MINUTES
BREVARD CITY COUNCIL
Regular Meeting
March 18, 2013 – 7:00 PM

The City Council of the City of Brevard met in regular session on Monday, March 18, 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, Building & Grounds Director Lynn Goldsmith, HR Director Christine Caldwell, Public Service Director David Lutz, Finance Director Jim Fatland, Police Chief Phil Harris, Director of Engineering & Utilities Jay Johnston PE, Planner Sarah Lutz, Executive Assistant Jeanette Owen and Bldg. & Grounds Alex Marquez.

Press - Derek McKissock, Transylvania Times

A. Call to Order - Mayor Harris called the meeting to order.

Welcome Extended to Foreign Exchange Students from Denmark - Mayor Harris and Council extended their welcome to twenty-eight high school students and two teacher/chaperones from Denmark who are here participating in a two-week student exchange program at Brevard High School. Also in attendance were Brevard High School Principal Jeremy Gibbs and several high school teachers who have helped make the exchange program possible.

Mayor Harris welcomed all present and introduced Council Members, City Attorney, City Manager and the Clerk.

B. Invocation - Mr. Norman Bossert, Brevard Jewish Community, offered an invocation.

C. Pledge of Allegiance - Boy Scout Troupe 701 members TJ Newkirk, Josiah Williams and Wyatt Butler led in the Pledge of Allegiance to the Flag.

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

E. Approval of Agenda - Mr. Morrow moved, seconded by Mr. Locks, the Agenda be amended to add to the Consent Agenda the Resolution Awarding Service Badge and Sidearm to Lt. Newton, and, Monthly Performance Status Report on CDBG Grant Cottages of Brevard, and to approve the Agenda as amended. Motion carried unanimously.

F. Approval of Minutes - Mr. Landreth moved, seconded by Mr. Jones the November 19, 2012 Recreation Workshop Minutes, January 31 and February 2, 2013 Annual Retreat Workshop Minutes, and, February 18, 2013 Regular Meeting Minutes be approved with the corrections submitted to the Clerk earlier today. Motion carried unanimously.

G. Certificates / Awards / Recognition - Mayor Harris and Police Chief Phil Harris presented to retired Brevard Police Officer, Lieutenant William Wayne Newton, a framed original of Resolution No. 2013-05 along with his service badge and sidearm, a Glock Model 22 Gen 4. Family and friends were in attendance for the presentation. Chief Harris, Council and staff thanked Lt. Newton for his 22 years of service.

H. Special Presentations

H-1 <u>Police Department Evidence Room Retrofit</u> - Mr. Moore reported the FY 2012-13 Annual Budget includes funds to evaluate and plan for future services administered out of City Hall. While the long-term study will thoroughly evaluate and physically lay-out how departments interact and deliver services, several interim improvements are necessary to maximize existing space and create a more welcoming, effective, and professional place for our citizens to conduct business or seek information. The work within the Police Department is an example of an interim improvement.

Chief Harris reported the Police Department audited, assessed and upgraded the system and facility to secure evidence. The Evidence/Property Room project was completed almost $12,000 under budget, the audit results confirmed the room is in good standing, and updated procedures will assure the room is managed in a professional manner with maximum integrity.

H-2 <u>Remedial Action Plan for the Brevard Dump Site</u> - Mr. Moore thanked Ms. Cheryl Marks and Mr. Brian Wright, NC Dept. of Environment and Natural Resources (DENR), for their traveling from Raleigh in order to present to Council their report on the former (pre-1983) landfill site located off of Illahee Road. DENR has approved a <u>Remedial Action Plan</u> for the former landfill site. A public comment period must be initiated prior to the implementation of this Plan.

Ms. Marks and Mr. Wright reported the site was investigated because of its close proximity to well(s), stormwater pools, etc. Included within the <u>Remedial Action Plan</u> will be to install two inches of fill and to impose perpetual land use restrictions. Tonight's reporting initiates the 45-day public input, which will then be followed by the execution of the <u>Declaration Of Perpetual Land Use Restrictions</u>.

Mr. Pratt shared with Ms. Marks and Mr. Wright he has noticed some minor changes that will need to be done prior to the execution of the Declaration.

I. Public Participation

I-1 <u>Pre-Budget Public Input</u> - Invitation for citizens and non-profit organizations to participate in the formation of the upcoming budget that funds their services, and opportunity to put forth requests for budget appropriation consideration, or offers of service.

<u>Recycling</u> - Ian Fox, a fifth grade student of Mountain Community School, accompanied by Mr. Mike Carrick, asked for Council's consideration to provide for recycling downtown for citizens and businesses by replacing some trash cans with recyclable containers, and, provide recycling for downtown businesses. As a part of his school project, Ian Fox created and circulated a <u>Survey for Use of Downtown Recycle</u> and received all twenty-one back. Survey results indicate businesses are very interested in having more recycling opportunities. (A copy of the surveys are on file.)

<u>TC Arts</u> - Tammy Hopkins presented a map of downtown showing the many art businesses in and around Brevard (159) and shared some ways this year's City financial support of $5,000 were used, such as, the 4th Friday gallery walks, annual Duck Race at Kings Creek/Brevard College, Christmas tour of artist studios, etc. Requested Council consideration for continued $5,000 support for TC Arts and for an additional $5,000 support to help with the increased interest to use Brevard in movies and TV films, which brings additional economic impact to Brevard via hotels, cabin and B&B rentals, caterers, grocery purchases, office space rentals, etc.

<u>Chamber of Commerce</u> - Brevard/Transylvania Chamber President Debbie Hall, accompanied by Chamber Executive Director Libby Freeman, thanked Council for past support via membership, and proposed partnership opportunities in the coming year in exchange for financial support describing the Chamber could assist the City with: (a) Sister City concept; (b) Entrepreneur education and ongoing mentoring program, and,

(c) Legislative breakfast. City's current funding is $3,000; requested Council's financial support of $10,000 in FY2013-14. (Copy of presented information is on file.)

Bread of Life - Mr. Larry Nelson and Mr. Michael Collins requested Council's financial support for the Bread of Life free food kitchen and pantry located on Caldwell Street that has been in operation since 1997. They serve lunch 5-days a week, Sunday dinner, 185 meals daily, and also provide food boxes that supplies food for two people for four days with an average cost of less than $2 per meal; low cost is because of the tremendous support from volunteers in the community. Shared in addition to food, they offer extended ministry that is a deterrent to crime. Asked for $3,000 in financial support. (Copy of presented information is on file.)

Workforce Housing Collaborative - Mr. Don Rogers shared United Way and Wesley Community Development Corporation have been working together for five years to help address the need of affordable workforce housing. Land within the City is very expensive making it difficult for individuals or families to purchase housing. Requested Council's support for possible "cottage" development that would offer small houses on small lots and having a greater density, a combination that will make the housing affordable. Asked for Council's consideration to provide support by means of infrastructure (water/sewer) that will increase the value of the land and tax base for the City, and/or to provide a steady source of funding. (Copy of presented information is on file.)

Transylvania County Community Land Trust (TCCLT) - Mr. Greg Walker Wilson and Mr. James Case shared in 2008 the TC Workforce Housing Coalition made a proposal to the TC Board of Education to develop a housing program for critical workforce employees, beginning with teachers, on land owned by the Board of Education. The concept is to use available resources, land and student labor to provide affordable housing to recruit a critical component of our workforce: teachers. The proposal was accepted and the TC Community Land Trust was organized and incorporated as a 501(c)(3) nonprofit in 2010. TCCLT will help recruit teachers for the County School system by providing affordable housing. Workforce housing for County and City employees would also be available if teachers do not fill all of the units. Asked for funding request of $193,690 in FY 2014 to finance the zoning fee, main tap, repaving, off-site water lines, on-site water and sewer line construction for Phase 1. Furthermore, requesting a waiver of $68,750 in water and sewer impact and tap fees (4 units per year) for the housing construction period 2014-2021. (Copy of presented information and funding request in on file.)

The Free Clinic - Dr. Stewart Trimble shared in 2012 the Free Clinic had a total of 2,040 patient visits with 1,070 of the patients stating upon their intake form that they live in Brevard. Clinic also sees many patients that may not live within the City limits, but work for many of the small businesses that are in the City limits. Visit costs are about $100 per patient, with the patient paying $20 or less. Asked for funding request of $2,000 to help the Free Clinic to continue to meet the medical needs of the clients, and support would help allow them to continue to offer the metabolic clinic. (Copy of presented information and funding request is on file.)

~~ Mayor Harris called for a ten minute recess. Meeting resumed at 8:45 p.m. ~~

Heart of Brevard (HOB) - HOB President Jeremy Owen shared they come as an economic development partner to the City. They are in the process of developing a strategic plan; HOB is currently a 506(c)(6) non-profit and plan to also apply for a 501(c)(3) non-profit; and, are ready to move forward with the hiring of a new full-time executive director. Shared HOB is interested in having a work session with Council in order to work together and move forward with the partnership.

Bike Paths, Safe Route to Franklin Park, Straus Traffic Signal - Dr. Marty Ingram shared several health, community and transportation benefits from having the City's bike trail infrastructure as it allows people to engage in the City's quality outdoor life while benefiting their health through exercise of walking, jogging or biking; saves money and resources; and the reduction of pollution. Encouraged Council to continue to fund and expand the trail system in order to improve access to schools, grocery stores, parks, etc., allowing community members to be productive while exercising. Requested City work towards creating a safe route for children to travel to Franklin Park, and, installation of a signal crossing at the Straus Park Shopping Center (Market Street).

I-2 General Public Input - None

J. Public Hearing(s)

J-1 Public Hearing: Jennings Industrial Park Planned Development District (PDD) - Proposed Planned Development District and amendment to the official zoning map to establish the Jennings Industrial Park Planned Development District. The properties in question are located along Mountain Industrial Drive and Old US Highway 64, and are known as: Transylvania Vocational Services, BNJ Investments LLC, Richard G. Jennings, III, and Red Clay LLC (aka Oskar Blues). (PINs: 8596-48-3055-000, 8596-47-5642-000, 8596-47-1344-000, 8596-37-5808-000 and 8596-37-7910-000.)

At 8:59 p.m. the properly advertised and noticed public hearing to receive comments on the proposed Jennings Industrial Park Planned Development District began. Mr. Freeman explained the PDD includes a signage master plan submitted by the Jennings Industrial Park property owners. If adopted the proposed PDD would result in a change in the City Zoning Map that would apply only to the specific properties in question, and would offer enhanced flexibility for development with the primary focus upon signage. Planning Board recommends approval of the PDD. (A copy of the Manager and Planning Dept. staff report is on file.)

Public Hearing - Public Participation Comments - None

Public Hearing Closed – With no further questions or comments from Council or the public, Mayor Harris closed the hearing at 9:13 p.m.

J-2 Public Hearing: Brevard Code of Ordinance Text Amendments - Proposed text amendments to Chapter 1 General Provisions, Section 1-8(b) General Penalty. Proposed text will provide designation of those officials who can initiate legal process. Text amendments to Chapter 70 Utilities, Article III Sewer System, Section 70-103 Administrative Procedures. Proposed text will provide designation of those officials who can initiate legal process. Text amendments and additions to Chapter 38 Health and Sanitation, Article II Nuisances, Division 1 Generally, Section 38-32, 38-33, 38-33.5; addition of Section 38-33.75; changes to Sections 38-34, 38-35, 38-36, 38-38, 38-39, and the addition of Section 38-49.

At 9:13 p.m. the properly advertised and noticed public hearing to receive comments on the proposed text amendments began. Mr. Freeman explained the proposed text amendments address some areas of the existing City Code/Ordinances that are outdated; will establish code enforcement as a civil process administered by staff; amends the nuisance ordinance weedy lot provisions to identify natural wild life lots that have not been reformatted for development will not be subject to the maximum grass/vegetation height of 24"; posting of property allowed to serve as Notice, etc. Mr. Freeman suggested Council consider an additional amendment of removing Council out of the code enforcement loop that currently requires them to hear appeals in a quasi-judicial hearing, and to amend by naming the responsibility for appeals to the Board of Adjustment.

Discussion - Council members noted that in addition to the text advertised for this public hearing and drafted ordinance, there are other existing code provisions that appear to need updating or deletion. (ie: expectorating, fertilizers that contain animal matter, etc.)

Public Hearing - Public Participation Comments - None

Public Hearing Closed – With no further questions or comments from Council or the public, Mayor Harris closed the hearing at 9:36 p.m.

K. Consent Agenda - Consent Agenda items are considered routine and are enacted by one motion. Mayor Harris read aloud the eight (8) items listed and asked if Council desired to remove an item for discussion, or, add an item(s) to the Consent Agenda.

Mr. Locks moved, seconded by Mr. Morrow, that New Business Items M-1, M-2, M-3, M-5 and M-6 be added to the Consent Agenda and the Consent Agenda be approved as amended. Motion carried unanimously. The following thirteen (13) items were approved:

K-1 Staff Reports: (a) Financial Report; (b) Public Services Report; and, (c) Police Quarterly Report. (On file.)

K-2 National Flood Insurance Program Community Rating System Five-Year Audit 2012. (On file)

K-3 Resolution No. 2013-06 Recognizing March 29th as Opal C. Hahn Day Within The City of Brevard

RESOLUTION NO. 2013-06

A RESOLUTION RECOGNIZING MARCH 29th AS OPAL C. HAHN DAY WITHIN THE CITY OF BREVARD

WHEREAS, Opal C. Hahn served the City of Brevard with distinction and extreme dedication for over thirty-six years as City Clerk, Interim City Manager and ultimately as Mayor; and,

WHEREAS, it is befitting the memory of such a distinguished individual to permanently and perpetually remember the contributions for which Opal C. Hahn offered to the City and the legacy which remains from her time shared with our fine community; and,

WHEREAS, to accord such remembrance, on June 20, 1988 the Brevard City Council designated March 29th of each year to remember Mayor Opal C. Hahn.

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

Section 1. In memory and honor of Mayor Opal C. Hahn, it is hereby declared and proclaimed that March 29, 2013 be known as "OPAL C. HAHN DAY" within the City of Brevard.

Section 2. The City Clerk of the City of Brevard is hereby authorized and directed to record this Resolution within her official records.

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

Adopted and approved this the 18th day of March, 2013.

K-4 Resolution 2013-07 Amendment to Rules of Procedure for Brevard City Council

RESOLUTION NO. 2013-07
(Amendment #1 to Resolution No. 04-2011)

A RESOLUTION AMENDING RULES OF PROCEDURE FOR THE BREVARD CITY COUNCIL

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 4. B. Agenda Request Deadline 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 4. Agenda by deleting Rule 4. B. Agenda Request Deadline in its entirety, and renumber the paragraphs as follows:

Rule 4. Agenda

A. Proposed Agenda
B. Citizen Request Agenda Item
  1. Citizen Request Through a Council Member
  2. Citizen Request Through Staff
  3. Citizen Request Through Public Participation
C. Agenda Package Contents
D. Agenda Distribution
E. Adoption of the Agenda
F. Consent Agenda
G. Open Meetings Requirement

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 18th day of March, 2013.

K-5 Contract for Audit Services - Approved contract for audit services to Gould Killian CPA Group, P.A, for year ended June 30, 2013. Total audit fee is $29,900.

K-6 Appointment to Board of Adjustment - Appointed Ms. Carol Dillingham as a regular member to the Board of Adjustment filling the unexpired term of former member Mr. Frank Pearsall; term will expire November 2013.

K-7 Resolution No. 2013-05 Awarding Badge and Service Sidearm to Retired Police Officer Lieutenant William Wayne Newton

RESOLUTION NO. 2013-05

AWARDING BADGE AND SERVICE SIDEARM TO RETIRED POLICE OFFICER LIEUTENANT WILLIAM WAYNE NEWTON

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

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

WHEREAS, Lieutenant William Wayne Newton has served the Brevard Police Department with 22 years of service and has retired at the rank lieutenant; and

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

The City Manager's designee, Police Chief J. Phillip Harris, Jr., is hereby authorized, in accordance with the provisions of NC GS 20-187.2, to transfer to Lieutenant William Wayne Newton the badge worn by him during his service with the Brevard Police Department and his service sidearm, a *Glock Model 22 Gen 4, Caliber 40, Serial Number RTN719.*

Adopted and approved this 18th day of March, 2013.

K-8 **Cottages of Brevard** - Approved as presented the February 2013 Community Development Block Grant 10-C-2209 Monthly Performance Status Report. (On file.)

K-9 (M-1) **Terrell L. Scruggs Scholarship Fund** - Approved the proposed FY 2013 budget of $3,000 for the Terrell L. Scruggs Scholarship Fund to authorize appropriation and disbursement of funds.

K-10 (M-2) **Resolution No. 2013-08** Authorizing Grant/Loan Financing for Water Project , Radio Read Meters (AMR)

RESOLUTION NO. 2013-08

AUTHORIZING GRANT/LOAN FINANCING FOR WATER PROJECTS

WHEREAS, the City of Brevard has need for and intends to purchase and install radio read meters (AMR) for its water distribution system; and

WHEREAS, the City of Brevard intends to request grant and loan assistance for this project; and

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

That the City of Brevard, the applicant, will arrange financing for all remaining costs of the project, if approved for a State Grant or Loan Award.

That the City of Brevard will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the City Council of the City of Brevard agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Brevard to make scheduled repayment of the loan, to withhold from the City of Brevard any State Funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the City of Brevard will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Joseph M. Moore II, P.E., City Manager, and successors so titled, is hereby authorized to execute and file an application on behalf of the City of Brevard with the State of North Carolina for a loan or grant to aid in the construction of the projects described above.

That the City Manager and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the City of Brevard has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loan pertaining thereto.

Adopted this 18th day of March, 2013.

K-11 (M-3) <u>Resolution No. 2013-09</u> Authorizing Grant/Loan Financing for Sewer Projects. (Belt press and facilities to handle sludge bi-product from Water Treatment Plant)

RESOLUTION NO. 2013-09
AUTHORIZING GRANT/LOAN FINANCING FOR SEWER PROJECTS

WHEREAS, the Federal Clean Water Act Amendments of 1987 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of grants and loans to aid eligible units of government in financing the cost of construction wastewater collection system; and

WHEREAS, the City of Brevard has need for and intends to construct a belt press and facilities to handle sludge bi-product from the WTP and to upgrade approximately 8500 linear feet of 6 inch line to 8 inch PVC; and

WHEREAS, the City of Brevard intends to request grant and loan assistance for this project,

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

That the City of Brevard, the applicant, will arrange financing for all remaining costs of the project, if approved for a State Grant or Loan Award.

That the City of Brevard will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the City Council of the City of Brevard agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Brevard to make scheduled repayment of the loan, to withhold from the City of Brevard any State Funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the City of Brevard will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Joseph M. Moore II, P.E., City Manager, and successors so titled, is hereby authorized to execute and file an application on behalf of the City of Brevard with the State of North Carolina for a loan or grant to aid in the construction of the projects described above.

That the City Manager and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the City of Brevard has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loan pertaining thereto.

Adopted this the 18th day of March, 2013.

K-12 (M-5) <u>Ordinance No. 2013-02</u> Jennings Industrial Planned Development District (PDD)

ORDINANCE NO. 2013-02

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BREVARD; CREATING THE JENNINGS INDUSTRIAL PARK

PLANNED DEVELOPMENT 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 owners of Jennings Industrial Park (hereafter, "Jennings"), the Official Zoning Map of the City of Brevard is hereby amended to create the Jennings Industrial Park Planned Development 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 Jennings Industrial Park Planned Development District (hereafter, "District"), said zoning district being further depicted in Exhibit C, attached hereto and made a part hereof:

Transylvania Vocational Services, 8596-48-3055-000, Deed Book 00213 Page 0460
Transylvania Vocational Services, 8596-47-5642-000, Deed Book 00418 Page 0444
BNJ Investments LLC, 8596-47-1344-000, Deed Book 00595 Page 0063
Richard G. Jennings, III, 8596-37-5808-000, Deed Book 00402 Page 0401
Red Clay LLC (AKA Oskar Blues), 8596-37-7910-000, Deed Book 00621 Page 0694

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, the conditions, which are more particularly set forth herein, and the final master plan entitled "Jennings Industrial Park Signage Master Plan", which is attached to this ordinance as Exhibit A and B and incorporated herein. This Ordinance and its exhibits shall run with the land and shall be binding on Jennings, its heirs and assigns.

Section Five. Conditions.

a. Except as set forth in Section 5.b, below, 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 62. Streets, Sidewalks, and Other Public Ways

3. Chapter 70. Utilities

b. The following ground and wall signage may be permitted within the District:

1. Primary Ground Sign:

i. One, Primary Ground Sign may be installed at the intersection of Old US Highway 64 and Mountain Industrial Drive.

ii. The Primary Ground Sign may be installed with the permission of the property owner; such permission to be conveyed by means of a stand-alone parcel of land, which shall be conveyed to an association of all property owners within the District, or by means of a lease agreement between such property owner and all other property owners within the District.

iii. The Primary Ground Sign shall contain one panel for each property owner or tenant within the industrial park, and the maximum allowable surface area of the sign face shall be equally distributed among the individual sign panels.

iv. Maximum square footage of sign face: The Primary Ground Sign face, including all individual panels, shall not exceed 140 square feet in size. Individual panels shall not exceed 8' in width nor 3 feet in height.

v. Maximum height: The Primary Ground Sign shall not exceed 20 feet in height above adjacent grade as determined by the Administrator.

vi. Setbacks: The Primary Ground Sign shall be set back a minimum of 10 feet from all property lines and rights-of-way lines.

2. Secondary Ground Signs:

i. One Secondary Ground Sign may be permitted upon each parcel of land within the District. A total of five, Secondary Ground Signs may be permitted within the District.

ii. Maximum square footage of sign face: Secondary Ground Sign faces, including all individual panels, shall not exceed 40 square feet in size.

iii. Maximum height: Secondary Ground Signs shall not exceed 8 feet in height above adjacent grade as determined by the Administrator.

vi. Setbacks: Secondary Ground Sign shall be set back a minimum of 10 feet from all property lines and rights-of-way lines.

3. Public Wayfinding Signs:

i. Two, Wayfinding Ground Signs may be permitted within the District.

ii. Wayfinding Ground Signs shall be owned and maintained by the City of Brevard, and may be installed upon private property by permission of the property owner, or within the public right-of-way of Mountain Industrial Drive, subject to the standards and practices of the *Manual of Uniform Traffic Control Devices*.

iii. Wayfinding Ground Signs shall be designed in such a way as to be generally consistent with the design of the City's "Wayfinding and Graphic Communications System."

iv. Maximum square footage of sign face: Wayfinding Ground Sign faces, including all individual panels, shall not exceed 16 square feet in size.

v. Maximum height: Wayfinding Ground Signs shall not exceed 8 feet in height above adjacent grade as determined by the Administrator.

vi. Location: Wayfinding Ground Signs shall be located in a manner that is generally consistent with locations as show upon Exhibit B to this Ordinance.

4. Wall Signage:

i. One Wall Sign may be permitted for each business within the District. In such cases where the structure containing a business fronts upon both Old US Highway 64 and Mountain Industrial Drive, such business is permitted a second wall sign.

ii. A business within the District may place wall signs upon any exterior wall of the structure containing the business. However, in no case shall a wall contain more than one sign per business.

iii. Maximum square footage of sign face: Wall Sign faces shall not exceed 50 square feet in size.

c. The Planning Director, or designee thereof (hereafter, " Administrator") may approve minor modifications to the final master plan as shown upon Exhibits A and B; provided, however, that in no case shall Administrator approve modifications that would exceed the dimensional requirements as set forth in Section 5.B, above. Major modifications to the master plan shall be considered as a new Planned Development District proposal in accordance with the procedures set forth in Chapters 2 and 16 of the Unified Development Ordinance.

d. Jennings shall seek and secure zoning site plan approval from the Administrator prior to commencing development activity within the District.

e. Jennings 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 this the 18th day of March, 2013.

K-13 (M-6) <u>Consideration of State Funding of Burrell Mountain Reservoir</u> - Accepted Notice of Intent to Fund the Burrell Mountain Water Tank Project financing for 18-year loan at no interest. The NC Public Water offered a no interest loan for the $2,401,000 Burrell Mountain Water Tank project and agreed to prepare Notice of Intent to Fund dated March 1, 2013 subject to LGC approval. The Local Government Commission approved the no interest loan for an eighteen (18) year term at their regularly scheduled meeting on March 5, 2013. Annual payments of $133,388.89 will commence in the fiscal year following the completion of the project.

L. Old Business - None

M. New Business

M-4 <u>Ordinance No. 2013-01</u> Amending Brevard City Code, Chapter 1 General Provisions, Chapter 70 Utilities, and Chapter 38 Health And Sanitation

Council members noted there are portions within these chapters that appear to be outdated and need to be revised and/or deleted (ie: Section 38-45 Expectorating; Sec. 38-46 Storage of fertilizers containing animal matter, etc.) and questioned whether they should (a) consider adoption of the proposed amendments now; (b) request staff review the remainder of the Code sections for amendments before adoption consideration; or, (c) request staff review the remainder of the Code sections and to report back to Council in the future.

City Attorney explained although the described two Sections were not included within the Public Hearing Notice, to amend those Sections does not require Public Hearing. However, to amend and/or delete would need to be reduced to writing prior to adoption/approval.

Following discussion, Mayor Harris affirmed to the Manager that Council requests staff to review Code Sections 38-45, 38-46 (as example) and other Code portions, in future, for recommended amendments and/or deletions.

Mr. Landreth moved the drafted **Ordinance No. 2013-01** be amended to change all references to City Council within Section 38-38 Appeal Notice (lines 262-269), and Section 38-39 Appeal Hearing (lines 271-281) be changed to read "Board of Adjustment", and to approve as amended. Motion was seconded by Mr. Morrow and passed unanimously.

ORDINANCE NO. 2013-01

**AN ORDINANCE AMENDING BREVARD CITY CODE,
CHAPTER 1 GENERAL PROVISIONS,
CHAPTER 70 UTILITIES,
AND CHAPTER 38 HEALTH AND SANITATION**

WHEREAS, City Staff has recommended certain amendment to Brevard City Code, which will streamline the enforcement of certain ordinances; and,

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 1. General Provisions, Section 1-8 General Penalty; other remedies, 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, Chapter 38. Health And Sanitation, Article II. Nuisances, Division 1. Generally, are hereby enacted and shall read as set forth in Exhibit B to this Ordinance, which is attached hereto and incorporated herein.

SECTION 03. Certain amendments to Brevard City Code, Chapter 70. Utilities, Article III. Sewer, Section 70-103 Administrative procedures; enforcement; penalties; damaging or tampering with facilities, are hereby enacted and shall read as set forth in Exhibit C to this Ordinance, which is attached hereto and incorporated herein.

SECTION 04. 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 05. As to any conflict between this ordinance and any parts of existing ordinances, the provisions of this ordinance shall control.

SECTION 06. 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 07. 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 08. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this 18th day of March, 2013.

N. Remarks by Officials

Mr. Morrow asked if the abandoned service club signage on Hwy. #64 West and US #276 will be removed as a part of the Wayfinding project?

Mr. Freeman explained they will not under the Wayfinding project; however, the referenced signs will be a part of the cleanup process.

Mr. Locks shared both he and Mr. Landreth attended the GrowWNC last Tuesday, and he has volunteered the City to host the first session on, "'Cross Pollination - How to get officials to work together." He questioned how close Brevard is to being a certified wage employer.

Mr. Pratt advised in the near future NCLM will charge for their Daily Bulletin publication; however, if a Council Member, Manager, City Attorney, etc., desires to receive the bulletin, they can do so at no charge provided it is sent to a City (local government) email account.

O. Closed Session- Mayor Harris asked the City Attorney if it would be appropriate to convene two closed sessions for the purpose to discuss potential litigation and a personnel matter. City Attorney advised it would be appropriate pursuant to **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 9:51 p.m. Mr. Jones moved, seconded by Mr. Dickson, Council go into closed session to discuss potential litigation. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the Manager, Clerk and Police Chief Phil Harris. (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 10:27 p.m. Council resumed the meeting in regular session. No official was taken in closed session and the Minutes of the closed session are authorized to be sealed.

At 10:27 p.m. Council dismissed the Manager, Clerk and Police Chief in order to allow them to hold a second closed session to discuss a personnel matter. City Attorney will provide Minutes of the second closed session.

Council came out of closed session at 10:47 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. Landreth moved, seconded by Mr. Jones, the meeting be adjourned. Motion carried. Meeting adjourned at 10:47 p.m.

s/______________________________	s/______________________________
Jimmy Harris	Desiree D. Perry, NCCMC
Mayor	City Clerk

Minutes Approved: April 15, 2013