

**MINUTES
BREVARD CITY COUNCIL
Regular Meeting
August 1, 2011 – 7:00 PM**

The City Council of the City of Brevard met in regular session on Monday, August 1, 2011 at 7:00 PM in the Council Chambers of City Hall with Mayor Pro Tem Mac Morrow presiding.

The following were present: Mayor Pro Tem Mac Morrow, Council Members Larry Canady, Rodney Locks, and Dee Dee Perkins; City Manager Joe Moore, City Attorney Mike Pratt, and City Clerk Desiree Perry. Mayor Jimmy Harris and Council Member Mack McKeller were absent.

Staff: Assistant Planning Dir. Brad Burton, Deputy Police Chief Dean Galloway, Bldg & Grounds Dir. Lynn Goldsmith, Police Chief Phil Harris, Public Service Dir. David Lutz, Police Dispatcher Debbie McCrary, HR Dir. LeAnn McCraw, Executive Assistant Jeanette Owen, Finance Dir. Terry Scruggs, and Police Executive Assistant Ina Whitmire

Press: Derek McKissock, Transylvania Times

Welcome – Mayor Pro Tem Morrow called the meeting to order, welcomed those present and introduced council members and staff.

Invocation and Pledge – Pastor Tom Arnold, Christ Covenant Church, offered the invocation. Mayor Pro Tem Morrow led in the Pledge of Allegiance.

Certification of Quorum – Noting two members were absent, the City Clerk certified a quorum is present.

Agenda – Mr. Locks moved, seconded by Mr. Canady, the Agenda be approved as presented. Motion carried unanimously.

Approval of Minutes – Ms. Perkins moved, seconded by Mr. Locks, the July 18, 2011 meeting Minutes be approved as presented. Motion carried unanimously.

Certificates and Awards – Police Chief Phil Harris and Mayor Pro Tem Morrow presented to retired Brevard Police Officer, Sergeant Harry Gilbert Harris, a framed copy of Resolution No. 16-2011 and a crafted wooden display box containing the badge Sgt. Harris wore and his service sidearm, a Glock Model 23. Family and friends were in attendance for the presentation. Chief Harris, Council and staff thanked Sgt. Harris for his seventeen years of service as a Police Officer.

Pubic Hearing – Amendment to the City of Brevard Unified Development Ordinance to Allow Human Crematoriums as an Accessory Use to Funeral Establishments.

At 7:14 PM the properly advertised and noticed public hearing to receive comments on the proposed text amendment to allow human crematoriums to funeral establishments began. Mr. Burton explained the City's UDO makes reference to human crematoriums as a permitted use, however, an error was discovered as no district allowing the use had been specified. Mr. Chris Bieker, Moody-Connolly Funeral Home, assisted Planning staff with the proposed text.

Mr. Locks asked if, by permitting human crematoriums, would that also allow for or set a precedent whereby we would have to allow for incinerators.

Mr. Burton replied at present the UDO does not allow incinerators, and, that with the adoption of the proposed text amendment he does not believe such a precedent would be established.

In reply to questions asked, Mr. Chris Bieker stated the crematorium unit they desire to install weighs 20,000 lbs. and measures 140 inches in length by 62 inches in width by 92 inches in height. While it is not required that the unit be permanently affixed on site, due to its size and weight, it is not easily moved. Any testing of the unit will be performed by the State.

Public Hearing Closed – With no further questions or comments from Council or the public, Mayor Pro Tem Morrow closed the hearing at 7:28 PM.

Consent Agenda – Mayor Pro Tem Morrow explained Consent Agenda items are considered routine and are enacted by one motion. He read aloud the two (2) items listed and asked if Council desired to remove an item for discussion, or, add an item(s) to the Consent Agenda. Mr. Locks moved New Business Items M-1 and M-2 be added to the Consent Agenda, seconded by Ms. Perkins.

Discussion on Motion: Attorney Pratt recommended Item M-1, Ordinance No. 19-2011 Section 3 be amended to read, “As to any conflict between this ordinance and any parts of existing ordinances, the provisions of this ordinance shall control.”

Mr. Locks affirmed Mr. Pratt’s recommendation and that the Consent Agenda, as amended to include the two additional items and text amendment as recommended by the City Attorney be approved. Ms. Perkins affirmed her second, and the motion passed unanimously.

Consent Item #1 – **Resolution No. 16-2011** Award of Badge and Service Sidearm to Sgt. Harry Gilbert Harris.

**RESOLUTION NO. 16-2011
AWARDING BADGE AND SERVICE SIDEARM TO RETIRED POLICE OFFICER
SERGEANT HARRY GILBERT HARRIS**

WHEREAS, NC GS 20-187.2 provides that retiring members of municipal law enforcement agencies may receive, at the time of their retirement, the badge worn or carried by them during their service with the municipality; and

WHEREAS, NC GS 20-187.2 further provides that the governing body of the municipal law enforcement agency may, in its discretion, award to a retiring member the service sidearm of such retiring members; and

WHEREAS, Sergeant Harry Gilbert Harris has served the Brevard Police Department with seventeen years of service and has retired at the rank of Sergeant;

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

The City Manager’s designee, Police Chief J. Phillip Harris, Jr., is hereby authorized, in accordance with the provisions of NC GS 20-187.2, to transfer to Sergeant Harry Gilbert Harris the badge worn by him during his service with the Brevard Police Department and his service sidearm, a Glock Model 23, Caliber 40, Serial Number KSU348.

Adopted and approved this 1ST day of August, 2011.

Consent Item #2 – Municipal Appointment Report 2010-2011 to NC Dept. of Secretary of State. (On file in City Clerk’s Office.)

Consent Item #3 (M-1) – **Ordinance No. 19-2011** Amendment of City of Brevard Code of Ordinances to Allow Human Crematoriums in Certain Zoning Districts.

**ORDINANCE NO. 19-2011
AN ORDINANCE AMENDING THE
CITY OF BREVARD CODE OF ORDINANCES
TO ALLOW HUMAN CREMATORIES
IN CERTIAN ZONING DISTRICTS**

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

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

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

SECTION 01. Certain sections of the City of Brevard Code of Ordinances, Unified Development Ordinance, which are listed below, are hereby amended to read as set forth in Exhibit A of this ordinance, which is attached hereto and incorporated herein.

- A. Chapter 2. District Provisions, Section 2.2.C. Use Matrix
- B. Chapter 3. Additional Use Standards, Section 3.31. Human Crematories
- B. Chapter 19. Definitions, Section 19.3. Definitions

SECTION 02. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Chapter 18 of the City of Brevard Unified Development Ordinance.

SECTION 03. As to any conflict between this ordinance and any parts of existing ordinances, the provisions of this ordinance shall control.

SECTION 04. 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 05. The enactment of this ordinance shall in no way affect the running of any Amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.

SECTION 06. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 1st day of August, 2011.

EXHIBIT A
(Ordinance Number 19-2011)

1. The City of Brevard Code of Ordinances, Unified Development Ordinance, Chapter 2. District Provisions, Section 2.2.C. Use Matrix, is hereby amended to read as follows.

-CHAPTER 2, SECTION 2.2.C, EXCERPT-

BASE DISTRICT	GR	RMX	NMX	DMX	CMX	IC	GI
Office / Service	GR	RMX	NMX	DMX	CMX	IC	GI
Funeral Homes	—	—	PS	PS	PS	PS	—
Miscellaneous Uses	GR	RMX	NMX	DMX	CMX	IC	GI
Human Crematories	—	—	PS	PS	PS	P	P

2. The City of Brevard Code of Ordinances Unified Development Ordinance, Chapter 3. Additional Use Standards, Section 3.31 is hereby adopted and shall read as follows:

- 3.31. Human Crematories
- A. Human Crematories may be permitted as accessory uses to licensed Funeral Establishments (“Funeral Homes”) within NMX, DMX, CMX, and IC zoning districts, and as a principle use in IC, provided that such location does not create activity or conditions inimical to the normal commercial activities of the district.
 - B. Human Crematories may be permitted as principle uses within GI zoning districts.
 - C. Under no circumstances shall a crematory permitted as an accessory use exceed 533 cremations per year. All crematories shall adhere to the rules and regulations as prescribed

in NCGS § 90-210.120. “The North Carolina Crematory Act” and Title 21, Chapter 34, Subsection 34C of North Carolina Administrative Code.

i. Crematories permitted as accessory uses shall provide an annual report to the City Zoning Administrator certifying the number of cremations performed in the calendar year does not exceed 533 cremations.

D. Crematories shall only employ equipment that is contemporary and recognized by the industry and the North Carolina Board of Funeral Service and North Carolina Cremation Authority, as “Best Available Technology.”

E. The Administrator may impose such additional, site-specific conditions specific as are necessary in order to protect the health, safety and general welfare of the public and to maintain conditions inimical to the normal activities of the district.

3. The City of Brevard Code of Ordinances, Unified Development Ordinance, Chapter 19, Definitions, Section 19.3. Definitions, is hereby amended to include the following definitions:

Cremation means the technical process, using intense heat and flame that reduces human remains to bone fragments. Cremation includes the processing and may include the pulverization of the bone fragments.

Human Crematory or ***Human Crematorium*** means the building or buildings or portion of a building on a single site that houses the cremation equipment, the holding and processing facilities, the business office, and other parts of the crematory business. A crematory must comply with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the standards set by the North Carolina Board of Funeral Service and the North Carolina Cremation Authority.

Consent Item #4 (M-2) – Ordinance No. 20-2011 Regarding the ABC Store Board of Directors (amending Ordinance No. 16-2011).

**ORDINANCE NUMBER 20-2011
AN ORDINANCE AMENDING ORDINANCE NO. 16-2011
REGARDING THE ABC STORE BOARD OF DIRECTORS**

WHEREAS, the City Council has enacted Ordinance No. 16-2011 regarding the Brevard ABC STORE BOARD OF DIRECTORS;

WHEREAS, the City Attorney has reported to Council that the ABC Board believes Section 6 thereof to be confusing, and that in his review of the Ordinance, Section 6 can be deleted;

WHEREAS, after due discussion and deliberation, Council has determined that the changes suggested by the City Attorney are in the best interest of the residents of the City of Brevard, and that the Ordinance should be amended;

NOW, THEREFORE, be it hereby ordained that the Ordinance is hereby amended to delete the former Section 6, so as to read as follows:

Section 1: The number of Board Members to the Brevard ABC Store Board, be and is hereby increased from three to five in number.

Section 2: Council shall undertake to fill the two new seats as soon as is reasonably possible, and invites the members of the present ABC Store Board to offer suggestions as to persons to be appointed to fill those seats.

Section 3: The Brevard ABC Store Board Chairman is to work with the City Clerk to create appropriate staggered terms, to the end that no more than two Board Members should go off of the Board during any single calendar year, so as to provide continuity to the Board, and the Board Chairman will cause to be stated in the Board minutes, with a copy retained by the City Clerk, containing an appropriate schedule of terms to fulfill this direction.

Section 4: The current Board Chairman, Tracey Love, is hereby reappointed for one additional three year term.

Section 5: The Board shall elect a Vice-Chairman to serve a one year term, upon appointment of persons to serve on the two new seats. The current Secretary shall serve out his term, and then the Board shall elect a new Secretary to serve a one year term.

Section 6 (formerly Section 7): This Ordinance shall be effective upon its adoption and approval by City Council.

Adopted and approved by City Council this the 1st day of August, 2011.

Unfinished Business – **Ordinance No. 21-2011** Requiring the Abatement of a Nuisance on Land Owned by Satpal Rathie.

The ordinance, prepared by the City Attorney, supports Council’s findings from the hearing held on June 20, 2011, and provides for three alternatives to correct the nuisance within 30 days from enactment of the ordinance.

Mr. Canady moved, seconded by Ms. Perkins, Council adopt Ordinance No. 21-2011 as presented by the City Attorney.

Discussion on Motion: Mr. Locks asked Mr. Burton if any one of the three options or methods would completely remove the hazard of the vegetation over 24 inches in height.

Mr. Burton replied, “Yes, it would.”

Vote on Motion: Aye: Mr. Canady, Ms. Perkins and Mayor Pro Tem Morrow

Nay: Mr. Locks

3 to 1 vote. The first reading of an Ordinance requires a super majority affirmative vote; therefore, a second reading of the Ordinance will be held at Council’s next regular meeting.

Remarks by Officials

Mayor Pro Tem Morrow acknowledged the tragic loss of fallen Asheville Fire Department Captain Jeff Bowen in last week’s 4-alarm office building fire in which several other fire fighters were also injured. Both Brevard Fire Department and Police Department personnel have offered assistance and comfort to the Bowen family and families of the injured firefighters, as well as, will provide equipment and staff assistance.

Mayor Pro Tem Morrow shared, “Save the Date” as the well known and recognized historian, Ms. Doris Kearns Goodwin, will be speaking at the Porter Center on September 29th, as sponsored by the Transylvania County Library Foundation. Cost is \$10. The following day she will be working with Brevard College students.

Ms. Perkins shared Brevard Music Center as well as most of our summer camps will soon be closing for the season. They are vital as they bring people into our community and have a positive impact upon our economic development. She expressed appreciation for the many contributions they make to our community.

Adjourn - There being no further business before Council, Mr. Locks moved, seconded by Ms. Perkins, the meeting be adjourned. Motion carried unanimously. Meeting adjourned at 7:39 PM.

Desiree D. Perry
City Clerk

Mac Morrow
Mayor Pro Tem

Minutes Approved: August 15, 2011