MINUTES
BREVARD CITY COUNCIL
Regular Meeting
May 20, 2013 – 7:00 PM

The City Council of the City of Brevard met in regular session on Monday, May 20, 2013 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, Finance Director Jim Fatland, Fire Chief Craig Budzinski, Public Service Director David Lutz, HR Director Christine Caldwell, Bldg & Grounds Director Lynn Goldsmith, Planner Daniel Cobb, Planner Aaron Bland, Police Chief Phil Harris, Firefighter Mark Norton, Planner Sarah Lutz, Assistant Planning Dir. Brad Burton, Director of Utilities Jay Johnston, PE, and Executive Assistant Jeanette Owen. Several Brevard Firefighters and Police Officers were also present in the audience.

Press - Derek McKissock, Transylvania Times, and, Brooks Norman, Channel 70 Productions

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

B. Invocation - Father Andrew Nowak, Sacred Heart Catholic Church, offered an invocation.

C. Pledge of Allegiance - Mayor Harris led in the Pledge of Allegiance to the Flag.

D. Certification of Quorum - The City Clerk certified a quorum with all six members present.

E. Approval of Agenda - Mr. Landreth recommended the Agenda be amended to add to New Business, Item #7, Brenton Conditional Zoning District Ordinance. Mr. Pratt requested to have three Closed Sessions added to the Agenda. Mr. Morrow moved, seconded by Mr. Jones the Agenda, as amended, be approved. Motion carried unanimously.

F. Approval of Minutes - Mr. Locks moved, seconded by Mr. Landreth the April 15, 2013 Minutes be approved as presented. Motion carried unanimously.

G. Certificates / Awards / Recognition

G-1 <u>Brevard College Art Display at City Hall</u> - Dr. Robert Boslaw, representing the Brevard College Art Program, extended his appreciation for the opportunity to display student art work in Council Chambers and hopes in the future art work can be displayed at City Hall, and in other ways.

G-2 <u>Terrell Scruggs Scholarship Award Winners</u> - Chief Harris welcomed and introduced Brevard High School senior, Ms. Holly Phillips, one of the first two recipients of a $1,500 scholarship from the Terrell Scruggs Scholarship Fund. Ms. Phillips was accompanied by her Mother, Grandparents and Aunt.

Chief Harris explained the second recipient, Rosman High School senior, Mr. Hunter Reese, could not be in attendance tonight.

G-3 Recognition of Police Department Promotions - Chief Harris introduced and congratulated the following officers for their accomplishments:

Officer Coke Bayne - Promotion to full time
Officer Kevin Long - Promotion to full time
Officer Kathryn Raxter - New Auxiliary Officer
Officer Jackson Reeves - Promotion to full time
Officer Chad Farmer - Promotion to Lieutenant
Officer Ronnie Bickford - Promotion to Sergeant
Officer Danny Britt - Promotion to Lieutenant
Officer Brent Sorrells - Promotion to Sergeant
Officer Mark Russell - Promotion to full time
Officer Mike Henderson - New Auxiliary Communications Officer

G-4 Fire Chief James P. Aiken Fallen Firefighter Memorial - Fire Chief Budzinski shared he and two other Brevard Firefighters attended the NC Fallen Firefighter Foundation Memorial Weekend, May 3rd and 4th, held in Raleigh's Nash Square, where former Fire Chief James P. Aiken, who died in line of duty on August 25, 1909, was one of thirteen inductees at this year's ceremony. A flag was presented to Chief Budzinski at the ceremony. The flag will be displayed at the TC Heritage Museum for about one year, and then it will be returned to the Brevard Fire Department.

Present in Council Chambers were some relatives of former Fire Chief Aiken: Edith Darity, Gayle Mackey, Teresa Wynn, Hattie Sanders, Marguerite Chatman, Rose McKee, Nan Whitmire, Janie Lynch and Lewis Whitesides.

H. Special Presentations

H-1 Transylvania Partnership Inc. Grant Report - Mr. Mark Burrows presented the Transylvania Partnership Inc., Grant Report. (On file.) Is a 501-3C comprised of a group of thirty individuals and a fifteen member board. Last year the City granted a $5,000 grant to support economic development throughout Transylvania, and they request Council's consideration for continued support in this year's budget.

H-2 Manager's Recommended Budget and Fee/Rate Schedule for Fiscal Year 2014 - City Manager Joe Moore presented his budget message and recommended FY 2013-2014 budget to Council. Manager presented a power point (on file) detailing his recommendations, that included:

- Proposed budget total is $20,406,799 dollars.
- Proposed a four cent property tax increase (current rate is $.4325).
- Proposed utility rate increase to $11.27 per 1,000 gallons, after the first 2,000 gallons (current rate is $10.44). *(Users of less than 2,000 gallons would not have a rate increase.)*
- Proposed funds for downtown improvements (Master Plan) and to maintain Bracken Preserve.
- Proposed budget would spend approximately $800,000 from the general fund while maintaining a minimum 30% fund balance.

Beginning tomorrow, copies of the proposed budget will be available for review during regular business hours in the City Administration office, Transylvania County Library and Brevard College Library.

Budget Work Sessions and Public Hearing: Work Sessions are scheduled for Tuesday, May 28 and Monday, June 10th beginning at 5:30 p.m. Public Hearing is scheduled for Monday, June 17th.

I. Public Participation

Ms. Doris McConnellogue, 100 Helen Lane, Pisgah Forest (in City limits), explained a gentleman at the end of their road has opened his business which has increased both traffic and speed of traffic upon their road. She would like to have signs installed that alerts motorists there are children at play and that they need to reduce their speed. Also, there is a ditch that breeds mosquitoes and she would like for the City to check into it to see if it can be cleaned up and/or sprayed.

Mayor asked that the Manager direct staff to check into the concerns voiced by Ms. McConnellogue with respect to the business on the street, speed/traffic, and the ditch.

~~ At 8:55 p.m. Mayor Harris called for a ten minute break. ~~

J. Public Hearing(s)

J-1 <u>Brenton Conditional Zoning District and Amendment to Official Zoning Map</u> - Proposed Conditional Zoning District will allow an expansion of allowable uses to the property. Applicant and property owner is Mr. Timothy W. Brenton. Parcel is located at 920 Old Hendersonville Highway in a GR-4 zoning district and further identified by Property Identification Number (PIN) 8596-25-9766-000 and Deed Book 94, Page 291.

At 9:08 p.m. the properly advertised and noticed public hearing to receive comments on the proposed Conditional Zoning District began. Mr. Cobb explained the applicant is requesting the creation of a Conditional Zoning District (CD) to allow for permitted or special uses which are currently prohibited in the GR-4 zoning district. This is not a request for a specific development proposal, but rather to allow for an expanded list of land uses that could be permitted. (A copy of the Planning Department staff report is on file.)

The applicant's request included a listing of just about every use allowed within the City. Planning Board and staff recommend approval of the request provided the listing of uses is modified due to the fact the property is located within the 100 year flood plain. Twenty-four hour type uses should be discouraged because of the risk of rising water in a storm event and the need to evacuate people from this neighborhood, as has happened in the recent past. Therefore, Planning Board and staff recommendation provided in the staff report does not include uses like a bed and breakfast, nursing home, medical facility, or residential, and, recommends that several of the uses be permitted by Special Use Permit rather than by right, as requested by the applicant.

Applicant was notified the public hearing was scheduled for tonight; however, is not present.

Mr. Pratt noted the draft Ordinance, Section 5, B and C needs to be corrected to read "land owner" rather than Brenton.

<u>Public Hearing - Public Participation Comments</u> - None

<u>Public Hearing Closed</u> – With no further questions or comments from Council or the public, Mayor Harris closed the hearing at 9:48 p.m.

K. Consent Agenda - Consent Agenda items are considered routine and are enacted by one motion. Mayor Harris read aloud the five (5) items listed and asked if Council desired to remove an item for discussion, or, to add an item(s) to the Consent Agenda.

Mr. Landreth asked for an update on the Wayfinding project.

Mr. Cobb replied staff advertised and received three bids; however two were incomplete and the third was over budget. Parts of the plans called for custom design materials making the costs higher. Will modify to utilize more "stock" materials in order to bring down costs, and staff hopes to go back to bid soon.

Mr. Morrow moved, seconded by Mr. Landreth, the Consent Agenda be approved as presented. Motion carried unanimously. The following five (5) items were approved:

K-1 Staff Reports: (a) Finance Monthly Revenues and Expenditures Report; (b) Public Services Monthly Report; and (c) Planning Department Monthly Status Report on the "Cottages at Brevard". (On file.)

K-2 Advisory Board Appointments:

Community Appearance Commission - (a) Re-appointed Mr. Bud Holland, who is serving as Chair, with the term to expire February 2015; (b) Re-appointed Ms. Drew Dean with the term to expire February 2016; and, (c) Re-appointed Ms. Ann Hollingsworth with the term to expire February 2016.

Board of Adjustment - Appointed Mr. Joshua B. Burdette as an alternate member, filling the unexpired term from previous member, Mr. Gandolfo, with the term to expire November 2016.

K-3 Resolution No. 2013-10 Amending Rules of Procedure for the Brevard City Council.

RESOLUTION NO. 2013-10

A RESOLUTION AMENDING RULES OF PROCEDURE FOR THE BREVARD CITY COUNCIL (Amendment #2 to Resolution No. 04-2011)

WHEREAS, the Brevard City Council of the City of Brevard adopted for themselves Rules of Procedure to incorporate general principles of parliamentary procedure to provide efficient and equitable procedures to follow in and out of public meetings.

WHEREAS, the Brevard City Council has reviewed and discussed the Rules of Procedure and finds it advisable to amend and revise Rule 5. Public Participation (or Comment) and Rule 28. Public Hearings for the City Council of the City of Brevard, North Carolina;

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

Section 1. That the Brevard City Council hereby amends the Rules of Procedure, Rule 5. Public Participation (or Comment) and Rule 28. Public Hearings by adding the following (shown in *italic*):

Rule 5. Public Participation (or Comment)

Add to the existing (a) through (j) listing:

k. Audio, visual, digital and other forms of electronic presentations will not ordinarily be allowed. However a member of the public desiring to do so can apply to the City Manager, no later than six (6) working days prior to the date of the scheduled meeting, to request to do so.

Rule 28. Public Hearings

Add to the existing (a) through (d) listing:

e. Audio, visual, digital and other forms of electronic presentations will not ordinarily be allowed. However a member of the public desiring to do so can apply to the City Manager, no later than six (6) working days prior to the date of the scheduled meeting, to request to do so.

Section 2. The failure of council or any other person to adhere to the Rules of Procedures shall not affect the validity of any meeting or action taken by council.

Section 3. To the extent there is conflict or any discrepancy between the Rules of Procedure and the NC General Statutes, case law, or local ordinances (collectively “law”), the law shall prevail.

Section 4. That the Rules of Procedure for the City Council of the City of Brevard shall be in full force and effect from and after the date of its adoption.

Adopted and approved this 20th day of May, 2013.

K-4 Resolution No. 2013-11 A Resolution Approving Records Retention and Disposition Schedule Concerning When Administrative Value Ends

RESOLUTION NO. 2013-11

A RESOLUTION APPROVING RECORDS RETENTION AND DISPOSITION SCHEDULE CONCERNING WHEN ADMINISTRATIVE VALUE ENDS
(Amendment to Resolution No. 2012-22)

WHEREAS, the North Carolina Department of Cultural Resources, Division of Archives and Records, State Archives of North Carolina, Government Records Branch 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 superseded the schedule issued and adopted May 19, 2009 and the amendments thereto; and

WHEREAS, on November 5, 2012 by Resolution No. 2012-22 the City Council of the City of Brevard, North Carolina accepted and approved this revised and updated schedule and amendments as presented; and,

WHEREAS, the City of Brevard and the Department of Cultural Resources agree that certain records series possess only brief administrative, fiscal, legal, research, and reference value. These records series have been designated by retention periods which allow these records to be destroyed when "*administrative value ends*"; and,

WHEREAS, with adoption of Resolution No. 2012-22 the City of Brevard agreed to establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends"; and,

WHEREAS, the City department(s) responsible for the various records series within the Records Retention and Disposition Schedule have recommended an appropriate "administrative value" in order to establish the minimum retention periods; and

WHEREAS, it is the desire of the City Council of the City of Brevard, North Carolina to accept and approve the schedule concerning when administrative value ends.

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

Section 1. The Records Retention and Disposition Schedule is hereby amended and approved to include: Records Retention And Disposition Schedule Concerning When Administrative Value Ends (Exhibit A).

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

Adopted and approved this 20th day of May, 2013.

K-5 Ordinance No. 2013-04 Amending The Traffic Schedule To Establish A "No Parking" Zone Along Elm Bend Road

ORDINANCE NO. 2013-04

AN ORDINANCE AMENDING THE TRAFFIC SCHEDULE AND BREVARD CITY CODE TO ESTABLISH A "NO PARKING" ZONE ALONG ELM BEND ROAD WITHIN THE JURISDICTION OF THE CITY OF BREVARD

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD,

NORTH CAROLINA THAT THE TRAFFIC SCHEDULE AND THE BREVARD CITY CODE SHALL BE AMENDED AS FOLLOWS:

Section 1. 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) Elm Bend Road is designated as a no parking area on both sides of the street from its intersection with US Highway 276 eastward to the limits of the City of Brevard's Extra-Territorial Jurisdiction.

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 the appropriate signs to be installed and enforcement of the foregoing provisions to be implemented.

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

Adopted and approved this 20th day of May, 2013.

L. Old Business - None

M. New Business

M-1 <u>Resolution Supporting the Schenk Job Corps</u> - Mr. Locks moved, seconded by Mr. Landreth, the Resolution supporting the Schenk Job Corps be approved as presented.

Discussion: Mr. Morrow suggested the Resolution be amended to include and recognize that Schenk Job Corps students have engaged with the Manager and Council in the government process by attending and hosting meetings, etc.

Mr. Locks agreed and rescinded his motion.

Mr. Morrow moved, seconded by Mr. Jones, the Resolution be amended to include as described, and approved. Motion carried unanimously. (Amended by adding: 1 [a] [ii & iii])

RESOLUTION NO. 2013-12

A RESOLUTION RECOMMENDING THE DEPARTMENT OF LABOR CONSIDER ADDITIONAL POSITIVE PERFORMANCE MEASURES WHEN EVALUTING THE SCHENCK JOB CORP LOCATED IN BREVARD, NORTH CAROLINA

WHEREAS, the Department of Labor (DOL), Employment and Training Administration (ETA) "began an ambitious reform agenda aimed at improving the performance of the Job Corp centers nationwide" in Fiscal Year 2011; and

WHEREAS, the Department of Labor seeks feedback on the methodology for selecting centers for closure; and

WHEREAS, the City of Brevard shares a commitment to improved performance through relevant and inclusive standards and measures.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BREVARD RECOMMENDS the Department of Labor consider the following performance measures in the positive evaluation of the Schenck Job Corp located in Brevard, North Carolina:

1. Consider "immediate-term" career transition as a component of the criteria labeled "Five-Year Performance Level".

a) Schenck Job Corp students routinely and immediately serve their community of Brevard, North Carolina in capacities of landscaping, facilities maintenance, culinary arts, and student leadership. Specifically and most notably:

i: 60 students provided 240 hours of volunteer labor to clear 5 miles of trail corridors over 400 acres on the City of Brevard's Bracken Preserve located adjacent to the Pisgah National Forest, and,

ii: The culinary arts program provided dining for the Brevard Mayor, City Council, City Staff, community leaders, and expert consultants during two, two-day planning retreats, and,

iii: The Student Government Council has attended Brevard City Council meetings and hosted Council's annual planning retreats through the provision of meeting rooms, administrative support and campus tours and presentations.

2. Consider the presence and impact of the facilities on the community as a component of the criteria labeled "Facility Condition and Physical Plant".

a) Recognize Schenck Job Corp has offered a reliable and low-cost option for local government work by hosting the referenced planning retreats.

b) Recognize the presence of Schenck Job Corp and the programs offered, most notably advanced forestry and wildland firefighting, helped to protect, preserve, and promote the "woods and water" so critical to Brevard's economy and identity.

3. Consider community employment as fulfilling the mantra "Jobs for All"

a) The Job Corp represents stable employment in a community with unemployment rates exceeding 9%.

b) The Job Corp represents the second largest water user of our utility system and the closing of the facility would result in a $150,000 loss of revenue to support the water treatment plant (22% of the water plant's budget in FY '13).

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

Adopted and approved this the 20th day of May, 2013.

M-2 <u>North Carolina General Assembly Legislative Update</u>

Mr. Moore reported the NC General Assembly has produced several bills that if adopted in their original form will have a direct and near-term impact. Senate Bill 363 would eliminate privilege licenses resulting in a loss of about $55,000 in revenue; Senate Bill 394 would eliminate local franchise tax on electricity and natural gas ($265,000 revenue loss), and, eliminate beer and wine privilege tax ($30,000 revenue loss).

Council agreed if these Bills are approved by the State it will result in some serious revenue losses to the City.

M-3 <u>Budget Adjustment for Fire Department Assistance to Firefighters Grants (AFG) through FEMA</u>

Chief Budzinski reported the Fire Department applied for two competitive AFG's through FEMA; one being a regional grant, the other for Brevard Fire Department to purchase firefighter approved rugged/immersion capable P-25 handheld and mobile radios, and two mobile repeaters to enhance communication capabilities in the County and National Forest areas. Both grants have been awarded in full.

Request to accept the two FEMA AFG grant awards: (a) Regional grant in amount of $22,925, (b) Brevard Fire Dept. grant in amount of $196,000, and, approve a budget

amendment of $14,751.80 from the Fire Department Special Revenue Fund Balance for the local match requirement.

Mr. Landreth moved, seconded by Mr. Dickson, the Grants and budget amendment be accepted as requested and recommended by Chief Budzinski. Motion carried unanimously.

M-4 Comprehensive Plan: Economic Development Workshop Follow-Up

Mr. Freeman presented power point slides that provided an outline of the discussion and direction resulting from the April 29, 2013 workshop. (A copy of the presented slides are on file.)

Economic Development Focus

1. Communicating with Citizens
2. Quality of Life/Quality of Place
3. Promoting Business Growth

M-5 Resolution No. 2013-13 Authorizing Advertisement For The Proposed Purchase of Rollout Refuse Containers (Roll Out Carts) Using The Piggyback Method

Mr. Fatland reported the City is under contract with Republic Services Inc., to provide residential recycling pickup. A survey was sent out recently seeking input on providing larger recycling containers. There were 542 responses with 57% preferring 96 gallon containers and 43% preferring bins. Staff recommends Council:

(a) Approve the use of both 96 gallon recycling carts and recycling bins;
(b) Approve the drafted Resolution authorizing advertisement for purchase using the "piggyback" method;
(c) Authorize staff to submit grant application to NCDENR to pay for 50% of the cost to purchase the 96 gallon recycling carts and fund local share from general fund balance; and
(d) Approve every other week recycling pickup for residential customers.

The local share of the cart purchase not to exceed $58,750.

Council members discussed importance to allow those customer who prefer to use the smaller recycling bins to be able to continue to do so. Community has expressed interest in recycling for downtown, is that a part of what is being proposed tonight?

Mr. Fatland explained proposed is for residential only, with the exception that recycling carts could be provided during Festivals to provide recycling. Survey resulted some businesses want recycling, some do not, and that most do not want recycling if it means they have to pay for the service.

Costs have exceeded what we are billing. However, with larger carts and only picking up every two weeks we could continue to provide the service in a more cost effective manner. Currently customers pay $3 for recycling; however, it costs the City $3.20 - so we are operating at a loss. State has a program for monies that will pay one-half of the cost of the carts. City could start out by buying some carts and then later on purchase additional ones, keeping the grant open for a year.

Mr. Locks moved, seconded by Mr. Landreth, staff presented and recommended recycling program including **Resolution No. 2013-13** and authorization for staff to submit described grant application be approved as presented. Motion carried unanimously.

RESOLUTION NO. 2013-13

A RESOLUTION AUTHORIZING ADVERTISEMENT FOR THE PROPOSED PURCHASE OF ROLLOUT REFUSE CONTAINERS (ROLL OUT CARTS) USING THE "PIGGYBACK" METHOD

WHEREAS, the City of Brevard has investigated previous purchases by other governmental entities and has found that purchases of equipment identical to that being requested have been made by other governmental entities; and

WHEREAS, using the "piggyback" method of purchase, it is the desire of the City of Brevard to comply with the requirements of N.C.G.S. 143-129 and appropriately advertise for the proposed acquisition of residential refuse containers (roll out carts); and

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

Section 1. The City Manager is hereby authorized and directed to advertise the proposed purchase of residential refuse containers (roll out carts), using the "Piggyback" method of purchase, in compliance with General Statutes 143-129(g).

Section 2. The City of Florence, South Carolina, the public agency originally contracting for purchase of refuse containers, closely matches our specifications and appropriately bid for the acquisition of refuse containers (roll out carts) at a unit price of $48.64 dated February 8, 2013. Upon this determination, it was decided that the City of Brevard should seek to make this purchase using the "Piggyback" method, as outlined in the General Statutes.

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

Adopted and approved this 20th day of May, 2013.

M-6 <u>Resolution No. 2013-15</u> A Resolution Enacting A Declaration Of Perpetual Land Use Restrictions Upon The City's Former Landfill Off Illahee Road Extension

Mr. Freeman explained the NC Dept. of Environment and Natural Resources (NCDENR), Division of Waste Management, proposes to grade, cap and seal the City of Brevard's former landfill located off Illahee Road Extension. However, prior to doing so NCDENR requires that the City adopt a "Declaration of Perpetual Land Use Restrictions" which will limit future uses of the property and certain site-disturbing activities. Staff recommends adoption of the drafted Resolution and Declaration.

Mr. Pratt explained the Declaration needs to be recorded and that as presented it is not in recordable form, and, needs to be corrected to show the Mayor and City Clerk are to sign this City document.

Mr. Morrow moved, seconded by Mr. Landreth, **Resolution No. 2013-15** and Declaration be amended as described by the City Attorney and approved. Motion carried unanimously.

RESOLUTION NO. 2013-15

A RESOLUTION ENACTING A DECLARATION OF PERPETUAL LAND USE RESTRICTIONS UPON THE CITY'S FORMER LANDFILL OFF ILLAHEE ROAD EXTENSION

WHEREAS, the North Carolina Department of Environment and Natural Resources, Division of Waste Management proposes to make certain improvements to the City of Brevard's former landfill, which is located off Illahee Road Extension; and,

WHEREAS, Brevard City Council has determined that such improvements will protect the health, safety and welfare of the Citizens of Brevard and Transylvania County and will protect water resources within Transylvania County; and,

WHEREAS, The North Carolina Department of Environment and Natural Resources requires that Brevard City Council adopt certain land use restrictions by enacting a Declaration of Perpetual Land Use Restrictions.

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

SECTION 01. Brevard City Council hereby enacts a Declaration of Perpetual Land Use Restrictions, which is attached hereto and incorporated herein as Exhibit A to this Resolution.

SECTION 02. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Resolution or the Declaration of Perpetual Land Use Restrictions 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.

Adopted and approved this 20th day of May, 2013.

M-7 Ordinance No. 2013-05 Ordinance Amending the Official Zoning Map of the City of Brevard Creating the Brenton Conditional Zoning District

Mr. Landreth moved, seconded by Mr. Morrow, the Brenton Conditional Zoning District, Ordinance No. 2013-05, be approved as recommended by staff.

Discussion: Mr. Locks asked if the motion could be amended by removing kennels as an allowed use.

Mr. Landreth asked that his motion stand as supported.

Vote on motion
Yes: Mr. Landreth, Mr. Morrow, Mr. Jones and Mr. Dickson
No: Mr. Locks
Motion carried.

ORDINANCE NO. 2013-05

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BREVARD CREATING THE BRENTON CONDITIONAL ZONING DISTRICT

WHEREAS, the City of Brevard has the authority, pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, this Ordinance is consistent with the City's 2002 Land Use Plan and other official plans; and

WHEREAS, the City of Brevard Planning Board has reviewed the proposed ordinance and recommends its enactment by City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BREVARD, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF THE COUNCIL MEMBERS VOTING IN THE AFFIRMATIVE, HEREBY ORDAINS THE FOLLOWING:

Section One. Upon petition of the property owner of the property located at 920 Old Hendersonville Highway, Mr. Timothy W. Brenton (hereafter, "Brenton"), the Official Zoning Map of the City of Brevard is hereby amended to create the Brenton Conditional Zoning District (hereafter, "District") as more particularly set forth herein.

Section Two. The zoning classification of that certain real property identified on Transylvania County tax maps by the following PIN number and deed book / page number, is

hereby zoned as the Brenton Conditional Zoning District (hereafter, "District"), said zoning district being further depicted in Exhibit A, attached hereto and made a part hereof:

Timothy W. Brenton, 8596-25-9766-000, Deed Book 094 Page 291

Section Three. The District is a conditional zoning district established pursuant to the Unified Development Ordinance of the City of Brevard by means of authority granted by the North Carolina General Statutes.

Section Four. Future development and use of lands situated within the District, and the processing of applications to develop and use such lands, shall comply with all applicable provisions of Brevard City Code and the conditions, which are more particularly set forth herein. This Ordinance and its exhibits shall run with the land and shall be binding on Brenton, its heirs and assigns.

Section Five. Conditions.

a. Development within the District shall comply with all applicable provisions of Brevard City Code, including but not limited to,

1. City of Brevard Unified Development Ordinance, general provisions and provisions specifically applicable to properties within General Industrial Zoning Districts

2. Chapter 34. Flood Damage Prevention

3. Chapter 62. Streets, Sidewalks, and Other Public Ways

4. Chapter 70. Utilities

b. Land Uses.

1. Only those uses of land that are set forth in the following Table of Allowable Uses may be permitted within the District. Such uses are further defined in Chapter 19 of the Unified Development Ordinance.

2. The term "P" indicates that the use of land is allowable "by right" and may be authorized by the Administrator. The term "SUP" indicates that the use of land is allowable by Special Use Permit and may be authorized by the City of Brevard Board of Adjustment. "TU" indicates that the use of land is allowable by issuance of a temporary use permit as authorized by the Administrator.

3. All permissible uses shall comply with any applicable condition or standard as set forth in the Unified Development Ordinance.

4. Table of Allowable Use:

PERMISSIBLE USES OF LAND	PERMIT PROCESS
Dwelling-Single Family (Site-built)	--
Dwelling-Duplex	--
Dwelling-Town Home or Condominium Structure	--
Dwelling-Multifamily 3-4 units/bldg, not including Condominium Buildings or multiple structures	--
Dwelling-Multifamily more than 4 units/bldg	--
Dwelling-Secondary	--
Family Care Home (Less than 6 residents)	--

Home Occupation	--
Housing Service for the Elderly	--
Live-Work Units	--
Manufactured Home Park	--
Bed and Breakfast Home	--
Bed and Breakfast Inns	--
Accessory Rental cottage / cabins (c)	--
Animal Services	P
Artist Workshop	P
Business Support Services	P
Adult / Child Day Care Home (Less than 6)	--
Adult / Child Day Care Center (6 or more)	--
Community Service Organization	P
Group Care Facility (6 or more residents)	--
Government Services	P
Medical Services - Clinic, Urgent Care Center	P
Medical Services – Doctor office	P
Kennels	SUP
Professional Services	P
Personal Services	P
Studio – Art, dance, martial arts, music	P
Vehicle Services – Major Repair/Body Work	--
Vehicle Services – Minor Maintenance/Repair (d)	--
Restaurant	--
Amusements, Indoor	P
Cultural or Community Facility	P
Meeting Facilities	P
Recreation Facilities, Indoor	P
Recreation Facilities, Outdoor	SUP
Theater, Movie	--
Theater, Live Performance	SUP
Laboratory - Medical, analytical, research & development	SUP
Laundry, dry cleaning plant	SUP
Manufacturing, Light	SUP
Manufacturing, Neighborhood	P
Media production	P
Metal products fabrication, machine or welding shop	SUP
Recycling - Small collection facility	--
Research and development	SUP
Storage - Warehouse, indoor storage	P
Wholesaling and distribution	P
Public Safety Station	---
Religious Institutions	P

Schools – Elementary & Secondary	--
Schools – Vocational/Technical	--
Wireless Telecommunication Facility-Stealth	P
Utilities-Class 1 & 2	P
Agriculture	P
Parking	P
Swimming Pool – Residential Accessory Use	PS
Swimming Pool – Primary Use	P
Fences	PS
Religious Meeting	TU
Contractor's Office and Equipment Shed	TU
Seasonal Structures	TU
Satellite real estate sales office	TU
Special event	TU

c. Land owner shall seek and secure zoning site plan approval from the Administrator prior to commencing development activity within the District.

d. Land owner shall render all applicable fees to the Administrator prior to receiving final zoning approval for any structure from the City of Brevard, and prior to receiving a Certificate of Occupancy for any structure from Transylvania County.

Section Six. The Planning Director is hereby authorized and directed to modify the City's Official Zoning Map consistent with this Ordinance.

Section Seven. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

Section Eight. All ordinances or portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section Nine. This ordinance shall be in full force and effect from and after the date of adoption.

Adopted and approved this the 20th day of May, 2013.

N. Remarks by Officials

Mayor Harris recognized Land of Sky Regional Council Elections. Councilman Landreth was elected Secretary of the Land of Sky Regional Council of Government's Executive Board, and was joined by Transylvania County Commissioner Chair, Mike Hawkins as an At-Large Member. Councilman Rodney Locks is also an At-Large member of the Council.

Mayor Harris explained he understands a class of Brevard College students desired to measure the economic impact of the Assault on the Carolinas event by means of a survey, and asked that the City obtain a copy of the survey and results for our records. Mayor encouraged attendance at the White Squirrel Festival that will take place this weekend, and, for Friday's Gallery Walk.

Mayor Harris announced his intention to run for re-election as Mayor.

Mr. Morrow shared he had a citizen visit this week respective to the street square dancing and questioned the City's charging a fee for the street dances that have

been held for years. Unlike other events led by organizations or non-profits, the dances are led by citizens who desire to retain this as it is a part of our community culture.

Motion - Mr. Morrow moved, seconded by Mr. Locks, staff look at the potential for the City to sponsor the permit fee of $200 for the Street Dances as they cultivate community and honor our heritage. Motion carried unanimously.

Mr. Morrow announced his intention to run for re-election as Council Member.

Mr. Moore explained the City sponsors four or five events and asked if Council would like a more thorough evaluation of all the events? If Council is looking to fund the street square dancing this year, Council will need to budget it. If Council is looking for an evaluation of what you are building with events like this, than that is a longer view evaluation.

Discussion: Council interested in an evaluation, and, interested in potential to fund street dances this year.

O. Closed Session- Mayor Harris asked the City Attorney if it would be appropriate to convene three closed sessions for the purpose to discuss land acquisition, potential litigation, and a personnel matter. City Attorney advised it would be appropriate pursuant to **GS § 143-318.11. (a)(5), GS § 143-318.11. (a)(3)** and **GS § 143-318.11. (a)(6)** and instructed separate motions, seconds and vote would be required to discuss the matters.

At 10:58 p.m. Mr. Morrow moved, seconded by Mr. Landreth, Council go into closed session to discuss land acquisition. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the Manager, Clerk and Planning Director Josh Freeman. (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 11:33 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 11:34 p.m. Mr. Locks moved, seconded by Mr. Landreth, Council go into closed session to discuss potential litigation. Authorized to remain with Council and the Attorney were the Manager and Clerk.

Adjourned Closed Session to Regular Session - At 11:42 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 11:42 p.m. Council dismissed the Manager and Clerk in order to hold a closed session to discuss a personnel matter. City Attorney will provide Minutes of the closed session, and will provide to the Clerk the record of Council's return to regular session and actions (if any) taken, and adjournment.

Council came out of closed session at _____ p.m. 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. _____ moved, seconded by Mr._____ , the meeting be adjourned. Motion carried. Meeting adjourned at _____p.m.

s/Jimmy Harris
Jimmy Harris
Mayor

s/Desiree Perry
Desiree D. Perry, CMC, NCCMC
City Clerk

Minutes Approved: June 17, 2013