Establish a project specific SharePoint site. This site will provide Client's project team with secure file access and proficient review capabilities. It also further facilitates routine team communication and allows for more extensive file sharing.

Task 1 Assumptions:

- One (1) in-person 3-4 hour kickoff meeting will be conducted to establish project goals.
- One (1) virtual project progress meeting is included in this Task

Task 1 Deliverables:

- Project Goals Memorandum
- Meeting Agendas and Meeting Minutes

TASK 2 – DATA COLLECTION AND EXISTING EQUIPMENT REVIEW

In Task 2, KCI will:

- Collect and review existing information for the WWTP & sewer collection system including:
    - Basis of design reports/preliminary engineering reports
    - Design drawings
    - GIS system data (maps, shapefiles, etc.)
    - Equipment specifications/shop drawings/pump curves
    - Maintenance/repair logs
    - Existing record drawings/one-line drawings
    - Pump run time data
    - Flow monitoring data
        - Influent and effluent monitoring data
        - NPDES permit and DMR information
    - Available planning documents addressing future population growth or wastewater flow projections
    - Available information on potential regionalization partners & locations
- Data Review
    - Review the information received and perform a gap analysis to determine if any additional data is necessary. If additional data is needed, we will work closely with Client staff to collect the remaining information.
- Field Review
    - Visit the existing WWTP site to examine in detail the existing WWTP layout, process equipment, basins, electrical layout, and any other pertinent items in the field. Meet with Client staff to review site conditions and constraints and discuss construction sequencing of conceptual improvements without impeding the continuous operation of the WWTP.
    - Utilize a drone to produce an aerial map of the plant. Assess topography, flood boundaries, and property lines to develop a base map for conceptual upgrade layouts.
- Major WWTP Process Equipment Inventory
    - Create an inventory of the major process equipment such as pumps, blowers, screens, tanks, clarifiers, and presses.
    - Inventory will include relevant high level information including equipment capacity, age, and level of service.
- Regionalization Feasibility
    - Collect data on regionalization feasibility (preliminary route maps, service areas, county land use plans, etc.)
    - Conduct up to three (3) in-person regionalization workshops with Client and other stakeholders.

- o Perform a feasibility analysis on up to two (2) potential regionalization options. Prepare a TM summarizing the regionalization feasibility analysis.

Task 2 Assumptions:

- Two (2) field review site visits will be performed to gather additional existing facility information.
- Two (2) virtual progress meetings are included in this Task
- Three (3) regionalization workshops are included in this Task
- One (1) in-person 3-4 hour workshop will be conducted to review collected information.
- Client will provide available data/information requested in the RFI

Task 2 Deliverables:

- Request for Information (Email)
- Meeting Agendas and Meeting Minutes
- Analysis of data gaps and issue Second Request for Information (if necessary)
- Major WWTP Process Equipment Inventory
- Regionalization feasibility TM

TASK 3 – FLOW PROJECTIONS & DESIGN BASIS

In Phase 3, KCI will:

- Develop Flow Projections
    - o Develop wastewater flow projections for the Client's 10- year, 20-year, 50-year, and 75-year planning horizons. Two sets of projections will be developed: 1) projections based on the current flow data and evaluation of developable parcels; 2) projections calculated using population and employment trend data. Any anticipated potential industrial and commercial flows will also be included in both projections.
    - o Develop future conditions models for the projected flow scenarios, including both population growth and the associated peak wet-weather flow projections.
    - o Review peak flow projections with the Client to ensure consistency with both current planning guidance and potential wet weather flows.
    - o Utilize the flow projections along with other factors as a basis for triggering events to alert the Client when it should consider upgrades to the City WWTP. We will not only use flow but also wastewater characteristics to trigger upgrades or expansion.
- Develop a Flow Projections Technical Memorandum (TM)
    - o Develop a draft summary TM of the flow projections developed above.
    - o Conduct a workshop to review the TM and flow projections with the Client.
    - o Incorporate the comments from the workshop into a final TM.
- Prepare a design basis for the PER/EAA for concurrence by Client staff. The design basis will address flows, process loadings, and effluent limitations for any proposed scenario.

    - Influent process loadings will be based on the DMR data collected in Task 2.
    - KCI will submit a request for speculative limits to NCDEQ for the existing WWTP location, as well as up to two potential greenfield sites as described in Task 4. Target effluent limits from the proposed process will be designed to meet or exceed the speculative limits received from NCDEQ.

Task 3 Assumptions:

- Three (3) virtual progress meetings are included in this Task
- One (1) in-person 3-4 hour workshop will be conducted to review collected information (if regionalization partner(s) are identified, intent would be for them to attend this workshop for input/comment)

Task 3 Deliverables:

- Flow Projections TM with consolidated planning projections for water and wastewater flows including peak flow projections and trigger events for upgrades.
- Design Basis TM
- Meeting Agendas and Meeting Minutes

TASK 4 – ENGINEERING ALTERNATIVES ANALYSIS – SITE SELECTION

In Task 4, KCI will prepare three (3) primary alternatives for evaluation:

- <u>Alternative 1 - No Action:</u> (required by NCDEQ EAA guidance).
    - This will be a high-level analysis summarizing advantages/disadvantages of maintaining current operation of the WWTP.
- <u>Alternative 2: Upgrade/Expand WWTP at Existing Site</u>
    - Prepare a 10% schematic design of existing WWTP site upgrade.
    - Include phased upgrades of 2.5 MGD, 5.0 MGD and possibly higher, depending on the flow projections determined in Task 3
- <u>Alternative 3: Construct new greenfield WWTP at new site</u>
        - Identify available parcels (up to 5) for potential greenfield WWTP site to replace the existing WWTP
        - Prepare schematic design of conveyance to new site to evaluate feasibility
        - Prepare an evaluation matrix of the available sites to narrow down to the most preferred site.
        - Prepare a 10% schematic design of new greenfield WWTP site
- Engineering Alternatives Analysis Summary TM
    - The alternatives will be evaluated utilizing a decision matrix for replacement of the existing 2.5 MGD WWTP capacity and expandability for future flow needs for the 50- to 75-year planning horizon.
    - KCI will prepare a summary TM of the three alternatives.
    - After the draft TM is prepared, we will conduct a workshop with the Client to review all the information presented in the TM. Revisit the project goals and schedule and confirm that EAA meets the Client's objectives.

Task 4 Assumptions:

- Three (3) virtual progress meetings are included in this Task

- Two (2) in-person 3-4 hour workshops will be conducted to review the greenfield site selection and the engineering alternatives TM(if regionalization partner(s) are identified, intent would be for them to attend this workshop for input/comment).

Task 4 Deliverables:
- Engineering Alternatives Analysis – Site Selection TM
- Meeting Agendas and Meeting Minutes

TASK 5 – TREATMENT TECHNOLOGY EVALUATION

- Evaluate up to three (3) treatment technology alternatives utilizing a decision matrix for replacement of the existing 2.5 MGD WWTP capacity and expandability for future flow needs for the 50- to 75-year planning horizon. The equipment decision matrix will consider such factors as:
  - Capital costs
  - Overall footprint
  - Equipment efficiency and energy usage
  - Equipment availability
  - Manufacturing and delivery lead times
  - Construction sequencing
  - O&M costs
  - Spare parts and maintenance support from the manufacturer
- Preliminary process and hydraulic models will be created for each alternative to confirm feasibility of operation and ability to meet project parameters.
- Conduct a final in-person workshop to review the treatment technology alternatives with Client staff.
- Summarize the workshop conclusions and our final recommendation in a TM for concurrence by the Client.

  Note that portions of this Task may run concurrently with Task 4, as the technology selections may impact the WWTP site selection process.

Task 5 Assumptions:
- Three (3) virtual progress meetings are included in this Task
- Two (2) in-person 3-4 hour workshops will be conducted to review treatment technologies and the engineering alternatives TM (if regionalization partner(s) are identified, intent would be for them to attend this workshop for input/comment).

Task 5 Deliverables:
- TM with proposed treatment technology and equipment alternatives.

TASK 6 – PREPARE FINAL RECOMMENDATIONS AND CONSOLIDATED REPORT

In Task 6, KCI will:

- Develop capital improvement costs and implementation schedules for the WWTP over the Client's 10- year, 20-year, 50-year, and 75-year planning horizons.
- Develop conceptual drawings for the selected WWTP alternative.

- Compile the results of the workshops along with all the information gathered in Phases 1-5 and assemble a draft PER/EAA including all information required by NCDEQ for Client review. PER/EAA will be formatted to meet NCDEQ funding requirements. If other potential funding sources are identified, portions of PER/EAA that are required for those funding applications (up to two alternate funding sources) will also be incorporated.
- Conduct a workshop to review the draft PER/EAA with the Client.
- Update PER/EAA based on Client comments and submit to NCDEQ for approval.

Task 6 Assumptions:

- Three (3) virtual progress meetings are included in this Task
- One (1) in-person 3-4 hour workshop will be conducted to review the draft PER/EAA.

Task 6 Deliverables:

- Draft PER/EAA
- Final PER/EAA

TASK A-1: FUNDING ASSISTANCE ALLOWANCE

KCI recommends setting aside an owner-directed allowance for funding assistance to allow KCI to assist in exploring potential funding opportunities with the Client. This task will be billed on a Lump Sum Basis based on the percentage of work completed as authorized by the Client. This could include coordination with existing Division of Water Infrastructure funds, and other potential funding sources (i.e. FEMA BRIC, ARC, WIFIA, SRF, etc.)

SCHEDULE

We anticipate that the Project will take approximately 8 months to complete. Preliminary durations for each Task are included in Fees and Payments Section. A detailed schedule will be prepared in Task 1.

ASSUMPTIONS, EXCLUSIONS, AND CAVEATS

Items or Services to be Provided by the Client

KCI assumes that the following items are available and will be provided to KCI by the Client prior to KCI beginning work or upon request during the data collection phase:

- Basis of design reports/preliminary engineering reports
- Design drawings
- GIS system data (maps, shapefiles, etc.)
- Equipment specifications/shop drawings/pump curves
- Maintenance/repair logs
- Existing record drawings/one-line drawings
- Pump run time data
- Flow monitoring data
- Influent and effluent monitoring data

- NPDES permit and DMR information.
- Available planning documents addressing future population growth or wastewater flow projections.
- Available information on potential regionalization partners & locations

The Following items are NOT included in the scope of services at this time. Some or all of the following items and/or other items may be required to provide a complete design based on the findings of this scope:

- As-built survey or 3-D scans of the existing WWTP
- Design drawings prepared by other engineers for the overall WWTP expansion.
- Preliminary and Final design and permitting of system improvements identified in the PER.
- Opinions of operations and maintenance costs, permit fees, financing costs, land costs, and legal costs.
- Additional site visits or in-person Client meetings other than specifically identified in the above scope of services.
- Meetings with NCDEQ, unless specifically included in the Services above.

FEES AND PAYMENTS

The following fees are for the performance of the Services listed in the Scope of Services above. The fees listed in this section do not cover any Additional Services, or any other services that are not specifically described as part of the Services.

KCI will submit monthly invoices for the Services and Additional Services rendered and the Direct Expenses and Charges incurred. Client agrees to comply with the PAYMENT terms in the General Provisions.

KCI's fee for the Services will be billed monthly on a Lump Sum Basis based on the percentage of work completed for each Task within the billing period. The estimated fee includes the charges below associated with the performance of Services.

Task No	Task Description	Duration[1] (Months)	Fee Type Lump Sum / T&E	Estimated Fee
1	Project Goal Definition	1	Lump Sum	$ 36,900
2	Data Collection and Existing Equipment Review	1	Lump Sum	$ 86,100
3	Flow Projections and Design Basis	2	Lump Sum	$ 63,000
4	Engineering Alternatives Analysis – Site Selection	3	Lump Sum	$ 46,800
5	Treatment Technology Evaluation	3	Lump Sum	$ 70,200
6	Prepare Final Recommendations and Consolidated Report	2	Lump Sum	$ 24,000
A-1	Funding Assistance Allowance	TBD	Lump Sum	$ 25,000
	Total			**$ 352,000**

Notes:

1. *Durations shown are estimated times to complete each task. Some tasks are sequential while others may run concurrently. A detailed schedule with milestone dates will be prepared after the kickoff meeting and submitted for Client review and approval.*

ADDITIONAL SERVICES

Experience indicates that certain additional services ("Additional Services") may be required or necessary that KCI cannot presently determine or estimate. For this reason, the fee for Additional Services is not included in the "Fees and Payments" section of this Proposal. Further, the performance of these Additional Services is not included in the Scope of Services unless expressly described in that section of this Proposal.

These Additional Services are caused by many factors including, but not limited to, the following examples: discretion of the Client and/or reviewing agency/regulator determination. For clarity, Additional Services, for the purposes of this Proposal, include the common understanding and purpose of the terms: extras, change orders, and add-ons.

FEES AND PAYMENTS FOR ADDITIONAL SERVICES

Fees and payments for Additional Services shall be in addition to any fees and payments for the Services and shall be billed and paid on the same fee and payment terms described for the Services or as mutually agreed upon in writing when the Additional Services are ordered by the Client.

Exhibit B to MSA

Invoice Processing

RESOLUTION NO. 2024-XX

RESOLUTION AUTHORIZING EXECUTION OF A CONTRACT WITH KCI ASSOCIATES OF NORTH CAROLINA P.A.

WHEREAS, the City of Brevard is desirous to upgrade or replace its aging wastewater treatment plant; and

WHEREAS, the City released a Request for Qualifications to solicit professional engineering firms to make projections as to the City's future wastewater needs and make a recommendation as to which type of upgrade, enhancements, or replacements are needed; and

WHEREAS, after interviewing qualified firms the Public Works and Utilities Committee chose KCI as its preferred firm and instructed the City Manager to begin negotiations; and

WHEREAS, the City Manager and KCI have negotiated the terms of an agreement that each deem to be mutually beneficial; and

WHEREAS, the Public Works and Utilities Committee endorsed the agreement attached hereto at its June 5, 2024 meeting.

NOW, THEREFORE, THE *CITY COUNCIL* OF THE *CITY OF BREVARD* RESOLVES:

The scope of work attached hereto and presented to the City Council at its June 17, 2024 meeting are hereby endorsed; and

The City Manager or his designee is authorized to make minor adjustment as needed and execute this document and the associated contract on the City's behalf; and

This resolution shall be effective upon adoption.

Adopted and approved this the ________ day of ___________________, 2024.

____
Maureen Copelof
Mayor

ATTEST:

____
Denise Hodsdon, CMC
City Clerk

STAFF REPORT
City Council, Monday, June 17, 2024

Title:	Appointment to ABC Board
Speaker:	Wilson Hooper, City Manager Denise Hodsdon, City Clerk
Prepared by:	Denise Hodsdon
Approved by:	Wilson Hooper, City Manager

Background
The Brevard Board of Alcoholic Beverage Control (ABC) is a "constituent unit" of Brevard's local government, as its establishing and governing rules are codified in the City Charter. The Charter furthermore requires that Brevard ABC be subject to the rules governing the regulation of alcoholic beverages codified in NCGS 18b. Both the statute and the code designate the City Council as the ABC board's appointing authority.

The ABC board has two upcoming vacancies for terms set to expire in July 2024. The council's Finance, Human Resources, and Citizen Appointment (HR&F) Committee discussed filling these vacancies at its JUne 3, 2024 meeting and made the recommendations included here.

Discussion
Brevard ABC is in the midst of a transition, with an interim general manager in place and the end of the lease on their downtown facility on the horizon. As shared with Council previously, ABC has also requested that City Council waive one of its reimbursement requirements so that ABC may put more money in a reserve fund for future capital expenses.

For these reasons and others, the City Manager shared his opinion with the HR&F Committee that the city should exercise increased oversight over ABC during this period and the main way to do that was via the appointment process.The committee agreed and is therefore recommending that City Council forego the public recruitment process and instead appoint City Manager Wilson Hooper and HR&F Committee member Susan Miller to the board. Both individuals have a background in municipal finance, with Susan Miller being a former city manager in Florida.

Action
Staff requests Council approve the attached resolution appointing Wilson Hooper and Susan Miller to the Brevard ABC board.

Attachments:
1. Resolution 2024-XX ABC Appointments

RESOLUTION NO. 2024-XX

RESOLUTION APPOINTING MEMBERS TO BREVARD ALCOHOLIC BEVERAGE CONTROL BOARD

WHEREAS, in Fall 2022 the City of Brevard City Council held a work retreat to reform its committee structure; and

WHEREAS, the Council initiated a new system for making appointments that would apply to every body to which the Council makes appointments which includes the Brevard Alcoholic Beverage Control Board; and

WHEREAS, the Finance and Human Resources Committee was renamed the Finance, Human Resources and Citizen Appointment Committee and charged with reviewing applicants for the various committees/advisory groups and making appointment recommendations to the full Council; and

WHEREAS the terms of two members of the Brevard Alcoholic Beverage Control Board expire in July 2024; and

WHEREAS, typically city staff, with the oversight of the Finance, Human Resources and Citizen Appointment Committee, would conduct an open recruitment for citizens interested in serving on the ABC board; and

WHEREAS, based on the circumstances the Finance, Human Resources and Citizen Appointment Committee decided to forego the normal process at their June 3, 2024 meeting;

WHEREAS, the Finance, Human Resources and Citizen Appointment Committee voted to recommend Wilson Hooper and Susan Miller to full City Council for appointment.

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

The Brevard City Council does hereby appoint Wilson Hooper and Susan Miller to the Brevard Alcoholic Beverage Control Board effective July 2024 and expiring in July 2027.

Adopted and approved this the ________ day of __________________, 2024.

____
Maureen Copelof
Mayor

ATTEST:

____
Denise Hodsdon, CMC