MINUTES
BREVARD CITY COUNCIL
Regular Meeting
May 7, 2012 – 7:00 PM

The City Council of the City of Brevard met in regular session on Monday, May 7, 2012 in the Council Chambers of City Hall with Mayor Jimmy Harris presiding.

Present: Mayor Jimmy Harris, Mayor Pro Tem Mac Morrow, Council Members Rodney Locks, Charlie Landreth, Wes Dickson and Maurice Jones.

Staff Present: City Manager Joe Moore, City Attorney Mike Pratt, City Clerk Desiree Perry, Planning Dir. Josh Freeman, Planning Service Mgr. Janice Pinson, Fire Chief Craig Budzinski, Bldg & Grounds Dir. Lynn Goldsmith, Police Chief Phil Harris, Planner Daniel Cobb, Public Service Dir. David Lutz, Engineering & Utility Dir. Jay Johnston, PE, and, Executive Assistant Jeanette Owen.

Press: Derek McKissock of Transylvania Times

Welcome – Mayor Harris called the meeting to order, welcomed those present then introduced Council members, City Attorney, Manager and Clerk.

Invocation - Reverend Karen Easter, St. Timothy United Methodist Church, offered an invocation. Mr. Rotem of the Jewish faith offered an invocation.

Pledge of Allegiance to Flag – VFW Post #4309 Officers McMahan, Holden and Boy Scout Will Newkirk led in the Pledge of Allegiance to the Flag.

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

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

Oath of Office - City Clerk administered the Oath of Office to Janice Pinson, Planning Department Administrative Service Manager.

State of North Carolina
County of Transylvania
City of Brevard

I, Janice H. Pinson, solemnly swear that I will support and defend the Constitution and laws of the United States and the Constitution and laws of North Carolina, not inconsistent therewith, and that I will faithfully discharge the duties as Administrative Service Manager for the City of Brevard, North Carolina and that I will not allow my actions to be influenced by personal or political friendships or obligations, so help me God.

Proclamation, Law Enforcement Officers Week - In recognition and appreciation of the contributions of law enforcement officers, Mayor Harris presented to Police Chief Phil Harris a Proclamation designating May 13-19, 2012 as "Law Enforcement Officers Week" in the City of Brevard.

Proclamation, National Public Works Week - In recognition and appreciation of the contributions of services provided by Public Services staff, Mayor Harris presented to Public Services Director David Lutz a Proclamation designating May 20-26, 2012 as "National Public Works Week" in the City of Brevard.

Public Hearings

Public Hearing #1– Proposed Amendment to the Comprehensive Transportation Plan for Transylvania County. Proposed amendment to add the "Davidson River Village Connector Road" to the existing list of recommended transportation improvements.

At 7:17 p.m. the properly advertised and noticed public hearing to receive comments on the proposed amendments to the County Transportation Plan began and Mr. Freeman was called upon to present the staff report.

Using power-point, Mr. Freeman explained in 2007, the City and County jointly adopted the current Comprehensive Transportation Plan for Transylvania County (CTP). Was subsequently adopted by the Land-of-Sky Rural (Transportation) Planning Organization (LOSRPO), and accepted by the North Carolina Board of Transportation and the North Carolina Department of Transportation (NCDOT). The plan sets forth high-priority (and high cost) transportation investment priorities for the county over a 30 year planning horizon. If the amendment is approved, the Davidson River Village Connector Road will be added to the existing list of recommended transportation improvements. The length of the project road is approximately 0.55 mile, would connect to both the Asheville Highway and Hwy. #64, and would primarily serve internal travel generated by the proposed Davidson River Village development. (Staff report is on file.)

Brevard Planning Board and Planning staff recommends support of the proposed amendment.

Mr. Freeman introduced Ms. Natalie Murdock, Land of Sky Regional Council, who provided additional information on the amendment process and the need to have the Plan amended in order to receive future funding for the project.

Public Hearing - Public Participation Comments: None

Public Hearing Closed – With no further questions or comments from Council or the public, Mayor Harris closed the hearing at 7:33 p.m.

Public Hearing #2– Broad River Terrace Community Development Block Grant (CDBG) No. 09-C-2049 Closeout.

At 7:33 p.m. the properly advertised and noticed public hearing to receive comments on the Broad River Terrace CDBG Closeout began and Mr. Cobb was called upon to present the staff report.

Mr. Cobb explained**,** as required, this Public Hearing has been scheduled to obtain public input on the closeout of the Broad River Terrace CDBG Grant. The Grant provided $250,000 and assisted in providing funding for infrastructure improvements for the Broad River Terrace Apartments, a 62 unit affordable rental development, located on Old Hendersonville Highway. The project is complete, all infrastructure is installed and functional and all units are occupied.

Public Hearing - Public Participation Comments: None

Public Hearing Closed – With no further questions or comments from Council or the public, Mayor Harris closed the hearing at 7:35 p.m.

Public Participation

Mr. Danny McMahan and Mr. Charles Holden, representing VFW Post #4309 located at 50 Veterans Circle, explained the VFW was Charted in 1943 and the Post was built in 1963. They have come seeking Council's assistance to remedy situation they find themselves in. Recently a Brevard Police Officer came to their Post and found that they, like some other businesses and organizations in the City, were operating electronic gaming machines without first having obtained the required City Privilege License. Upon learning this, they disconnected and ceased using the machines and made application for the Game Room License and Privilege License. However, in the review process it was discovered they are within a residential zoning district and that gaming machines (indoor amusements) are not allowed. He shared the machines are a source of income to support their various community activities like their annual Easter Egg Hunt provided for children, Patriots Pin, veteran care packages, and Voice of Democracy done annually. To operate without the machines and the income they provide will be a hardship.

Consent Agenda– Mayor Harris explained Consent Agenda items are considered routine and are enacted by one motion. He read aloud the seven (7) items listed and asked if Council desired to remove an item for discussion, or, add an item(s) to the Consent Agenda.

Mr. Morrow moved, seconded by Mr. Landreth, the Consent Agenda be amended to include New Business Item M-1 Resolution Amending the County Comprehensive Transportation Plan, and all items approved as presented. Motion carried unanimously. The following eight (8) items were approved:

Consent Item K-1 - **Resolution No. 2012-10** Accepting a Grant from the Governor's Crime Commission for the Brevard Police Department.

RESOLUTION NO. 2012-10
A RESOLUTION ACCEPTING GRANTS FROM THE
NORTH CAROLINA GOVERNOR'S CRIME COMMISSION

WHEREAS, it is the desire of the City of Brevard to support the existing Communications and Records system of the Brevard Police Department in providing top quality equipment and records; and

WHEREAS, it is the desire of the City of Brevard to support the existing Patrol Division in providing top quality equipment that will improve safety and the quality of investigations; and

WHEREAS, the Brevard Police Department has submitted a grant application to the North Carolina Governor's Crime Commission for funding to purchase the following equipment:

a) Computer-Aided Dispatch equipment, training, and maintenance - $85,000

b) Patrol Equipment Box, including handheld infrared/night vision recording unit, camcorder, two cameras and two voice recorders - $10,000

AND,

WHEREAS, the North Carolina Governor's Crime Commission has awarded a grant to the City of Brevard in the amount of $45,000 for the CAD system; and

WHEREAS, the North Carolina Governor's Crime Commission has awarded a grant to the City of Brevard in the amount of $7,500 for the Patrol Equipment Box; and

WHEREAS, it is the desire of the Brevard City Council to accept the grants from the North Carolina Governor's Commission.

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

Section 1. The City Manager and/or his designee(s) are hereby authorized to officially accept the $52,500 in grants from the North Carolina Governor's Crime Commission. Additional costs of the equipment, approximately $42,500, will be the responsibility of the City of Brevard.

Section 2. The City Manager and/or his designee(s) are hereby authorized to requisition funds in the course of implementing this grant. In accordance with the regulations of the grant program, two signatures shall be required for any requisition.

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

Adopted and approved this the 7th day of May, 2012.

Consent Item K-2 - **Ordinance No. 2012-14** Amending the FY 2011-12 Budget for Distribution of Grant Funds from the Governor's Crime Commission.

ORDINANCE NO. 2012-14
AN ORDINANCE AMENDING THE FY 2011-2012 BUDGET
AMENDMENT NO. FOUR

WHEREAS, the City Council of the City of Brevard has previously approved the budget (Ordinance 14-2011) for the operation of the City during the referenced fiscal year; and

WHEREAS, the City Council of the City of Brevard approved budget amendment no. one (Ordinance 23-2011) to correct the fiscal year dates; and

WHEREAS, the City Council of the City of Brevard approved budget amendment no. two on January 23, 2012; and

WHEREAS, the City Council of the City of Brevard approved budget amendment no. three on April 16, 2012; and

WHEREAS, it is necessary to make an amendment to the approved budget to reflect a grant award from the Governor's Crime Commission (Res No. 2012-10);

WHEREAS, the Brevard City Council desires to amend the FY 2011-2012 Budget accordingly.

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

Section 1 General Fund Expenditures

Budgeted Expenditures	
Police Department	$45,000

Total Expenditures	$45,000

Section 2 General Fund Revenue

Budgeted Revenue	
Police Department Grant Revenue	$45,000

Total Revenue	$45,000

Section 29 That the revenue and expenditures set forth of this ordinance amendment are hereby summarized as follows:

General Fund	$8,286,390
Water & Sewer Utility Fund	$5,726,680
Capital Reserve Fund	$966,974
Heart of Brevard	$121,000
Bjerg Trust Fund	$500
Fire District Fund	$229,500
Multi Use Paths Fund	$416,427
Narcotics Task Force	$35,000
Downtown Master Plan	$71,000
Wayfinding Fund	$127,252
Other Post Employment Benefits	$18,750
Bracken Mountain Project	$400,000
Hap Simpson Park	$82,241
CDBG Broad River Terrace	$0
CDBG Cottages	$13,332
TOTAL BUDGET APPROPRIATION	$16,495,046

Adopted and approved this 7th day of May 2012.

Consent Item K-3 - Staff Report - Public Services Department

Consent Item K-4 - Game Room License Applications:

Item K-4a: Game Room License to operate electronic phone card sweepstake machines granted to Mr. Sam Gillani, Sultans Inc., dba One Stop III located at 174 Hendersonville Highway, Pisgah Forest.

Item K-4b: Game Room License to operate electronic phone card sweepstake machines granted to Mr. Muhammad Nauman Akhter, Member/Manager of Brevard Point located at 84 Asheville Highway, Brevard.

Item K-4c: Game Room License to operate electronic phone card sweepstake machines granted to Mr. Kevin Shook, Member/Manager of Pisgah Express, LLC, located at 1 New Hendersonville Highway, Pisgah Forest.

Item K-4d: Game Room License to operate electronic phone card sweepstake machines granted to Commander Harry Pierson, American Legion Post #88, located at 56 East Jordan Street, Brevard.

Consent Item K-5 (M-1) **Resolution No. 2012-11** Amending the Comprehensive Transportation Plan for Transylvania County.

RESOLUTION NO. 2012-11
A RESOLUTION AMENDING THE TRANSYLVANIA COUNTY COMPREHENSIVE TRANSPORTATION PLAN

WHEREAS, Brevard City Council recognizes that maintaining the quality of life and furthering the economic welfare of the citizens of the City of Brevard requires the provision of a safe, efficient, multimodal transportation system; and,

WHEREAS, the City of Brevard desires to amend the Transylvania County Comprehensive Transportation Plan to include as a recommended project, the "Davidson River Connector Road" within the Davidson River Village development that would connect US Highway 64, Ecusta Road, and Asheville Highway; and,

WHEREAS, the City has received recommendations of support for such amendment from the Transylvania County Transportation Advisory Committee, the City of Brevard Planning Board, and Brevard City Staff.

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

Section 1. Brevard City Council hereby resolves that the transportation improvements depicted upon the Davidson River Village Preliminary Master Plan (approved February 2, 2009 via Ordinance Number 03-09) and depicted upon Exhibit A to this resolution, which is attached hereto and incorporated by reference, and which is described below, are adopted as policy of the City and considered elements the City's planned transportation system which are intended for future development.

Proposed connector road from US 276/64 to US 64 near Brevard (also known as Davidson River Village Connector) – The proposed connector extends from US 276/64 (Asheville Highway) to US 64 (Hendersonville Highway) crossing SR 1512 (Ecusta Road). The purpose of the connector is to provide access to the proposed Davidson River Village development located in the southeast quadrant of the intersection of US 276/64 and US 64 and would primarily serve internal travel generated by the proposed Davidson River Village development. The length of the project is approximately 0.55 mile.

Section 2. Brevard City Council hereby resolves that Transylvania County Comprehensive Transportation Plan be amended to include as a recommended project, the "Davidson River Connector Road".

Section 3. Brevard City Council hereby requests that this amendment to the Comprehensive Transportation Plan be accepted and approved by the Land-of-Sky Rural Planning Organization and the North Carolina Department of Transportation, and that the aforementioned Davidson River Connector Road be added to the Statewide Transportation Improvement Program as an approved and funded project.

Section 4. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 7th day of May, 2012.

New Business

NB Item M-2 - **Resolution No. 2012-12** Awarding Contract for the Kings Creek Sewer Rehabilitation and Replacement Project.

Mr. Lutz reported the sewer line replacement project will help us to remove and eliminate some I&I.

Mr. Morrow moved, seconded by Mr. Landreth, the presented **Resolution No. 2012-12** awarding the contract for the Kings Creek project be adopted as presented. Motion carried unanimously.

RESOLUTION NO. 2012 -12

A RESOLUTION AWARDING THE CONSTRUCTION WORK FOR THE KINGS CREEK SEWER REHABILITATION AND REPLACEMENT PROJECT

WHEREAS, The City of Brevard has previously approved the Kings Creek Sewer Rehab & Replacement, herein after; "**The Project**"; and

WHEREAS, The Project has received approval and permits from the NCDENR – DWQ state regulating agency; and

WHEREAS, The City of Brevard has secured funding for The Project through a secured loan from NCDENR – Infrastructure Finance Section (IFS) in the amount of $749,375 towards The Project; and

WHEREAS, The City of Brevard has received approval from the NC Department of State Treasurer, Local Government Commission to accept the loan; and

WHEREAS, The City of Brevard has placed The Project to public bid under state requirements, and has received bids that are within the established budget for The Project; and

WHEREAS, The City of Brevard, upon recommendation of the City's Consulting Engineers, Brown Consultants, PA, desires to accept the low bid, award and construct The Project;

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

1. Effective on the adoption of this resolution, the City of Brevard hereby awards The Project to Cana Construction, Waynesville, NC, NC License #70988, in the amount of $470,395.

2. The City Manager upon award approval from the NCDENR IFS, is authorized and directed to sign a contract with Cana Construction.

3. The City Manager is authorized and directed to take all necessary actions required by the NCDENR IFS to complete The Project, including all close out documents.

4. The City Manager is authorized and directed to process and approve any required change orders up to The Project's budget limit that may be needed to complete The Project.

5. The City Manager shall advise the Board periodically on the status of completion of The Project.

6. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 7th day of May, 2012.

NB Item M-3 - **Ordinance No. 2012-15** Project Budget Ordinance Establishing Funding for the Kings Creek Sewer Rehab and Replacement Project.

Mr. Fatland reported grant was approved and awarded last week.

Mr. Morrow moved, seconded by Mr. Dickson, the presented **Ordinance No. 2012-15** Project Budget for the Kings Creek Sewer project be adopted as presented. Motion carried unanimously.

ORDINANCE NO. 2012-15
PROJECT BUDGET ORDINANCE FOR THE KINGS CREEK SEWER REHABILITATION AND REPLACEMENT PROJECT

WHEREAS, In accordance with the applicable provisions of the North Carolina Local Government Budget and Control Act NCGS 159-13.2; and

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

WHEREAS, The City of Brevard has previously approved the Kings Creek Sewer Rehab & Replacement, herein after called **"The Project"**; and

WHEREAS, The City of Brevard's loan application has been approved by the NCDENR Infrastructure Finance Section (IFS) in the amount of $749,375 towards "The Project"; and

WHEREAS, The City of Brevard has received approval from the NC Department of State Treasurer, Local Government Commission to accept the loan; and

WHEREAS, The City of Brevard desires to accept the loan under the conditions stipulated by NCDENR-IFS and complete the project, including providing local funds required meeting the overall project cost;

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

1. Effective the date of passage of this ordinance, the attached fiscal year 2012 budget for operation, maintenance, debt service, capital improvements and estimated revenues is hereby amended as follows:

   The following Capital Project is added for funding to the FY 12 Budget as:

   Kings Creek Sewer Rehab & Replacement 2012:

Project Revenues:	
NC DENR - IFS – loan	$749,375
Total Revenues	**$749,375**
Project Expenses:	
Construction	$470,395
Engineering Design	48,000
Permitting/Bidding/Award	8,500
Surveying/Easements	42,500
On-Site Construction Observation	35,000
Project Administration	25,000
Contingency	101,980
Department Closing Fee	18,000
Total Sewer Expenses:	**$749,375**

2. The City Manager is hereby authorized to engage and enter into contractual agreements with NCDENR - IFS for the execution of the loan.
3. The City Manager is hereby authorized to engage and enter into contractual agreements as necessary, and in accordance with the laws of North Carolina, for the execution of the project.
4. The City Manager shall advise the Board periodically and recommend any financial changes necessary for the successful completion of the project.
5. This Budget Amendment Ordinance shall become effective upon its adoption and approval.

Adopted and approved this 7th day of May, 2012.

Remarks by Officials

Mayor Harris reported Heart of Brevard Executive Director Madrid Zimmerman has announced she has accepted a position in Long Beach California. Her move will allow her to live closer to and help provide care for her father. Her leadership has resulted in growth and success of many of the annual festivals, Brevard is a better place because of her contributions, and she will be missed.

Mayor Harris stated he believes the City Code requiring game room licenses to come before Council for approval should be changed to an administrative review, and asked that management look at an ordinance change. In listening to the VFW members, he doesn't know how Council could help them unless by amendment to the ordinance, or an amendment to private clubs. They are community supporters and contributors, and their activities are lawful and benevolent and worthy of Council's consideration for change to allow them continued use of gaming machines.

Mayor asked if there is consensus among Council to direct staff to look at the VFW situation in order to see what options are available to them to use gaming machines. Members unanimously agreed.

Mr. Landreth thanked the Manager for his work and preparation for the Economic Development Workshop that was held on the 30th; encouraged members to attend the County's economic development meeting scheduled for the 17th; and, understands the County Commissioners desire to discuss with Council the payment in lieu of sidewalk at the Public Safety Facility.

Mr. Moore shared if the County desires to discuss payment in lieu, they can discuss with the City staff as Council is not the authority for scheduled infrastructure projects. Council does however have at their discretion to change the payment in lieu ordinance.

Mr. Locks stated once the City has established a process or policy for review and issuance of appropriate permits and licensing, it should then be an administrative process and not individual applicant review by Council (i.e. VFW). Further, if the City has a change in policy we need to get the word out. Suggested the Manager be tasked to make reviews an administrative process.

Mr. Locks shared Madrid Zimmerman has provided many contributions over the past ten years while serving as HOB Executive Director and she should be recognized for her efforts and accomplishments, and that she will be missed.

Mr. Locks agreed the Economic Development workshop was very insightful and well done. Suggested since the City will be looking at the Land Use Plan anyway, to see how it and the UDO support the attraction and retention of businesses.

Mr. Jones asked if the City has an inventory of buildings that are available for business use (rent/lease/purchase).

Mayor Harris replied, no, however, the HOB or Chamber may have such a listing.

Mr. Moore stated staff will look about giving Notice; thanked Council for their affirmation of staffs work on the Economic Development workshop; and that water capacity will be worked into future workshops.

Adjourn - There being no further business before Council, a motion was made and seconded to adjourn the meeting. Motion carried. Meeting was adjourned at 8:16 p.m.

s/Jimmy Harris
Mayor

s/Desiree D. Perry
City Clerk

Minutes Approved: June 18, 2012