**MINUTES**
**BREVARD CITY COUNCIL**
**Regular Meeting**
**July 15, 2013 – 7:00 PM**

The City Council of the City of Brevard met in regular session on Monday, July 15, 2013 at 7:00 PM in the Council Chambers of City Hall with Mayor Jimmy Harris presiding.

The following were present: Mayor Jimmy Harris, Council Members Maurice Jones, Mac Morrow and Rodney Locks; City Manager Joe Moore, City Attorney Mike Pratt, and Deputy City Clerk Daniel Cobb.

Staff: Fire Chief Craig Budzinski, Planning Dir. Josh Freeman, Assistant Planning Dir. Brad Burton, Police Chief Phil Harris, Director of Buildings and Grounds Lynn Goldsmith, Alex Marquez, Director of Engineering and Utilities Jay Johnston, Public Service Dir. David Lutz, Executive Assistant Jeanette Owen, and Finance Dir. Jim Fatland. Others present included John Connell of Land-of-Sky Regional Council.

Press: Derek McKissock, Transylvania Times

**Welcome** - Mayor Harris called the meeting to order, welcomed those present and introduced council members and staff.

**Invocation and Pledge** – Dr. Chuck Campbell, Transylvania Baptist Association, offered the invocation. Mayor Harris led in the Pledge of Allegiance.

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

**Agenda** – Mr. Morrow moved, seconded by Mr. Jones, the Agenda be accepted as amended. Motion carried unanimously.

**Approval of Minutes** – Mr. Morrow noted the minutes for June 10, 2013 had one correction; Item 2, page 5, last bullet under *Meter Reads and Industrial Water Rates* should read "Currently the City is not charging as much as what it costs us to treat the **wastewater**." Mr. Morrow moved to approve the minutes from the June 10 meeting as amended as well as those from the May 28, June 17, and June 24 meetings, seconded by Mr. Jones. Motion carried unanimously.

**Certificates and Awards** – Mayor Harris recognized Building and Grounds employee Alex Marquez on his recent oath of American Citizenship.

Mayor Harris then recognized Daniel Cobb of the Planning Department on his recent completion and graduation from the County and Municipal Administration Course from the School of Government.

**Public Hearing and Public Forum(s) –** Amendment to the Cottages at Brevard Community Development Block Grant

At 7:20 PM the properly advertised and noticed public hearing to receive comments from the public on the amendment to the Cottages at Brevard Community Development Block Grant began. Mayor Harris read aloud the guidelines the public is asked to follow if they desire to speak at the public hearing. There was no one from the public registered to speak.

Mayor Harris recognized Mr. Moore, who in turn recognized Mr. Burton of the planning department to give an overview of the amendment.

The purpose of this amendment is to: 1) Reduce the scope of the project from 48 to 40 units; and, 2) move $50,000 from the Street Improvements line item into the new

Pedestrian Improvements line item. Opening a new line item in the budget as well as changing the project density from 48 to 40 units requires a formal amendment to the grant.

Mayor Harris asked if a Council member has any questions or comments on the proposed amendment.

Mr. Locks asked how density could be changed. Mr. Connell stated the specific purpose of this amendment is to do just that. Without a formal amendment, upon closing out the grant with the State, the State could seek reimbursement for a portion of the originally allotted funding.

Public Forum – Nilsa Lobdell, 1000 Old NC 280 expressed concern about elderly citizens crossing from the Cottages property to Ingles.

Mr. Freeman of the planning department informed Council and Ms. Lobdell about the updated design on the sidewalk in front of the Cottages project (Hwy 64), there will be a connection from the Cottages development to the existing intersection and crosswalk located at Fisher Road and Highway 64.

Public Hearing Closed – Mayor Harris closed the public hearing at 7:35 PM.

**Public Participation –** No one from the public registered to speak.

**Consent Agenda** – Mayor Harris explained to those present that Consent Agenda items are considered routine and are enacted by one motion. He read aloud the five (5) items listed and asked if Council desired to remove any of the listed items for discussion, or, recommend adding any items to the Consent Agenda.

Mayor Harris recommended in addition to the five items, that New Business Item M-1 Amendment to the Cottages at Brevard Community Development Block Grant be added to the Consent agenda and item K-4 Extension of Term Limit for ABC Board member be a retroactive appointment as of July 1, 2013. Motion made by Mr. Morrow to approve the Consent Agenda as amended, second by Mr. Jones and carried unanimously. The following five (5) Consent Agenda items (as amended) were approved:

Consent Item #1 – Staff Reports:

a) Financial Report
b) Engineering and Utilities
c) Public Services Department

Consent Item #2 – **Resolution No. 2013-19** Awarding Badge and Service Sidearm to Retired Police Captain Marty Burns.

**RESOLUTION NO. 2013-19**

**AWARDING BADGE AND SERVICE SIDEARM TO RETIRED POLICE CAPTAIN MARTY BURNS**

**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**, Captain Charles Martin Burns has served the Brevard Police Department with 31.5 years of service and has retired at the rank of captain; 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 Captain Charles Martin Burns 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 RTN724.*

Adopted and approved this 15th day of July, 2013.

Consent Item #3 – Filing of the Brevard Alcoholic Beverage Control Board Budget

Consent Item #4 – ABC Board re-appointment and a one-year extension of term limit for member Milton Tynch. Appointment to be retroactive to June 2013; term to expire June 2014.

Consent Item #5 – **Resolution No. 2013-20** Approving Financing Terms for Sanitation Truck

**Resolution No. 2013-20**

**A Resolution Approving Financing Terms**

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

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

1. The City hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated July 10, 2013. The amount financed shall not exceed $127,910.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.89%, and the financing term shall not exceed five (5) years from closing.

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

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

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

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

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

Adopted and approved this 15th day of July, 2013.

Consent Item #6 (M-1) – Approved the amendment to the Cottages at Brevard Community Development Block Grant to (1) reduce the scope of the project from 48 to 40 units; and, (2) move $50,000 from the Street Improvements line item into the new Pedestrian Improvements line item.

**New Business –** M-2 – Animal Control Agreement

Mayor Harris recognized Mr. Moore who recognized Mr. Pratt for an explanation of the agreement as presented. Mr. Pratt gave an overview of the agreement and suggested one change: Page 5, Article V, Section 1 be amended to read as

> "*…with this agreement for no less than forty (40) years from the execution of this agreement. Should County fail to do so for any reason, it shall reimburse the City by paying to City the sum of $2,500 for each year short of forty (40) years of shelter operation…*"

Mr. Locks made a motion to approve the agreement as amended, second by Mr. Morrow, motion carried unanimously.

**Remarks by Officials**

Mayor Harris recognized Mr. Connell for his years of service to the City of Brevard.

Mr. Locks also thanked Mr. Connell and mentioned his appreciation for Staff's work; specifically Mr. Johnston, on the write-up on the Wastewater Treatment Plant.

Mr. Morrow had no comment.

Mr. Jones reminded Council and those present and gave a brief summary of the recent tax changes adopted by the State. He also mentioned the recent success of a number of black churches coming together for one big service. Mr. Jones also thanked the community as a whole for the support he and his family had recently received.

Deputy Clerk Cobb acknowledged (having recently completed the County and Municipal Administration program) the scope of the duties of various department heads within the City, specifically Finance Director Jim Fatland, and the enormous responsibility associated with each of them. Mr. Cobb expressed his appreciation for such positions.

Mr. Moore mentioned that Mr. Fatland is also a previous graduate of the County and Municipal Administration program.

**Closed Session –** Mayor Harris asked the City Attorney if it would be appropriate to convene in closed session for the purpose to discuss potential litigation. Mr. Pratt advised it would be appropriate pursuant to **GS § 143-318.11(a) (3)** and instructed separate motions, seconds, and vote would be required to discuss the matter.

At 7:50 PM Mr. Morrow, seconded by Mr. Jones, moved 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, Deputy Clerk Daniel Cobb, Planning Director Josh Freeman, and Assistant Planning Director Brad Burton. (A two minute recess took place in order to allow all who were not authorized to remain to leave Council Chambers.)

Council came out of closed session at 8:16 PM. 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. Morrow moved, seconded by Mr. Jones, the meeting be adjourned. Motion carried unanimously. Meeting adjourned at 8:16 PM.

s/_____________________________________
Daniel P. Cobb
Deputy City Clerk

Minutes Approved:
August 19, 2013

s/______________________________
Jimmy Harris
Mayor