

MINUTES
BREVARD CITY COUNCIL
Regular Meeting
November 5, 2012 – 7:00 PM

The City Council of the City of Brevard met in regular session on Monday, November 5, 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, Planning Director Josh Freeman, Public Service Director David Lutz, Assistant Planning Director Brad Burton, Building & Grounds Director Lynn Goldsmith, Fire Chief Craig Budzinski, Police Chief Phil Harris, City Engineer Jay Johnston 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 - Dr. David Joyce, President of Brevard College, offered an invocation. Mayor Harris led in the Pledge of Allegiance to the Flag.

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

Approval of Agenda - Mr. Landreth moved, seconded by Mr. Locks, the Agenda be adopted as presented. Motion passed unanimously.

Approval of Minutes - Mr. Morrow moved, seconded by Mr. Jones, the October 1, 2012 Minutes be approved as presented. Motion passed unanimously.

Certificates / Awards / Recognition - Mayor Harris presented Certificates of Achievement to Public Service Department staff member Billy Dodson who has achieved Grade B Water Distribution Operator Certification, and to Jentsen Rackley who has achieved Grade 3 Water Pollution Control System Operator Certification.

Mayor Harris presented a Certificate of Appreciation to Rick Lasater for his serving for more than eleven years on the Brevard Board of Adjustment.

Mayor Harris presented a Certificate of Appreciation to Thad Walker for his contribution of starting a cycling club that became the start of a sport program at Brevard College, and for his contributions as Coach of Brevard College's National Bicycling Team.

Special Presentation

Transylvania County Community Land Trust (TCCLT)- Mr. Carroll Parker provided a power point presentation titled, "Transylvania County Community Land Trust, Student Built Teacher Housing Project", and provided a status report on the project that will provide student built workforce housing for teachers. He explained TCCLT is in the process of developing a proposal to the State Employees Credit Union (SECU) Foundation for project funding and asked for the City's consideration to be a funding sponsor of the projects water and sewer infrastructure improvements and capacity impact fees, and, to also later fund \$50,000 for a 1/2 time Executive Director position. Mr. Parker asked Council to consider providing a written commitment as a sponsoring partner with TCCLT.

Mr. Landreth moved, seconded by Mr. Locks, Council direct staff to do two things: (1) Prepare statement of support to the mission of TCCLT, and, (2) staff present a financing model that presents options for funding water and sewer improvement and allocating funds to pay the impact fees. Motion carried unanimously.

~~ At 8:12 p.m. Mayor Harris called for a 10-minute break; meeting continued at 8:22 p.m. ~~

Public Hearing #1- Voluntary Non-Contiguous Annexation - Drs. Andrew W. and Rebecca W. Broadbent. Parcel located off Asheville Highway containing 3.696 acres more or less, identified as Transylvania County Property Identification Number 8597-14-9183-000.

At 8:24 p.m. the properly advertised and noticed public hearing to receive comments on the volunteer non-contiguous annexation began. The City Clerk provided a Certificate of Sufficiency. City Attorney Pratt explained the Broadbent's desire to have their non-contiguous property annexed into the City in order to receive public water and sewer service. He has reviewed the application and supporting materials and found that all are in order.

Certificate of Sufficiency	
I, Desiree D. Perry, City Clerk, do hereby certify that I have investigated the petition submitted by Andrew W. and Rebecca W. Broadbent (PIN 8597-14-9183-000) containing 3.696 acres more or less, and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with NCGS 160-A-31.	
In witness whereof, I have hereunto set my hand and affixed the seal of the City of Brevard this 5th day of November, 2012.	
(Seal)	Desiree D. Perry, NCCMC City Clerk

Public Hearing - Public Participation Comments: None

Public Hearing Closed – With no questions or comments from Council or the public, Mayor Harris closed the hearing at 8:26 p.m.

Public Hearing #2 - City Code Text Amendment to the Unified Development Ordinance to Allow Accessory Retail as an Allowable Use within General Industrial (GI) Zoning District.

At 8:27 p.m. the properly advertised and noticed public hearing to receive comments on the proposed text amendment began. Mr. Freeman explained general retail is not an allowed use within GI Districts as it is a broad category allowing a wide variety of sales. The proposed text amendment would allow for the retail sales in conjunction to products made as an accessory use, thus insuring the industrial use remains the primary use. Planning staff and the Brevard Planning Board recommend Council adopt the proposed text amendment.

Mr. Freeman shared the Economic Development Advisory Board (EDAB) has recommended modifications to the proposed text amendment. However, their recommendation was not received prior to the Planning Board meeting and therefore was not reviewed or considered by the Board.

Public Hearing - Public Participation Comments:

Mr. Parker Platt, Platt AIA and Management Group, spoke on behalf of Oscar Blues and Sylvan Sports stating the proposed text amendment would allow their industrial businesses opportunity to sell their products on-site and would be an economic benefit. He encouraged Council's adoption of the proposed amendment.

Mr. Ken Kolb, 238 Fox Cross Drive, commented the proposed text amendment would allow Oscar Blues opportunity to sell items such as key chains, beer mugs, etc., in addition to the brewery tastings of the manufactured beer product mentioned previously.

Mr. Brandon Denuilly, 222 King Street, stated if a bicycle manufacturer wanted to display their bikes or furniture manufacturer wanted to display for sale their products outdoors on-site they should be allowed to do so as it would help with the advertising of their products and sales.

Public Hearing Closed – With no further questions or comments from Council or the public, Mayor Harris closed the hearing at 8:59 p.m.

Public Participation

Susan Evans, Imagine Brevard, shared that at their recent meetings the topic of recreation has prevailed. Some have come tonight to offer up to Council their suggestions for recreation. The Imagine Brevard volunteer project leaders were Kim Provost, Kevin Smith, Becky Young and Jessica Ibarguen.

Becky Young, 38 Southview Drive, spoke in favor of and requested Council's consideration for a skate park, alternate means of access including wider sidewalks, bike lanes, to continue to look at rails to trails, and, for a bark park to provide dog owners a place where they can safely take their dogs off their leash.

Kevin Smith, 54 Red Oak Lane, explained he, along with several fellow supporters in the audience, are in favor of a skate park and requested Council to make a skate park one of their 2013/2014 priorities.

Daryl MacInnes, 36 Hilt Street Extension, provided an overview of the "Community of Brevard Seeks Public Skate Park" found in the Agenda packet. Encouraged Council's consideration for a skate park and explained he believes there would be some private financial support for one, along with the possibilities of NC State Parks and Recreation Trust Fund (PARTF) Grant and/or Tony Hawk Grant as additional funding sources.

Symeon Smith, 12 years old, spoke in favor of a public skate park. Explained he and some friends took action by starting an on-line petition for a public skate park. The word spread and then he and friends attended the White Squirrel Festival and got many more petition signatures. They are working hard to get the word out and to gather public support, and requested Council's consideration for a skate park.

Spencer Heintish, a high school freshman, presented a video of students from our community who are accomplished skaters, most of whom have placed in skate boarding competitions. He shared skate boarding needs to be a recognized sport and requested Council's consideration for a skate park.

Don Rogers, 141 Bruce Circle, spoke of United Way's Workforce Housing Coalition that was initiated about five years ago to address housing needs, including housing needs of the homeless, and shared he would like to come at a future Council meeting to make a presentation to Council.

Jennifer Flood, Director of Haven Homeless Shelter and Regional Leader for the Homeless Coalition, along with co-lead Erica Gonzales, Brevard Housing Authority Property Manager, expressed their desire to come to a future Council meeting to make a presentation describing the needs of the homeless.

Scott Elliott, Transylvania County Schools Assistant Superintendant, expressed his appreciation to Council and City staff for their vision and work that brought about the Safe Routes To Schools sidewalk along Gallimore Road, and for the bicycle rodeos and clinics that provided students with bike safety education and safety helmets. He looks forward to other collaboration projects between the City and Board of Education where they can work together to further shared goals of health and lifestyle.

Consent Agenda - Consent Agenda items are considered routine and are enacted by one motion. Mayor Harris read aloud the four 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 add New Business Items M-1 and M-2, and approve as amended and presented.

Discussion: Mr. Locks suggested with respect to the UDO text amendment (Item M-2) that staff look at trends to see if the UDO is compatible in the market place with respect to outdoor display for sales, as it, and maybe other things, are needed for economic development.

Vote on the Motion: Motion carried unanimously. The following six (6) items were approved:

Consent Item K-1 - Staff Reports: (a) Quarterly Financial Report; (b) Public Services Report; and (c) Fire Department Report. (On file.)

Consent Item K-2 - **Resolution No. 2012-22** Municipal Records Retention and Disposition Schedule.

RESOLUTION NO. 2012-22

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE
NORTH CAROLINA DEPARTMENT OF CULTURAL RESOURCES AND THE CITY OF BREVARD FOR
MUNICIPAL RECORDS RETENTION AND DISPOSITION**

WHEREAS, the North Carolina Department of Cultural Resources, Division of Archives and Records, State Archives of North Carolina, Government Records Branch has updated and revised the Municipal Records Retention and Disposition Schedule, and was officially approved by the state archivist and the secretary of the Department of Cultural Resources on September 10, 2012. This new version supersedes the schedule issued and adopted May 19, 2009 and the amendments thereto; and

WHEREAS, the N. C. Department of Cultural Resources has requested acceptance and approval of the newly revised retention and disposition schedule by the City of Brevard in the form of an agreement between the State and City; and

WHEREAS, it is the desire of the City Council of the City of Brevard, North Carolina to accept and approve this revised and updated schedule and proposed agreement as presented.

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

Section 1. The Agreement (Exhibit A) between the City of Brevard dated September 10, 2012 for approval of a Municipal Records Retention and Disposition Schedule is hereby accepted and approved.

Section 2. The Mayor, City Clerk and City Manager are hereby authorized and directed to execute the Agreement described in Section 1 of this Resolution.

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

Adopted and approved this 5th day of November, 2012.

Consent Item K-3 - **Ordinance No. 2012-26** Traffic Schedule Amendment

ORDINANCE NO. 2012-26

**AN ORDINANCE AMENDING THE TRAFFIC SCHEDULE AND BREVARD CITY CODE TO
ESTABLISH HANDICAPPED PARKING ALONG EAST MAIN STREET**

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

Section 1. Chapter 66, Article I, Section 66-122 of the Brevard City Code and the City's Traffic Schedule I is hereby amended as described below:

- a) One handicapped accessible, on-street parking space is hereby designated and shall be installed upon East Main Street. Such space shall be located on the south side of East Main Street, and shall begin at a point that is approximately 25 feet east of the intersection of East Main Street and St. Philips Lane.

- b) One handicapped accessible, on-street parking space is hereby designated and shall be installed upon East Main Street. Such space shall be located on the south side of East Main Street, and shall begin at a point that is approximately 5 feet west of the intersection of East Main Street and St. Philips Lane.

Section 2. 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 I to reflect the change as set forth herein.

Section 3. The City Manager of the City of Brevard is hereby authorized and directed to cause appropriate action to implement and enforce the foregoing provisions.

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

Adopted and approved this 5th day of November, 2012.

Consent Item K-4 - **Resolution No. 2012-23** City of Brevard CDBG Language Access Plan.

RESOLUTION NO. 2012-23

RESOLUTION TO ADOPT LANGUAGE ACCESS PLAN

WHEREAS, The City of Brevard has received funding through the State of North Carolina's Community Development Block Grant Program, and;

WHEREAS, The City of Brevard has agreed, by acceptance of the CDBG funds (CDBG No. 10-C-2209), to abide by the various regulations governing the administration of the Community Development Block Grant Program;

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

Section 1. The City of Brevard hereby officially adopts the Language Access Plan; which is included herein and incorporated by reference as Exhibit A, whereby the City of Brevard must take adequate steps to ensure that their policies and procedures do not deny or have the effect of denying persons with limited English proficiency (LEP) equal access to benefits and services for which such persons qualify.

Section 2. This resolution shall take effect immediately and be effective for the life of the grant (CDBG No. 10-C-2209).

Adopted and approved this the 5th day of November, 2012.

Consent Item K-5 (M-1) - **Ordinance No. 2012-24** Ordinance to Extend the Corporate Limits (Non-Contiguous Annexation) - Broadbent Property

ORDINANCE NO. 2012-24

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 area described herein, and,

WHEREAS, the City Clerk has investigated the sufficiency of said petition (relying on the opinion of the City Attorney); and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at the Brevard City Hall at 7:00 o'clock, P.M. on the 5th day of November, 2012, after due notice by publication on the 25th day of October, 2012; and

WHEREAS, the City Council does hereby find as a fact that the petition meets the requirements of G.S. 160A-31 and G.S. 160A-58.1.

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 and G.S. 160A-58.1, Andrew W. Broadbent and wife, Rebecca W. Broadbent, as described in that certain deed recorded in the office of the Register of Deeds of Transylvania County, North Carolina, in Document Book 414, page 84, recorded on

June 20, 2007, (Transylvania Tax Office Property Identification Number: 8597-14-9183-000) and that certain annexation 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 5th day of November, 2012. (Exhibit A - Bearings and Distances)

Section 2. Upon and after this day, 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-58.10.

Section 3. Pursuant to G.S. 160A-29, the Mayor of the City of Brevard shall cause 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, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this ordinance. 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 the 5th day of November, 2012.

Consent Item K-6 (M-2) - **Ordinance NO. 2012-25** Ordinance Amending the Brevard City Code on General Industrial (GI) Zoning

ORDINANCE NO. 2012-25

AN ORDINANCE AMENDING BREVARD CITY CODE, UNIFIED DEVELOPMENT ORDINANCE, CHAPTER 2. DISTRICT PROVISIONS, CHAPTER 3. ADDITIONAL USE STANDARDS, AND CHAPTER 19. DEFINITIONS, TO ESTABLISH ACCESSORY RETAIL AS AN ALLOWABLE USE OF LAND WITHIN GENERAL INDUSTRIAL ZONING DISTRICTS

WHEREAS, the City Council of the City of Brevard desires to expand economic opportunities for the city's manufacturing sector while reserving the city's industrially zoned land base for manufacturing and related land uses; and,

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended a number of text amendments to the City of Brevard Code of Ordinances; 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. Brevard City Code, Unified Development Ordinance, Chapters 2, 3 and 19, are hereby amended to read as set forth in Exhibit A to this Ordinance, which is attached hereto incorporated herein by reference.

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 and approved this 5th day of November, 2012.

Unfinished Business - None

New Business - Item M-3. North Carolina Environmental Management Commission Settlement Agreement.

Mr. Moore explained the City has made tremendous progress in updating and rehabilitating its sewer system. In recognition of this fact the State is willing to reduce penalties of \$30,000 to \$5,000 with the condition the City enter into a Settlement Agreement.

Mr. Landreth moved, seconded by Mr. Morrow, the City enter into a Settlement Agreement with NC Environmental Management Commission. Motion carried unanimously.

Remarks by Officials

Mayor Harris thanked all who worked to make the Halloween Festival the success that it was.

Mr. Locks explained he welcomes public participation and thanked those who came and shared their desires and requests tonight with Council.

Mr. Moore asked Mr. Landreth for clarification on the time frame intended within the motion with respect to the TCCLT presentation calling for staff to do financing model option(s) for funding water and sewer improvement and the impact fees. Mr. Landreth replied as soon as possible to assist the TCCLT with their grant making application.

Adjourn - There being no further business before Council, Mr. Jones moved, seconded by Mr. Dickson, the meeting be adjourned. Motion carried. Meeting adjourned at 9:51 p.m.

s/_____
Jimmy Harris
Mayor

s/_____
Desiree D. Perry, NCCMC
City Clerk

Minutes Approved: February 18, 2013