MINUTES
BREVARD CITY COUNCIL
Regular Meeting
November 17, 2014 – 7:00 PM

The Brevard City Council met in regular session on Monday, November 17, 2014, at 7:00 p.m. in the Council Chambers of City Hall with Mayor Jimmy Harris presiding.

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

Staff Present – City Manager Joe Moore, City Attorney Mike Pratt, City Clerk Desiree Perry, Deputy City Clerk Jill Murray, HR Director Christine Caldwell, Planning Director Josh Freeman, Asst. Dir. Long-Range Planning Daniel Cobb, Finance Director Jim Fatland, Police Chief Phil Harris, Public Service Director David Lutz, Fire Chief Craig Budzinski, Bldg. & Grounds Director Lynn Goldsmith, Utility Director & City Engineer Jay Johnston, PE.

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 – Reverend Mike Holder, First United Methodist Church, offered an Invocation.

C. Pledge of Allegiance – Boy Scouts T. J. Newkirk and Karl Pandorf, Troup #701, led in the Pledge of Allegiance.

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

E. Approval of Agenda – Mr. Landreth moved, seconded by Ms. Hollingsworth, the Agenda be accepted as presented. Motion carried unanimously.

F. Approval of Minutes – Mr. Landreth moved, seconded by Mr. Dickson, the October 6th Work Session and October 20th regular meeting Minutes be approved as presented. Motion carried unanimously.

G. Certificates, Awards and Recognition – None

H. Public Hearing(s)

H-1. Amendments to Unified Development Ordinance, Chapters 2, 3, 4, 16 and 19 to Correct Grammatical Errors, Incorrect References and Definitions. This public hearing was advertised on November 3rd and 10th, 2014.

Mayor Harris opened the public hearing at 7:13 p.m.

Mr. Cobb provided a brief overview of the proposed corrections that are more fully described in the Staff Report on file.

Public Hearing Public Participation - None

Public Hearing Closed – Mayor Harris closed the hearing at 7:16 p.m.

I. Special Presentation(s) - None

J. Public Participation

Mr. Anthonty Duscio, 998 Glen Cannon, Pisgah Forest. Mr. Duscio explained he is the owner of "Tony's Deli" located in the Chestnut Square shopping center or the past two years, and that he does not have any portion of the existing ground sign to help identify his business. It is his understanding that Planning staff review of the City UDO Sign Regulations is scheduled for later in 2015. One area to be looked into would allow him and another business located at Chestnut Square, Chase Insurance Company, to be allowed to have signage added to the existing ground sign. He asked Council to consider directing staff to move forward on the review now; otherwise, in order for staff to move forward now he would have to pay the City's $400 fee to request a sign ordinance text amendment.

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. Mayor suggested consideration be given to add Items M-1 Application to FEMA's Assistance to Firefighters Grant, M-2 Application to Main Street Solutions Grant, and M-4 Ordinance Amending the Unified Development Ordinance, Chapters 2, 3, 4, 16 and 19.

Mr. Landreth moved, seconded by Ms. Hollingsworth, the Consent Agenda be amended to add New Business Items M-1, M-2 and M-4, and to approve as amended. Motion carried unanimously.

Mr. Jones asked, with respect to the Financial Monthly Reports, if the City's current and upcoming debt could be included in future financial reports.

The following seven (7) items were approved:

K-1. Public Services Monthly Report
K-2. Finance Monthly Report
K-3. Engineering Quarterly Report
K-4. Code Enforcement / Curbside Rubbish Report

K-5. (M-1) Application to FEMA's Assistance to Firefighters Grant

Council granted the Fire Department request to apply for the 2014 FEMA Assistance to Firefighters Grant Program to replace firefighter self-contained breathing apparatus (SCBA) and air compressor. The grant application is for $500,000. If awarded, the City match of $25,000 will come from the Fire Department Special Revenue Fund Balance. Further, if the grant is awarded, City Staff will follow with preparing a budget amendment Ordinance.

K-6. (M-2) Resolution No. 2014-29 A Resolution Authorizing A North Carolina Main Street Solutions Grant Application On Behalf of Aethelwold Development, LLC.

RESOLUTION NO. 2014-29

A RESOLUTION AUTHORIZING
A NORTH CAROLINA MAIN STREET SOLUTIONS GRANT APPLICATION
ON BEHALF OF AETHELWOLD DEVELOPMENT LLC.

WHEREAS, the City of Brevard intends to maintain a strong and steady economic base and to continue enhancing the quality of life in Brevard by promoting the vitality of existing businesses / residences and the establishment of new businesses / residences in downtown; and,

WHEREAS, the City of Brevard intends to encourage greater economic development in downtown Brevard and development that is sensitive to the natural environment through the development of existing vacant or under-utilized land, the revitalization of existing buildings, and the construction of new private buildings; and,

WHEREAS, the City of Brevard intends to achieve the aforementioned goals while also limiting the financial burden on the local community by pursuing funding from Federal and State sources to the greatest extent possible; and,

WHEREAS, the City of Brevard intends to advance the aforementioned goals by supporting the private redevelopment efforts of Aethelwold Development LLC through the procurement of a North Carolina Main Street Solutions Fund grant.

NOW, THEREFORE, BE IT RESOLVED THAT:

SECTION 01: The City Manager is hereby authorized to act on behalf of the City to apply for, accept, and administer a North Carolina Main Street Solutions Fund grant.

SECTION 02: The City Manager is hereby directed, upon receipt of a North Carolina Main Street Solutions Fund grant, to prepare and present for Council's consideration, a contract awarding grant funds to Aethelwold Development LLC.

SECTION 03. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of November, 2014.

K-7. (M-4) Ordinance No. 2014-24 An Ordinance Amending City of Brevard Unified Development Ordinance Chapters 2, 3, 4, 16 and 19 To Correct Grammatical Errors, Incorrect References And Definitions

ORDINANCE NO. 2014-24

**AN ORDINANCE AMENDING THE
CITY OF BREVARD UNIFIED DEVELOPMENT ORDINANCE
CHAPTERS 2, 3, 4, 16, 19
TO CORRECT GRAMMATICAL ERRORS,
INCORRECT REFERENCES AND DEFINITIONS**

WHEREAS, over the course of day-to-day operations within the Planning Department minor errors and inconsistencies are noted within the Unified Development Ordinance; and,

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended that Brevard City Code, Unified Development Ordinance, Chapters 2, 3, 4, 16, and 19 be amended to correct errors in grammar, incorrect references, and add a definition; and,

WHEREAS, a public hearing was conducted on November 17, 2014, by Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Brevard City Code, Unified Development Ordinance, Chapters 2, 3, 4, 16, and 19 be amended to make the corrections and additions as outlined below.

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

SECTION 01. Amendments to Brevard City Code, Unified Development Ordinance, Chapter 2. District Provisions. Section 2.2. Use categories and tables of permitted uses, Subsection C. Use matrix as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. Brevard City Code, Unified Development Ordinance, Chapter 3. Additional Use Standards, Subsection 3.11. Drive-thru/through retail/restaurants as depicted in Exhibit B, which is attached hereto and incorporated herein by reference.

SECTION 03. Brevard City Code, Unified Development Ordinance, Brevard City Code, Unified Development Ordinance, Chapter 4. General Lot and Structure Provisions. Subsection 4.7.D.1. Miscellaneous Provisions as depicted in Exhibit C, which is attached hereto and incorporated herein by reference.

SECTION 04. Brevard City Code, Unified Development Ordinance, Brevard City Code, Unified Development Ordinance, Chapter 16. Administration. Subsection 16.14.A.6. Administrative modification of dimensional standards as depicted in Exhibit D, which is attached hereto and incorporated herein by reference.

SECTION 05. Brevard City Code, Unified Development Ordinance, Brevard City Code, Unified Development Ordinance, Chapter 19. Definitions, Subsection 19.3. Definitions as depicted in Exhibit E, which is attached hereto and incorporated herein by reference.

SECTION 06. As to any conflict between this ordinance and any parts of existing ordinances, the provisions of this ordinance shall control.

SECTION 07. 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 08. 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 09. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this the 17th day of November, 2014.

L. Unfinished Business

L-1. Heart of Brevard Municipal Service District Agreement
L-2. Heart of Brevard Community Development Grant Agreement

Mr. Pratt reviewed the drafted Service District Agreement, explaining an Agreement has been in effect since 1990. Intention of drafted Agreement is to replace and update and to be brought into compliance with NCGS and current practices. Agreement is one that is automatically renewed from year to year unless either party gives a 90-day notice to the other.

Council members discussed with the City Attorney and Finance Director the text change with respect to the compensation of all ad valorem taxes to the Heart of Brevard (Section 6) and when they would be paid.

Council members reviewed and offered comment to the City Attorney on the two drafted Agreements. Mr. Pratt will revise for Council's consideration at their next meeting.

Mr. Morrow moved, seconded by Ms. Hollingsworth, to table further discussion of Items L-1 and L-2 until Council's next meeting. Motion carried unanimously.

M. New Business

M-3. Nominations to the Human Relations Council Study Committee

Mr. Jones shared a few individuals have volunteered to serve on the Human Relations Council Study Committee. Mr. Jones added he has volunteered to serve as Committee Chair and the City Attorney has volunteered to serve ex-officio and to take Committee Minutes.

Mr. Jones moved, seconded by Ms. Hollingsworth, Council appoint the following to serve on the Committee (along with Mr. Jones and Attorney Pratt): Darlene O'Dell, Mariana Vazquez and Lynn Joyce. Motion carried unanimously.

N. Remarks By Officials / Future Agenda Considerations

Mayor Harris thanked the Boy Scouts for coming and leading in the Pledge; expressed appreciation to Mayor Pro Tem Morrow for his participation in Nov. 15th's "Who's Water Is It Anyway"; and encourage everyone to come out for the coming Christmas Parade and Twilight Tour. He asked that Council give consideration towards Mr. Anthony "Tony" Duscio's request to direct staff to review and offer Council text amendments to the sign ordinance that would allow him and Chase Insurance to have the ability to add business identification signage on the existing Walgreen ground sign.

Mr. Morrow expressed appreciation for Staff's and Council member participation in the "Who's Water Is It Anyway", sharing there were about 225 people in attendance at the event that provided information and raised awareness in our Natural Resources.

Ms. Hollingsworth moved, seconded by Mr. Landreth, that the City make a text amendment to the City signage, Chapter 12.

Discussion: Mr. Pratt suggested the motion to direct the Manager to initiate the process to look into a text amendment, and, before voting on the motion on the floor, a motion allowing Council Member Jones to recuse himself would be in order.

Mr. Pratt added Mr. Jones has noted for the record that he is employed by Chase Insurance, and therefore he is disqualified in any way to speak or vote on the matter. Mr. Jones requested to be recused.

Mr. Landreth moved, seconded by Ms. Hollingsworth, Council Member Jones be allowed to recuse himself from the sign text amendment discussion.
Aye: Mr. Landreth, Ms. Hollingsworth, Mr. Dickson and Mr. Morrow
No: None
Motion carried.

Motion: Ms. Hollingsworth stated she would like to change her previous motion, and moved Council direct the City Manager to, in a timely manner, bring back to Council a recommended text amendment that will facilitate multi-signs in developments like the Walgreens Plaza (Chestnut Square). Motion was seconded by Mr. Landreth.
Aye: Ms. Hollingsworth, Mr. Landreth, Mr. Morrow and Mr. Dickson
No: None
Abstained: Mr. Jones
Motion Carried.

Mr. Landreth echoed appreciation to Staff and Mayor Pro Tem Morrow for their many contributions to the "Who's Water Is It Anyway", and shared, event information makes clear that City Council has a great deal to address (policy) with respect to wastewater and potable water. He extended appreciation to Public Services Director and staff for the information provided in their staff report and their including photos of things that are underground is greatly appreciated and very helpful.

Mr. Jones expressed his appreciation for those, like Mr. and Mrs. Patton, who contribute so much to our Community. He added, as he made mention of earlier in the meeting, he believes it is important and will be helpful to him and Council to have the City's current debt, upcoming debt, and the debt that will be incurred by proposed projects (capital projects) as Council will soon be holding budget meetings.

Mr. Dickson expressed his appreciation to Staff who were involved in the Safe Routes to School Program that has been expanded to include two more schools, and, now has participation from both City Police, County law enforcement, and Brevard Fire Department. Great seeing all working together and collaborating.

Ms. Hollingsworth expressed appreciation to Staff for their hard work on the "Who's Water Is It Anyway" event; and extended a special thanks to Planning Department member Sarah Lutz for the great job she did on the NOWZAD Project

where several businesses and the community came together to support the event.

Ms. Perry introduced Deputy Clerk Jill Murray.

Mr. Pratt shared NOWZAD provides military personnel leaving a foreign country the financial ability by means of paying the costs of cargo, quarantine, and other costs to bring pets home to the USA.

Mayor Harris added this was the first NOWZAD fund raiser and that $7,500 was raised, much in part due to the work and efforts of Sarah Lutz.

O. Closed Session – Mayor Harris asked the City Attorney if it would be appropriate for Council to hold two closed sessions to discuss matters of pending litigation and a personnel matter. City Attorney advised pursuant to **GS § 143-318.11. (a)(3)** and **(6)** it would be appropriate to convene provided separate closed sessions on the matters are held. 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.

Pending Litigation: Lucky Sweeps, Inc., vs Sheriff David Mahoney and Police Chief John P. Harris.

Closed Session #1 - At 8:06 p.m. Ms. Hollingsworth moved, seconded by Mr. Landreth, Council go into closed session to discuss pending litigation and for Council to move to the Administrative Conference Room for the closed session(s). Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager, Clerk, and Police Chief Phil Harris.

CS Meeting Location - Council moved to the Administrative Conference Room for the Closed Session. City Clerk posted Notice of the change in location and adjournment upon the door of Council Chambers. (A ten minute break was taken to clear Council Chambers and move to Administrative Conference Room.)

Council Returned to Regular Session - At 8:29 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 8:29 p.m. Council dismissed the City Clerk 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 taken (if any) and adjournment.

Council Returned to Regular Session – At 11:05 p.m. Council resumed the meeting in regular session. Minutes of the closed session are authorized to be sealed.

Adjourn to Recess: At 11:05 p.m. Mr. Dickson moved, seconded by Mr. Jones, Council recess the closed session on a personnel matter until Wednesday, November 19th at 5:30 p.m., and in the same room (Administrative Conference Room). Motion carried unanimously.

s/ _____
Jimmy Harris
Mayor

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

Minutes Approved: December 15, 2014