MINUTES
BREVARD CITY COUNCIL
Regular Meeting
April 21, 2014 – 7:00 PM

The Brevard City Council met in regular session on Monday, April 21, 2014 at 7:00 p.m. in the Council Chambers of City Hall with Mayor Jimmy Harris presiding.

Present – Mayor Jimmy Harris, Mayor Pro Tem Mac Morrow, Council Members Charlie Landreth, Maurice Jones, Ann Hollingsworth and Wes Dickson

Staff Present – City Manager Joe Moore, City Attorney Mike Pratt, City Clerk Desiree Perry, Planning Director Josh Freeman, Finance Director Jim Fatland, Police Chief Phil Harris, City Engineer & Utility Director Jay Johnston, PE, Fire Chief Craig Budzinski, Building and Grounds Director Lynn Goldsmith, Human Resource Director Christine Caldwell, Assistant Planning Director Brad Burton, Public Services Director David Lutz and Manager's Executive Assistant Jeanette Owen.

Press - Derek McKissock, Transylvania Times

A. Welcome and Call to Order – Mayor Harris called the meeting to order, welcomed those present and introduced council members, Manager, Attorney and Clerk.

B. Invocation – Pastor Dema Barishnikov, Destiny Christian Fellowship, offered an Invocation.

Brevard Cares Cleanup – Police Chief Harris and Pastor Barishnikov shared the third annual "Brevard Cares Cleanup" is scheduled to take place on Saturday, May 3rd, and invited Council, staff and citizens to participate. Meeting at the Police Department at 8:00 a.m. and will then go out into the community to assist residents and non-profits with cleanup projects.

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

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

E. Approval of Agenda – Mr. Landreth moved the Agenda be amended by moving Item K-2 from the Consent Agenda to H-2 Certificates/Recognition, and to add Item K-9 Municipal Lien-Rice Properties, LLC to the Consent Agenda, and for the Agenda to be approved as amended. Motion was seconded by Mr. Morrow and passed unanimously.

F. Approval of Minutes – Mr. Landreth moved the February 28th, March 3rd and March 31, 2014 meeting Minutes be approved as presented. Motion was seconded by Ms. Hollingsworth and passed unanimously.

G. Public Hearings

G-1. Brevard College Planned Development District and Preliminary Master Plan (PDD 09-152). Public hearing to consider a Planned Development District and Preliminary Master Plan for the Brevard College campus located on North Broad Street. Applicant is Brevard College.

At 7:16 p.m. the properly advertised and noticed public hearing to receive comments began. Mr. Burton provided the staff report (on file). This matter was tabled by the Planning Board in 2009, with a request for further information. Planning Board and staff feel this submittal fulfills that request. The Preliminary Master Plan indicates a comprehensive network of pedestrian connectivity throughout the campus; expansion of structures with the first phase including the construction of two new residence hall facilities; and a new road layout at the main campus entrance. If the

Ordinance is adopted, the College will have five years to begin development. College is working with the City and prepared to dedicate rights-of-way and easements for utilities.

Mr. Burton explained there was a FEMA mapping error on the College property. He provided data and consulted with Mr. Ken Ashe, NC Mapping Floodplain Program, who has agreed to reassess and provide corrected mapping of the area.

Brevard College President David Joyce, Vice President for Business and Finance Deborah Hall, and Mr. Matthew J. Fusco, Landscape Architect, was present. Mr. Fusco extended his appreciation to the Planning staff members for their work which helped them get where they are today. He presented the Preliminary Master Plan (on file) while further describing the improvements planned for the College campus. College requests the City to ease the landscape buffer requirement. They desire the community to relate to the fabric of the campus and its role in the community, and therefore do not desire to place a buffer along the perimeter of the campus that would prevent community from easily seeing onto the campus and its many features.

Public Hearing Public Participation - None

Public Hearing Closed – With no further questions or comments from Council or the public, Mayor Harris closed the hearing at 7:45 p.m.

H. Certificates/Awards/Recognition

H-1. Best Practices Award presented to Finance Director James Fatland

NC Governmental Awards for Excellence in Accounting and Financial Management - Mr. Brian Broom, NC Association of Certified Public Accountants - Governmental Accounting and Auditing Committee, and Mr. James Burke, NC State Treasurer's Office, recognized Brevard Finance Director James Fatland for his hard work and bringing the City's accounting and business processes up to current best practice standards. They presented Mr. Fatland with a plaque in recognition of Brevard being awarded this year's "Best Practices" award from the NC Department of State Treasurer.

Mr. Fatland thanked Mr. Broom and Mr. Burke, and further expressed his appreciation for the excellent training he and others have benefitted from the UNC School of Government, the NC Government Finance Office Association, as well as, help he has received from Mr. Dan Mullinex, Gould Killian CPA Group. He also recognized and extended his appreciation to Finance Department staff members Donna White, Terri Morgan and Shirley Hutchins.

H-2. (K-2) Pediatric Stroke Awareness Month Proclamation – Mayor Harris read aloud the Proclamation bringing awareness that May is Pediatric Stroke Awareness Month, and presented it to Mr. and Mrs. Donny Cantrell and their young daughter, Olivia, who is a pediatric stroke survivor.

I. Public Participation

Mr. Lee McMinn, Board of County Commissioner candidate, introduced himself and extended his appreciation to City Council for their work and leadership and that he looks forward to working with them in the future on mutual interests.

J. Special Presentations

J-1. Brevard Music Center Summer Transit Program – Mr. Moore reported in October 2012 Council directed staff to "study the needs of public transportation in the City of Brevard and corresponding levels of service to meet that need". Upon initiating the investigation, staff discovered an opportunity to partner with Transylvania County and the Brevard Music Center on a shuttle service. Transylvania County provided vehicle and driver services for $2000. The Music Center and City shared the service cost at $1,000 each, with Brevard's share coming from the Professional Services line item. Program was very successful.

Mr. Frank McConnell shared most BMC students are not allowed to have a vehicle and that the transportation program was very successful as it met a need while providing a great opportunity for the students to not only have access to laundry facilities, K-Mart and Wal-Mart, but they were also able to come into downtown Brevard and enjoy all it has to offer. Requested Council's consideration to partner with the Music Center to fund this year's Transportation Program, June 21st – August 2nd.

Mr. Keith McCoy, Transylvania County Transportation Department, shared the Program was very successful and in large part due to the students themselves who conducted themselves well at all times. Program included approximately 860 one-way trips on seven different Saturday's.

Mr. Mark Weinstein, Brevard Music Center, expressed his appreciation for the partnership and gladly offered to half-sponsor the transportation opportunity again.

J-2. Safe Routes to School Program – Ms. Lutz provided an update and invited Council to the Bike Rodeo. Bike Rodeo will be held at Brevard Academy on April 24th, and at Brevard Elementary on April 25th. Planning staff in partnership with the Brevard College Wilderness Leadership and Experiential Education (WLEE) program and Sycamore Cycles will host the event. The Brevard Police and Fire Departments will provide community outreach and engagement as integral members of the rodeo team. This year, Brevard College President David Joyce and nationally-ranked Brevard College cyclist Jeff Lenosky will participate in the rodeo.

Kids GO – Ms. Lutz invited Council to come to the third year's City sponsored Kids GO festival that will be held on April 26th. Staff will team up with the Brevard College WLEE program, as well as with Brevard Police & Fire Departments, Sycamore Cycles, Pisgah Cycling, Falconers of Falling Creek Camp, and many other vendors who will offer a wide variety of demonstrations intended to get the community's children excited about being outdoors.

Dr. Jennifer Kafsky, Brevard College, and Dr. Scott Elliott, TC Schools, extended their appreciation for the partnership with the City for both the Kids Go Festival and the Bike Rodeo. Opportunity not only gets children active and outside, it also provides a student and parent experience of seeing and working with the City, County, TC Schools, Outdoor Industry, Police and Fire, providing a "whole community" experience.

J-3 Brevard College Art Students Summer Display in Council Chambers – Ms. Goldsmith shared this will be the third year that Brevard College students have loaned their art work for display in Council Chambers. In attendance was Brevard College faculty member, Mr. Bill Byers, accompanied by art students Ericka L. Hayes, Ashley Lowe, Kevin Sherwood, Ryan RisCassi and Emily Saunders. Mr. Byers explained the art work was selected by the juried students, and thanked Council for the opportunity to have the art displayed in Council Chambers.

~~ At 8:35 p.m. Mayor Harris called for a recess; meeting resumed at 8:47 p.m. ~~

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

Mr. Landreth moved, seconded by Mr. Morrow, the Consent Agenda be amended to add New Business Item M-1 Radio Read Meters Loan Financing, and Item M-5 Brevard College PDD, and that the Consent Agenda be approved as amended. Motion carried unanimously.

The following ten Consent Agenda items were approved:

K-1. Proclamation – Arbor Day in the City of Brevard, April 23, 2014.

K-3. 2014 City Council Meeting Schedule Amendment – Added a Work Session to be held on May 5, 2014 at 5:30 p.m.

K-4. Downtown Master Plan Project Update, Phases I and III – Accepted Planning staff update report filed with Agenda packet information.

K-5. Resolution No. 2014-07 Exempting The City of Brevard From Contracting Design Services on Downtown Master Plan, Phase III

RESOLUTION NO. 2014-07

A RESOLUTION EXEMPTING THE CITY OF BREVARD FROM THE REQUIREMENTS OF SECTION 143-64.32.b OF NC GENERAL STATUTE WITH RESPECT TO THE PREPARATION OF SCHEMATIC DESIGN AND DUE DILIGENCE DOCUMENTS FOR PHASE THREE OF THE DOWNTOWN MASTER PLAN PROJECT

WHEREAS, the North Carolina General Statute Section 143-64-32 requires the initial selection of firms to perform architectural, engineering, and surveying to be made without regard to price; and

WHEREAS, Section 143-64.32 of the General Statutes allows cities to exempt themselves from that requirement under certain circumstances; and,

WHEREAS, the City of Brevard proposes to enter into a contact for engineering services to prepare schematic design and due diligence documents for the third phase of the Downtown Master Plan; and,

WHEREAS, the City of Brevard has identified a qualified, reputable, and capable engineering firm interested in providing engineering services for the preparation of said schematic design and due diligence documents; and,

WHEREAS, the City Council of the City of Brevard finds that negotiation with the identified engineering firm is necessary and expedient for the timely completion of the preparation of said construction drawings.

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

Section 1. The City of Brevard is hereby exempt from the provisions of N.C. General Statue, Section 143-64.32.b "Written Exemption of Particular Contracts" to *allow an engineering firm to be hired in accordance for the reasons stated above in this Resolution.*

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

Section 3. The Finance Officer and City Manager are instructed to take appropriate actions to implement this Resolution.

Adopted and approved this 21st day of April 2014.

K-6. Certificate of Sufficiency – Accepted the City Clerk's Certificate of Sufficiency for the voluntary contiguous annexation Petition submitted by Terminix Services, Inc., for property located at 1291 Ecusta Road, Pisgah Forest.

Certificate of Sufficiency

I, Desiree D. Perry, City Clerk, do hereby certify that I have investigated the petition submitted by **Terminix Service, Inc.** (PIN 8596-58-5199-000) containing 0.20 acres more or less**,** and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with NCGS 160-A-31.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Brevard this 21st day of April, 2014.

Desiree D. Perry, CMC, NCCMC
City Clerk

K-7. Certificate of Sufficiency – Accepted the City Clerk's Certificate of Sufficiency for the voluntary contiguous annexation Petition submitted by Scott R. and Patricia L. Barnett, for property located at 123 Gillespie Circle, Brevard.

Certificate of Sufficiency

I, Desiree D. Perry, City Clerk, do hereby certify that I have investigated the petition submitted by **Scott R. and Patricia L. Barnett** (PIN 8585-35-8859-000) containing 0.971 acres more or less**,** and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with NCGS 160-A-31.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Brevard this 21st day of April, 2014.

Desiree D. Perry, CMC, NCCMC
City Clerk

K-8. Department Staff Reports. (On file with Agenda packet information.)

a. Public Services February 2014 Report
b. Finance Report for Month Ended February 28, 2014
c. City Clerk Third Quarter Report
d. Human Resources Third Quarter Report

K-9. Approved Municipal Lien Against Rice Property Management, LLC. – Council approved the Municipal Lien securing cost of abatement and demolition, as prepared. Lien will be duly executed by the City Clerk and the City Attorney will then record it with the County Register of Deeds Office.

K-10. (M-1) Radio Read Meters Loan Financing – Council adopted Resolution No 2013-08 on March 18, 2013, authorizing a grant/loan application for radio read meters. NCDENR has notified the City of Brevard that the project has been approved for a ten year loan at no interest; approval of the loan will save the City approximately $160,000 over the ten year loan period. Council authorized the City Manager to sign Confirmation of Interest form for a no interest loan for the purchase and installation of radio read meters.

K-11. Brevard College Planned Development District and Preliminary Master Plan (PDD 09-152). Approved Brevard College PDD **Ordinance No. 2014-07** and Preliminary Master Plan as presented. [Plan Titled: Brevard College Master Plan, Matthew J. Fusco Landscape Architect, PO Box 8013 Asheville, NC 28814; Revision Date: 02/19/2014; Sheet L1-Existing Conditions; Sheet L2-Existing Utilities; Sheet L3-Slope Analysis; Sheet L4-Conceptual Master Plan; Sheet L5-Conceptual Stormwater Plan; Sheet L6-Campus Signage; Sheet 7-Conceptual master plan, February 19, 2014.]

ORDINANCE NO. 2014-07

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BREVARD CREATING THE BREVARD COLLEGE PLANNED DEVELOPMENT DISTRICT

WHEREAS, the City of Brevard has the authority, pursuant to Part 3 of Article 19 of Chapter160A 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 both consistent with and inconsistent with the City's 2002 Land Use Plan and other official plans for the reasons set out in the excerpt from the Planning Board's Recommendation of Approval with Conditions which has been identified as Exhibit C and which is hereby adopted and incorporated by reference; 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 Brevard College, the Official Zoning Map of the City of Brevard is hereby amended to create the Brevard College Planned Development District as more particularly set forth herein.

Section Two. The zoning classification of that certain real property described in Exhibit A, attached hereto and made a part hereof, is hereby changed from Institutional Campus (IC) to Brevard College Planned Development District. Said property is also identified on Transylvania tax maps by means of the following PIN numbers: 8586-62-8087-000, 8586-82-8015, 8586-61-3555, and 8586-71-6406

Section Three. The Brevard College Planned Development 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 Brevard College Planned Development District, and the processing of applications to develop and use such lands, shall comply with the conditions set forth on the document entitled, Brevard College Planned Development District: List of Conditions, which is attached to this ordinance as Exhibit B and incorporated herein; and the preliminary master plan which is attached to this ordinance as Exhibit D. The aforementioned List of Conditions shall run with the land and shall be binding on Brevard College, its heirs and assigns.

Section Five. Brevard College shall secure development approval in accordance with the procedures set forth in Chapter 16 of the City of Brevard Unified Development Ordinance and take action to begin development of the property within five (5) years of the effective date of this ordinance.

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. The City Clerk is directed to file a copy of this Ordinance along with a certified copy of all Exhibits in the Office of the Register of Deeds of Transylvania County.

Section Ten. This ordinance shall be in full force and effect from and after the date of adoption. Adopted and approved upon first reading this the 21st day of April, 2014.

L. Unfinished Business - None

M. New Business

M-2 Human Relations Council Appointment Considerations – An Application for appointment consideration has been submitted by Mr. Jerard N. Sloan. The HRC is a joint City-County 15-member board with nine members appointed by the City. Currently there are five City vacancies. Staff does not make recommendations on any citizen advisory board appointment or reappointments. Council options are (1) Re-appointment of Ms. Null; (2) Appointment of Mr. Sloan to serve on HRC; or (3) Table to make a decision at a later date on either (a) appointments to the HRC or (b) a re-evaluation of HRC's Mission. Should Council choose option 3b, any guidance to Staff on the parameters of this evaluation is welcome and helpful.

Mr. Jones commented he once served on the HRC and believes one of the issues they had was the fact that it is a joint entity of both the City and County and he personally believes, the individuals could serve the City or County better if it was one or the other, either City or County, not both.

Mr. Morrow commented integration of schools was the birth of the HRC, and it was a board who's membership consisted of leaders from Brevard College, Transylvania County Schools, TCIO as well as neighborhood leaders who together prepared and helped to address any issues that may arise, as an example, Brevard High School did not have any references to Black Colleges, for guidance, references, etc. This was addressed and in addition a counselor was hired, serving the initial purpose of the HRC. The County is responsible for education, health and minority affairs and therefore it may be more appropriate for the County to take the lead. Recognized the Martin Luther King celebration would need to be considered; perhaps the TCIO could do so as they were the original organization to plan and lead the MKL celebration events.

Mr. Landreth asked about the context of HRC. HRC is formed by two separate Resolutions, one by the City and one by the County, and, the Purpose of the HRC is stated in the same way in both resolutions, correct?

Mr. Moore replied he assumes, yes.

Mr. Landreth offered a motion to withdraw the City's Resolution and defer staffing of the HRC to Transylvania County. Motion seconded by Mr. Morrow.

Discussion: Mr. Jones commented he thinks there should be some more engagement between the City and County.

Vote on Motion
Aye: Mr. Landreth, Mr. Morrow, Ms. Hollingsworth and Mr. Dickson
Nay: Mr. Jones
Motion carried by a 4-1 vote.

M-3. Burrell Mountain Reservoir Bid Award

Mr. Johnston explained Council will consider a contract bid to replace the million gallon water storage tank on Reservoir Road. Last year, the City received an award for financial assistance from the Drinking Water State Revolving Fund ($2,402,000) to replace the failing tank with two 750,000 gallon tanks. The City opened bids for project construction on April 3, 2014. The lowest bid was $2,284,040 submitted by Steppe Construction, Inc.

City of Brevard
Water Tank Replacement - Bid Date: April 3, 2014 at 10:00 A.M.

Bidder	Bid Amount	License No.	5% Bid Bond	Preliminary MBE/WBE Forms	Addendum #1
Steppe Construction, Inc.*	$2,284,040.00	12248	Yes	Yes	Yes
Carolina Specialties Construction, LLC*	$2,342,390.23	41451	Yes	Yes	Yes
Cooper Construction Company, Inc.*	$2,347,811.00	4763	Yes	Yes	Yes
Buckeye Bridge, LLC*	$2,360,783.00	72900	Yes	Yes	Yes
Wharton-Smith, Inc.	$2,617,080.00	38755	Yes	Yes	Yes

*Corrected mathematical error on submitted Bid.

Staff recommends awarding the project to the low bidder, Steppe Construction, Inc., in the amount of $2,284,040. Fund the additional project cost using utility fund balance. If the State agrees to increase the loan amount to include the additional project cost, then utility fund balance will not be used.

Mr. Morrow moved, seconded by Mr. Dickson, the City award the project to Steppe Construction, Inc., as recommended, and that staff continue to seek the State to agree to increase the loan amount. Motion carried unanimously.

M-4. Pre-Treatment Draft Ordinances and Public Hearing Request

Mr. Johnston reported with the addition of Oskar Blues Brewing to our sewer system, the City is required to develop and implement a Sewer Pretreatment Program. He then offered information about developing and codifying a pretreatment program, as described in his staff report, and gave an overview of the draft Sewer Use Ordinance and draft Enforcement Response Plan. (On file with the Agenda packet information.) The drafted ordinance is based upon a widely accepted model ordinance.

Staff recommendation to Council is to hold a public hearing on May 19th to discuss the draft Sewer Use Ordinance and the draft Enforcement Response Plan, and place on the May 19 agenda action to: (1) Amend the City of Brevard Code of Ordinances Chapter 70, Article III to remove redundancy and/or contradiction upon codification of the Sewer Use Ordinance; and, (2) Enact the Sewer Use Ordinance and its companion document the Enforcement Response Plan.

Mayor Harris commented he recognizes the professionalism of City staff and will look to staff to lead and guide Council in the review of this and similar complex documents.

Mr. Landreth moved, seconded by Mr. Dickson, Council accept staff recommendation and to call for a public hearing on May 19th. Motion carried unanimously.

N. Remarks By Officials

Mayor Harris shared the past six weeks have been the most difficult weeks in his and his family's lives. He extended his appreciation to Mr. Morrow and Council members who have stepped up in his absence, and expressed appreciation to the Community as they have helped and embraced his family during this most difficult time. He appreciates all of the love, care and support that everyone has extended to him and his family in the recent loss of his son, Quinn.

O. Closed Session – Mayor Harris asked the City Attorney if it would be appropriate for Council to hold closed sessions to discuss two property acquisition matters and a personnel matter. City Attorney advised pursuant to **GS § 143-318.11. (a)(3) (5)** and **(6)** it would be appropriate to convene two separate closed sessions for the purpose to discuss property acquisition, and a third on a personnel matter. Each closed session will require a separate motion, second and vote to discuss the matter. Council will enter and exit regular session for each closed session.

Closed Session #1 - At 9:39 p.m. Mr. Morrow moved, seconded by Mr. Landreth, Council go into closed session to discuss a property acquisition matter. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager, Clerk, Mr. Freeman, Mr. Lutz, Mr. Burton and Mr. Fatland. *(A five minute break was taken to allow citizens and staff to leave Council Chambers.)*

<u>Council Returned to Regular Session</u> – At 10:14 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.

Closed Session #2 - At 10:14 p.m. Mr. Morrow moved, seconded by Mr. Landreth, Council go into a second closed session to discuss a property acquisition matter. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager, Clerk, Mr. Freeman and Mr. Burton.

<u>Council Returned to Regular Session</u> – At 10:42 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.

Closed Session #3 - Council dismissed the City Clerk to hold a third closed session to discuss a personnel matter. City Attorney will provide Minutes of the closed session on the personnel matter, and will provide to the Clerk the record of Council's return to regular session, any actions taken, and adjournment.

Council came out of closed session at 10:50 p.m. No official action was taken in closed session and the Minutes of the closed session are authorized to be sealed.

Adjourn – After reconvening in Open Session at 10:50 p.m., Ms. Hollingsworth moved to adjourn the meeting. Mr. Morrow offered a second to the motion, which passed unanimously.

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

Minutes Approved: May 19, 2014