

MINUTES
BREVARD CITY COUNCIL
Regular Meeting
August 20, 2012 – 7:00 PM

The City Council of the City of Brevard met in regular session on Monday, August 20, 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, Wes Dickson, Maurice Jones and Charlie Landreth.

Staff Present - City Manager Joe Moore, City Attorney Mike Pratt, City Clerk Desiree Perry, Police Chief Phil Harris, Public Service Director David Lutz, Finance Director Jim Fatland, Building & Grounds Director Lynn Goldsmith, Planning Director Josh Freeman, Planner Daniel Cobb, Assistant Planning Director Brad Burton, City Engineer Jay Johnston, Firefighter Chris Budzinski, Planner Sarah Lutz-Pietersen and Executive Assistant Jeanette Owen.

Press - Derek McKissock, Transylvania Times

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

Invocation and Pledge of Allegiance - Pastor David Suber, Glade Creek Baptist Church, offered an invocation. Troup 701 Boy Scouts Andrew Banks, Tanner Hutchins, Tyler Hutchins, Jonathan Honeycutt and Gabriel Nicholson led in the Pledge of Allegiance to the Flag.

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

Approval of Agenda - Mr. Morrow moved, seconded by Mr. Jones, the Agenda be approved as presented. Motion passed unanimously.

Approval of Minutes - Mr. Locks moved, seconded by Mr. Landreth, the July 16, 2012 Minutes be approved as presented. Motion passed unanimously.

Special Presentation(s)

2011 Transylvania County Tax Settlement Report - Ms. Charlene Stone, TC Tax Administrators Office, presented the annual Report that reflects an overall 99.70% collection rate. A copy of the Report is on file. Council accepted the Report and applauded the Tax Office staff for their excellent work and collection rate.

Safe Routes to School Project Closeout and Recognitions - Ms. Lutz-Pietersen described details of the completed project while showing before and after slides of the bike path. In 2008 the City received one of eight Safe Routes to Schools (SRTS) Demonstration Grants from the NC Department of Transportation. The SRTS grant allowed the City to rehabilitate the sidewalk along Highway 276, to design and construct a bike path along the length of Gallimore Road, and to implement educational activities to encourage and educate Brevard Elementary School students regarding walking and/or biking safely to and from school.

Mayor Harris presented Certificates of Appreciation to NC Department of Transportation representatives, Mr. Mark Gibbs, Division 14 Maintenance Engineer, and Mr. Steve Cannon, Division 14 District Engineer, and to Transylvania County Schools representative and Brevard Elementary teacher, Ms. Patti Whitaker-Lowery.

Imagine Brevard - Heart of Brevard representatives, Interim Director Michael Trufant, President Kim Provost, and Lynne Warner shared the 'Imagine Brevard Center' opened today and was a great success as they had more than 150 people come to share

their ideas of how they would like the City to grow in the coming years. This vision project is in part in response to Council comments from their annual retreat when described they are looking for economic partners who will provide accountability and whose mission aligns with the City's vision. Several who attended today have already stepped up to volunteer to be project leaders. The Center, located in the Mims Building, will remain open until the end of September. Long range strategic plans will be worked on during October-December and occasional updates will be provided to Council. Additional information is available at: www.imaginebrevard.com; or at social network brevardisready.com.

Bracken Preserve Phase I Closeout and Volunteer Recognition - Mr. Cobb described details of the completion of Phase I of the Bracken Preserve project while showing slides of the 7.1 mile trail construction. Gratitude and appreciation was expressed for the more than 100 volunteers who provided a total of 1,492.5 hours of labor saving approximately \$25,000.

The Manager, Mayor and Council expressed their appreciation to Planning staff members, Ms. Lutz-Pietersen and Mr. Cobb for their excellent work on the two projects.

Certificates / Awards / Recognition

Recognition of New and Promoted Police Department Employees - Chief Harris introduced the following new staff members: Auxiliary Dispatcher Zachary Smith, Auxiliary Dispatcher Jerry Mann, Reserve Officer Larry Robertson, Reserve Officer Ben McKay, Reserve Officer Kevin Long, and Police Officer Lee Kruse. Also recognized was Officer Danny Britt who was recently promoted to Sergeant.

Advanced Law Enforcement Certification - Chief Harris introduced Detective Sgt. Aaron Thompson and Police Lt. Greg Holden who have achieved their Advanced Law Enforcement Certification and presented to them their Certificate.

Police Department Assistance at the Democratic National Convention in Charlotte, NC - Eleven Brevard Police Officers will be assisting the Charlotte Police Department during the Convention (Sept. 3-6, 2012). Charlotte will pay expenses for the officers who have been contracted to assist and a full report will be provided upon the conclusion of the convention.

~~~ At 8:29 p.m. Mayor Harris called for a ten minute recess. ~~~

**Public Hearing - An Ordinance Amending Brevard City Code, Chapter 14-Animals and Fowl, and Unified Development Ordinance, Chapter 3 Additional Use Standards, Section 3.12 Accessory Structures, To Allow The Keeping of Chickens Within The City Of Brevard.**

At 8:40 p.m. the properly advertised and noticed public hearing to receive comments on the proposed text amendments began. Planning Director Josh Freeman described the proposed text amendments would allow for the keeping of chickens within the City limits provided the proposed standards such as maximum number of chickens, no roosters, chickens to be kept within a coop, etc., are met. At Council's September 19, 2011 meeting a number of citizens presented a petition and documentation asking Council to consider legalizing the keeping of poultry within the City. Council referred the item to Staff and Planning Board for recommendation. The Planning Board selected a subcommittee that included advisory members of City and County staff and members of the public. The subcommittee's recommendations are presented within the report provided to Council. (On file with Agenda materials.)

Ms. Leslie Logemann, subcommittee member, thanked Council for responding to the Petition by directing staff to research and thanked City staff, Planning Board and the County extension Service as they have all been most helpful throughout the process. She stated a comprehensive review has been made and hopes Council will vote to approve the proposed Ordinance and regulations.

Mr. Bart Renner, NC Cooperative Extension, presented slides illustrating examples of coops and breeds of chickens while describing the importance of the coop and covered run to protect chickens from predators. If the Ordinance is adopted, the Extension office will provide education on the proper care for chickens, coop construction guidelines and sanitation.

Discussion: No history found as to why Brevard banned raising of chickens in City limits the first place; recommended limit of 15 chickens is based upon examples of other NC cities standard and is the recommended number needed for a typical family of 4 to 6 for food sustainability; no projection as to how many families will choose to raise chicken if the Ordinance were to be adopted; and the proposed coop sizes and setbacks are consistent with UDO accessory structure standards.

Public Hearing - Public Participation Comments:

Mr. John Cilimi, 51 Monroe Street, stated while he is not opposed, he does think the 10' setback should be increased, cleanliness should be reviewed as no specifics of cleanliness is required, permit fees should be collected as a means of revenue to fund the additional labor costs for the City to inspect and insure compliance with the standards, and, expressed concern if the Ordinance is adopted it could open the door to allow other livestock within the City limits.

Ms. Eliza Witherspoon, 126 Maple Street, spoke in favor of the Ordinance. She shared she is an eighth-grade student at Brevard Middle School who spoke in support of allowing chickens when it was first presented (September 2011) and was a part of the committee, and hopes Council will adopt the Ordinance.

Mr. Josh Fuller, 182 Burrell Avenue, spoke in favor of the Ordinance. Raising chickens is done as a cost effective measure for a family and one should not be burdened by having to pay for a permit, and, believes the maximum number should be raised to 20 or 25.

Ms. Lori Roberts, Sunset Motel, stated she is not for or against the Ordinance. However, is concerned as her business is surrounded by houses and, should her neighbors choose to raise chickens, it is important her motel guests be offered quiet and not be affected by smell.

Public Hearing Closed – With no further questions or comments from Council or the public, Mayor Harris closed the hearing at 9:33 p.m.

**Public Participation - None**

**Consent Agenda** - Consent Agenda items are considered routine and are enacted by one motion. Mayor Harris read aloud the 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. Jones, the Consent Agenda be amended to add New Business Items M-2, M-3 and M-4 and approved as presented and amended. Motion carried unanimously. The following seven (7) items were approved:

Consent Item K-1 - (a) Police Department Staff Report; (b) Fire Department Staff Report; and (c) City Clerk Staff Report. (On file)

Consent Item K-2 - FY 2012 General Fund Sales Tax Revenue for year ended June 30, 2012. The total amount received for year ended June 30, 2012 totaled \$1,201,030.29 compared to \$1,032,316.63 for year ended June 30, 2011. This represents an increase of \$168,713.63 or 16.3% over the prior year.

Consent Item K-3 - **Resolution No. 2012-16** City Property Declared Surplus and Authorization for its Disposal by way of Internet Auction Utilizing [www.GovDeals.com](http://www.GovDeals.com)

RESOLUTION NO. 2012-16

CITY PROPERTY DECLARED SURPLUS AND AUTHORIZATION  
FOR ITS DISPOSAL BY WAY OF INTERNET AUCTION  
UTILIZING WWW.GOVDEALS.COM

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

Section 1. The following described personal property of the City of Brevard is hereby declared  
surplus:

**SURPLUS VEHICLE (Police Department):**

| YEAR | MAKE / MODEL        | NO. | MILEAGE | VIN NO            | TAG     | FIXED<br>ASSET # |
|------|---------------------|-----|---------|-------------------|---------|------------------|
| 1998 | Ford Crown Victoria | P-2 | 155516  | 1F1FP71W4WX136259 | 87660-R |                  |

**SURPLUS EQUIPMENT (Police Department):**

Televisions - Inventory ID TV1 (For Parts Only)

Four televisions to be sold as one lot.  
Magnavox, 40" Flat Screen, Serial# BZA1065160880  
Sanyo 25", Serial# V7490602177240  
Sylvania, Serial# V19245711  
Magnavox, 13", Serial# 20707864

Television - Inventory ID TV2 (Is Operable)

Sylvania Model RLX310, 19" Color TV, Serial# 79276642

Recorder - Inventory ID R1 (Is Operable)

Sharp Model VC-6608 VHS Player with remote, Serial# 8101515269

Keyboards - Inventory ID Keyboards (Operating Condition Unknown)

Fellows wireless with mouse model KBR0108, Serial#5G11500209B  
Logitech Model Y-SM48, Serial# SY6190K  
HP Model KB-0316, Serial# BC2AA0DLUVM2D5  
Logitech with mouse, model Y-SR34, Serial# MCT23303846

Monitors - Inventory ID Monitor 1 (Operating Condition Unknown)

Dell 19" Monitor, Serial# CNOKC147466335CK6K0L  
Dell 15" Monitor, Serial# CN04P12147804366C2B4

Printers - Inventory ID Printers 1 (Operating Condition Unknown)

Samsung Model CLP-600N, Serial# 3K61B1B701786X  
HP Printer Model 1210, Serial# MY39PF21S4  
HP Printer Model 1200, Serial# CNBJ41391  
HP Printer Model# 6210XI, Serial# CN551DE06F4

Modems - Inventory ID Modems 1 (Operating Condition Unknown)

Netgear Modem, Model FS608, Serial# FS6913CCB052289  
Netgear Modem, Model FS506, Serial# FS69155CB309473

VHS and DVD Recorders - Inventory ID R2

(Were in working condition when taken out of service.)  
Magnavox DVD/VHS Player, Model MXD2206A, Serial# U428688590  
Magnavox DVD/VHS Player Model DVZ00MW8, Serial# U496900259

Recorders - Inventory ID RE1

(Were in working condition when taken out of service.)  
To be sold as one lot:  
Recording equipment used for video surveillance camera: GVI VHS Recorder, Model GV-HS960TL,  
Serial# 003923M  
Samsung VHS Recorder, Model RV960A  
Sanyo VHS Recorder, Model SRT6000

Parking Meters (collector's item) - Inventory ID PM1

Metal Gray parking meters with minor scratches and one has the change box broken.

Center console from police cars - Inventory ID CO1

Center console from police cars. Total of 4 items, one is in good shape and the 3 other will be good for  
parts.

Light Bars for Police Cars - Inventory ID LB1 (Repairs needed.)

Bar lights for patrol cars. There are 3 light bars. Bar lights work but some strobes are burned out.

Metal Cabinet - Inventory ID MCL - Metal storage cabinet, tan color, size 52"x39"x16"

Dog Box - Inventory ID DB1 - Metal dog box used for animal control purposes, 3'x3' 3"x2'

**SURPLUS EQUIPMENT (Planning Department):**

Inventory ID PL-1, Dell Laptop, Model Latitude D830 PP04S, Serial #CN-OUY141-48643-7BK-0450. Is not operable, no power cord.

Inventory ID PL-2, Hewlett-Packard Scanner, Model Scanjet 5200C, Serial #SG983130RQ, Power and parallel cables are included. Operating condition unknown.

Inventory ID PL-3, Hewlett-Packard Color Printer, Model HP 1220C C2693A, Serial # SG255130KP. Interface parallel cable only. Was operable when removed from service in August 2011.

Inventory ID PL-4, Hewlett-Packard Color Printer, Model HP 895Cse C6410B, Serial # MY981B41J. Interface parallel cable only. Was operable when removed from service in August 2011.

**SURPLUS FURNITURE (Police Department):**

(Inventory ID C1) One multi-color chair and two pink sitting chairs, to be sold as one lot.

(Inventory ID C2) Eight rose/pink chairs, to be sold as one lot.

(Inventory ID CD1) Wooden Desk - 45" long and 25' wide with one small drawer, and, Desk Chair that arm rests are worn and need repair.

Section 2. Pursuant to the City's contract with GovDeals.Com and in accordance with North Carolina General Statute 160A-266, the City Manager and the City Clerk are hereby authorized to list the above described surplus equipment for auction.

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

Adopted and approved this 20<sup>th</sup> day of August, 2012.

**Consent Item K-4 - Resolution No 2012-17** Approving Financing Terms for Capital Equipment Purchases

**RESOLUTION NO. 2012-17**

**A RESOLUTION APPROVING FINANCING TERMS  
FOR CAPITAL EQUIPMENT PURCHASES**

**WHEREAS:** The City of Brevard ("City") has previously determined to undertake a project for financing capital equipment (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

**BE IT THEREFORE RESOLVED, as follows:**

1. The City hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated August 9, 2012. The amount financed shall not exceed \$403,089.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.69%, and the financing term shall not exceed five (5) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as BB&T may request.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The City intends that the adoption of this resolution will be a declaration of the City's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City's general fund, or any other City fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Adopted and approved this 20th day of August, 2012.

**Consent Item K-5 (M-2) - Resolution No. 2012-18 Authorizing the Application for Grant/Loan for Constructing a New Water Storage Tank**

**RESOLUTION NO. 2012-18**

**A RESOLUTION AUTHORIZING THE APPLICATION FOR GRANT/LOAN FOR CONSTRUCTING A NEW WATER STORAGE TANK**

WHEREAS, one of the City of Brevard concrete water storage tanks is in an advanced state of degradation and needs to be replaced; and,

WHEREAS, the City of Brevard has previously invested public funds into the maintenance, engineering evaluation and repair of the water storage facilities; and,

WHEREAS, funding opportunities exist within the North Carolina Department of Environment and Natural Resources (NCDENR) and the North Carolina Rural Economic Development Center (Rural Center);

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

Section 1. The City Council of the City of Brevard authorizes the City Staff to proceed with application to NCDENR and the Rural Center for funding assistance to replace the failing water storage tank.

Section 2. The City Council of the City of Brevard authorizes the City Staff to additionally seek appropriate auxiliary funding sources such as Appalachian Regional Council funds.

Section 3. The City Manager is hereby authorized to execute and file such applications on behalf of the City of Brevard.

Adopted and approved this the 20th day of August, 2012.

**Consent Item K-6 (M-3) - Resolution No. 2012-19 Awarding Contract for the Water Treatment Plant Capital Improvements Project, and, **Ordinance No. 2012-23** Amending the Project Budget for the Water Treatment Plant Capital Improvements Project.**

**RESOLUTION NO. 2012-19**

**A RESOLUTION AWARDING CONTRACT FOR THE WATER TREATMENT PLANT CAPITAL IMPROVEMENTS PROJECT**

WHEREAS, in accordance with G.S. 143-129, the City of Brevard received formal proposals for the Water Treatment Plant Capital Improvements Project (Phase 2 – Sedimentation Basin and Filter Upgrade) at 1:00 PM on Tuesday, January 10, 2012 at City Hall; and,

WHEREAS, in accordance with G.S. 143-129, after negotiating a reduced scope of work and price for the proposed project, the Brevard City Council now desires to approve an award of contract.

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

Section 1. A contract for the Water Treatment Plant Capital Improvements Project (Phase 2 – Sedimentation Basin and Filter Upgrade) is hereby awarded to Carolina Specialties Construction, Hendersonville, North Carolina, for a bid price of \$557,915.77, as negotiated and submitted Wednesday, July 18, 2012, in accordance with the City’s bid documents for this project.

Section 2. The Mayor and City Clerk are hereby authorized and directed to execute contracts for this project on behalf of the City as set forth in Section 1 of this Resolution.

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

Adopted and approved this the 20th day of August, 2012.

**ORDINANCE NO. 2012-23**

**AN ORDINANCE AMENDING THE PROJECT BUDGET  
FOR THE WATER TREATMENT PLANT CAPITAL IMPROVEMENTS PROJECT**

WHEREAS, the City Council desires to amend the Water Treatment Plant Capital Improvements Project (Phase 2) budget to account for revenue and expenditures.

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

Section 1. The project budget shall be amended for the Water Treatment Plant Capital Improvements Project (Phase 2).

|                                                                 |                   |
|-----------------------------------------------------------------|-------------------|
| Section 2. Projected <u>Revenues</u> for this project shall be: |                   |
| NC Rural Economic Development Center                            | \$ 328,000        |
| Utility Fund Balance                                            | <u>\$ 328,000</u> |
| TOTAL                                                           | \$ 656,000        |

|                                                                     |                  |
|---------------------------------------------------------------------|------------------|
| Section 3. Projected <u>Expenditures</u> for this project shall be: |                  |
| Previously Approved Expenditures                                    | \$ 630,000       |
| Additional Expenditures (Contingency Funds)                         | <u>\$ 26,000</u> |
| TOTAL                                                               | \$ 656,000       |

Section 4. This Ordinance shall remain in effect until the completion of the project.

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

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

Adopted and approved this the 20th day of August, 2012.

Consent Item K-7 (M-4) - Resolution No. 2012-20 Adopting the Downtown Master Plan Update and Implementation Plan

**RESOLUTION NO. 2012-20**

**A RESOLUTION ADOPTING THE DOWNTOWN MASTER PLAN  
UPDATE & IMPLEMENTATION PLAN**

WHEREAS, City Council endorsed the original Downtown Master Plan on May 19, 2003 and continues to recognize the importance of maintaining an economically healthy downtown that will attract local residents and visitors alike;

WHEREAS, City Council requested the original Downtown Master Plan be updated to include more recent public input & an implementation schedule; and,

WHEREAS, after due consideration, City Council desires to accept & adopt the Downtown Master Plan Update & Implementation Schedule as prepared by ColeJenest & Stone.

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

Section 1. City Council hereby approves the Downtown Master Plan Update & Implementation Schedule as prepared by ColeJenest & Stone, as shown in Exhibit A to this Resolution, which is attached hereto and incorporated herein by reference.

Section 2. The City Manager is hereby authorized to act on behalf of the City to apply for, accept, and administer any and all grants for the design and construction of a streetscape improvements

associated with the Downtown Master Plan Update & Implementation Schedule, within the City of Brevard.

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

Adopted and approved this the 20th day of August, 2012.

## **Unfinished Business - None**

## **New Business**

**NB Item M-1 - Ordinance No. 2012-22** Amending Brevard City Code To Allow the Keeping of Chickens Within the City of Brevard.

Mr. Locks shared people have been wanting this discussion for some time and he can appreciate the fact there is much interest, yet, we don't know why raising of chickens was made unlawful in the beginning and concerned we don't have criteria addressing noise levels and sanitation concerns that have been mentioned, and, what do we do when people come wanting to raise geese or ducks?

Council members recognized some standards may have to be revisited to address situations that may arise.

Mr. Landreth shared Council serves as the gatekeepers who can open and not open the gate. A very specific request from our citizens was brought and has been addressed. We cannot pile on all other fears that may come along anymore than we would do so to a developer of land. The proposed text has been well thought out and he supports the request.

Mr. Landreth moved, seconded by Mr. Morrow, Council approved the proposed Ordinance to allow keeping of chickens in Brevard. Aye: Mr. Landreth, Mr. Morrow, Mr. Jones and Mr. Dickson. Nay: Mr. Locks. Motion carried by a 4-1 vote.

### **ORDINANCE NO. 2012-22**

#### **AN ORDINANCE AMENDING BREVARD CITY CODE, CHAPTER 14-ANIMALS AND FOWL, AND UNIFIED DEVELOPMENT ORDINANCE, CHAPTER 3. ADDITIONAL USE STANDARDS, SECTION 3.12. ACCESSORY STRUCTURES, TO ALLOW THE KEEPING OF CHICKENS WITHIN THE CITY OF BREVARD**

WHEREAS, Brevard City Council has received a request to consider allowing the keeping of chickens within the City of Brevard; and,

WHEREAS, the City of Brevard Planning Board has recommended that City Council take action to allow the keeping of chickens, subject to certain regulations; and,

WHEREAS, City Staff has recommended certain regulations that, if chickens are to be permitted, would protect the health, safety and welfare of the public; and,

WHEREAS, after consideration, Brevard City Council desires to allow the keeping of chickens within the City of Brevard, subject to certain regulations which are intended to protect the health, safety and welfare of the public.

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

SECTION 01. Certain amendments to Brevard City Code, Chapter 14-Animals and Fowl, Sections 14-1 and 14-6 are hereby enacted and shall read as set forth in Exhibit A to this Ordinance, which is attached hereto and incorporated herein.

SECTION 02. Certain amendments to Brevard City Code, Unified Development Ordinance, Chapter 3. Additional Use Standards, Section 3.13. Accessory Structures are hereby enacted and shall read as set forth in Exhibit A to this Ordinance, which is attached hereto and incorporated herein.

SECTION 03. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Brevard City Code, Chapter 1. General Provisions, Sec. 1-8. - General penalty; other remedies, or Brevard City Code, Unified Development Ordinance, Chapter 18. Enforcement, as applicable.

SECTION 04. As to any conflict between this ordinance and any parts of existing ordinances, the provisions of this ordinance shall control.

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

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

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

Adopted and approved this 20th day of August, 2012

### **Remarks by Officials**

Mayor Harris shared he has contacted Council members individually by email to ask them to consider beginning discussion of providing help for non-profit organizations that serve a humanitarian cause and offer a direct benefit to Brevard. Suggested the City could help by giving them a discount on their water bill, waive their capacity impact fees or something. Suggested Council direct staff to investigate possibilities. (No motion was offered to direct staff to do so.)

Mr. Morrow commended the Manager and Staff who were showcased tonight throughout the presentations of both the Safe Routes to School and Bracken Preserve projects.

Mr. Jones commended Mr. Cobb and the volunteers for their work on Bracken Mountain, and, shared the Mountain Readiness Plan for emergency preparedness will be held at Balsam Grove in November.

Mr. Dickson agreed with Mr. Morrow and Mr. Jones as tonight's presentations were a great showcase of what has been accomplished. The amount of effort Sarah Lutz-Pietersen gave was amazing and she got people to rally around the project. SRTS was a great connection between the City, Board of Education and NC Dept. of Transportation. Project provided a great education for children as they discovered how than can walk and ride bikes safely to and from school, and as evidenced by an increased number of children doing so. Hopefully the City can continue to do so by providing added opportunities for students to walk and bike to Brevard Middle School.

He then commended Mr. Morrow for his efforts to make Bracken Preserve possible as it is an important project for our City, and, commended Josh Freeman and Daniel Cobb for their leadership and "hands-on" approach in the project as they worked side-by-side with the volunteers on the trail.

Mr. Locks shared he appreciated hearing Mr. Dickson's comments and his making mention of the need of a next phase to connect the bike path to the Middle School.

Mr. Moore expressed appreciation for the Planning Staff and for the citizens who demonstrated and shared their experience of how the Planning Staff was both willing and helpful to them throughout the process.

**Closed Session-** Mayor Harris asked City Attorney if it would be appropriate to convene two closed sessions for the purpose to discuss the **negotiation of real estate** followed by a closed session to discuss a **potential litigation** matter. City Attorney advised it would be appropriate pursuant to **GS § 143-318.11. (a)(3) and (5)** and **GS § 143-318.11. (a)(3)** along with the appropriate separate motions, second and vote.

At 9:59 p.m. Mr. Locks moved, seconded by Mr. Jones, Council go into closed session to discuss negotiation of real estate. Motion carried unanimously. Authorized

to remain for the closed session with Council and the Attorney were the Manager, Clerk, Josh Freeman and Brad Burton. {A two minute recess took place in order to allow all who were not authorized to remain to leave Council Chambers.}

Adjourn Closed Session to Regular Session – At 10:29 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.

At 10:29 p.m. Mr. Landreth moved, seconded by Mr. Morrow Council go into a second closed session to discuss potential litigation. Motion carried unanimously. Authorized to remain with Council and the Attorney were the Manager, Clerk, Josh Freeman and Brad Burton.

Adjourn Closed Session to Regular Session – At 10:40 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.

**Adjourn** - There being no further business before Council, Mr. Locks moved, seconded by Mr. Jones, the meeting be adjourned. Motion carried. Meeting adjourned at 10:40 p.m.

s/Jimmy Harris  
Mayor

s/Desiree D. Perry, NCCMC  
City Clerk

Minutes Approved: September 17, 2012