MINUTES
BREVARD CITY COUNCIL
Regular Meeting
August 17, 2015 – 7:00 PM

The Brevard City Council met in regular session on Monday, August 17, 2015, 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 Maurice Jones, Ann Hollingsworth, Wes Dickson and Charlie Landreth.

Staff Present – Interim City Manager and Finance Director Jim Fatland, City Attorney Mike Pratt, City Clerk Desiree Perry, HR Specialist/Deputy Clerk Jill Murray, Parks & Property Management Director Lynn Goldsmith, Water Plant ORC Dennis Richardson, Development Project Director Josh Freeman, Wastewater Treatment Plant ORC Emory Owen, Public Works Director David Lutz, HR Director Derrick Swing, Planning Director Daniel Cobb, Police Chief Phil Harris and Fire Chief Craig Budzinski.

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, Interim Manager, Attorney and Clerk.

B. Invocation – Pastor Marshall Erwin, First Bethel Baptist Church, offered an Invocation.

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, seconded by Mr. Jones, the Agenda be approved as presented. Motion carried unanimously.

F. Approval of Minutes – Mr. Landreth requested the following corrections be made to the June 15th Minutes: Page 5, paragraph 11, "hen" corrected to "then"; Page 6, sentence in first paragraph is not clear and needs to be rewritten; Page 6, paragraph two remove the word "about"; and, Page 7, Item H-4 correct "Al" to "All". Ms. Hollingsworth moved the August 3rd and June 15th minutes be approved with the noted corrections. Motion carried unanimously.

G. Certificates, Awards and Recognition

<u>Certificate of Appreciation</u> was presented to former Council Member Ms. Tracey Love for her ten years of service on the Brevard ABC Board.

<u>Certificate of Appreciation</u> was presented to Mr. LeRoy Cowan for his three years of service on the Brevard ABC Board.

<u>Constitution Week Proclamation</u> – Mayor Harris read aloud the Proclamation for Constitution Week, September 17-23, 2015.

Proclamation No. 2015-10
Constitution Week
September 17 – 23, 2015

Whereas, September 17, 2015 marks the two hundred and twenty-eighth anniversary of the signing of the Constitution of the United States of America by the Constitutional Convention; and

Whereas, it is fitting and proper to officially recognize this magnificent document and the anniversary of its creation; and

Whereas, it is fitting and proper to officially recognize the patriotic celebrations which will commemorate the occasion; and

Whereas, public law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week;

NOW, THEREFORE, I, Mayor Jimmy Harris, and Brevard City Council of the City of Brevard, North Carolina do hereby proclaim September 17 through 23, 2015, to be **CONSTITUTION WEEK** in the City of Brevard, and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the City of Brevard on this 17th day of August of the year of our Lord two thousand fifteen.

H. Public Hearing(s) - None

I. Public Participation

Ms. Chris Barila, 659 Cascade Trail, expressed her concerns for the health of animals and the potential of heat exhaustion when people leave their pets inside a parked motor vehicle. Requested Council adopt an ordinance that would define leaving an animal inside a car as abuse, and, for the ordinance to prohibit abuse. She believes were the City to do so it would allow police officers to take immediate action to enter a vehicle. She provided Council members a handout that included NCGS 14-363.3 Confinement of Animals in Motor Vehicles; NCGS 160A-182 Abuse of Animals; Public Resources: Pet Care – Pets in Vehicles, including a graph showing outside temperature vs inside car temperature; and, a Humane Society brochure, “Don't Leave Your Pet in a Parked Car”.

Ms. Pat Pettit, 17 Grove Circle, expressed her concerns with property owners or companies renting out homes on a weekly basis as vacation rentals; believes doing so is having a negative impact upon the character of residential neighborhoods; questioned if they are collecting occupancy tax; and asked Council consider adopting an ordinance similar to Asheville's that requires a minimum 30-day rental of homes in residential neighborhoods.

Mr. Colton Overcash, Western Regional Representative for US Senator Thom Tillis, introduced himself and offered in September they will be opening an office in downtown Hendersonville.

J. Special Presentation(s)

J-1. Annual Tax Settlement Report by Transylvania Tax Collector – Transylvania County Tax Administrator Annette Raines presented the Report. Total levy for Brevard is $4,110,799.52; Uncollected 2014 taxes as of June 30, 2015, for Brevard was $4,852.89; 2014 Brevard collection rate is 99.88%, with 420 bank attachments, 146 wage garnishments and 388 payment plans. For collection, their office has made 13,000 telephone calls. As of August 10, 2015, the 2014 collection rate was 99.92%, leaving an uncollected balance of $3,324.91.

Mr. Morrow questioned the difference in amounts of the Settlement Report and the data provided by the City Finance Director. Ms. Raines explained Motor Vehicle Taxes are not included within the Settlement Report and likely that is the difference.

K. Consent Agenda and Information - 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 New Business Items M-1, M-4, M-5, M-6 and M-9 be added to the Consent Agenda.

Mr. Landreth noted the Finance Report general fund expenditures for Powell Bill money shows that less than fifty percent has been spent, and, the Utility fund shows total revenue at 89%; he asked Mr. Fatland if that is correct. Mr. Fatland replied, yes, Powell Bill monies are restricted and will be available for future years to spend, and, the City did not receive anticipated utility revenue, likely due to customer water conservation; however, the City will likely achieve the revenue growth in a year or two.

Mr. Landreth moved, seconded by Mr. Jones, the Consent Agenda be amended to include New Business Items M-1, M-4, M-5, M-6 and M-9, and the Consent Agenda be approved as amended.

Discussion: Ms. Hollingsworth noted the Public Work's Report (Agenda Packet page 58) needs correction as it identifies the street as being South Caldwell when it is South Broad Street.

Vote: Motion carried unanimously.

K-1. Ordinance No. 2015-15 FY 2014-15 Budget Ordinance Amendment No. Two

ORDINANCE NO. 2015-15
FY 2014-2015 BUDGET ORDINANCE
AMENDMENT NO. TWO

WHEREAS, the City Council of the City of Brevard has previously approved the annual budget (Ordinance No. 2014-13), and Budget Ordinance Amendment No. One (Ordinance No. 2015-14); and

WHEREAS, the FY2014-2015 Budget Ordinance Section 39 authorizes the Budget Officer to effect interdepartmental transfers, in the same fund, provided that no department budget shall be reduced by more than ten percent without prior approval of the City Council. Any such transfer shall be reported to the City Council at its next regular meeting and shall be entered into the minutes; and

NOW, THEREFORE BE IT RESOLVED THAT THE FOLLOWING INTERDEPARTMENTAL TRANSFERS BE MADE WITHIN THE GENERAL FUND. THE TOTAL GENERAL FUND EXPENDITURES REMAIN UNCHANGED.

SECTION 01) General Fund Expenditures by department are increased or decreased resulting in no increase to the total budget as shown below:

Administration Department	-$25,000
Legal Department	$2,000
Planning Department	$10,000
Building and Grounds	-$11,000
Public Services Administration	$5,000
Sanitation Department	$15,000
Non Departmental	$4,000
TOTAL EXPENDITURES	$0

SECTION 35) That Revenue and Expenditures set forth below remain unchanged as a result of inter departmental transfers:

General Fund	$8,742,145
Water & Sewer Fund	4,672,500
Utility Capital Projects Fund	7,234,884
Capital Reserve Fund	436,368
Heart of Brevard MSD Fund	130,415
Bjerg Trust Fund	100
Fire District Fund	630,058
Multi-Use Paths Fund	299,000
Narcotics Task Force Fund	67,857
Downtown Master Plan Fund	882,167
Other Post-Employment Benefits Fund	18,750
Bracken Mountain Project Fund	30,000
Health Insurance Fund	1,291,500
Housing Trust Fund	13,332
T. L. Scruggs Scholarship Trust Fund	16,500
Rosenwald Revitalization Fund	447,000
TOTAL BUDGET APPROPRIATION	$24,912,576

Approved on this the 28th day of June, 2015.

s/Jim Fatland, Interim Manager and Finance Director

NOTE: TO BE REPORTED TO THE BREVARD CITY COUNCIL AT THEIR NEXT REGULAR MEETING SCHEDULED FOR AUGUST 17, 2015. *Ordinance No. 2015-15 was reported to City Council at their August 17, 2015, meeting and approved by City Council as Consent Agenda Item K-1.*

K-2. Year End Finance Report (Unaudited), June 30, 2015.

K-3. Public Works May and June 2015 Staff Report.

K-4. South Alley Staff Report, City Code Chapter 62-1(c)(4). Council directed staff to explore possible changes to City Code Section 62.1.4, South Alley elevated boardwalk standards.

K-5. Off Street Parking Staff Report, City Code Chapter 10.5.G. Council directed staff to explore possible changes to Unified Development Ordinance, Chapter 10.5.G – Location of off-street parking.

K-6. Resolution No. 2015-18 Revising and Updating City Credit Card Signatories

RESOLUTION NO. 2015-18
A RESOLUTION REVISING AND UPDATING THE SIGNATORIES OF THE CITY OFFICIALS AND EMPLOYEES AUTHORIZED TO USE THE UNITED COMMUNITY BANK CREDIT CARDS AND SETTING FORTH GUIDELINES FOR THE USE OF THE CREDIT CARDS BY CITY OFFICIALS AND EMPLOYEES
(Amendment No. 5 to Resolution No. 35-2007)

WHEREAS, upon the request of the Finance Director and, as recommended by the City Manager, the City Council of the City of Brevard authorized by Resolution No. 35-2007, dated May 21, 2007, the obtaining and use of a credit card from United Community Bank to be used for travel expenses incurred by City Officials and City employees who are on City business, and to allow them to acquire the necessary materials to conduct business and/or deliver services in a convenient and expeditious manner;

WHEREAS, the following rules and guidelines for restricted use of the credit card were set forth as follows:

1) The Credit Card may not be used for:
   a. Purchases that can be made on an account or where the City has a standing purchase order on file with the store or business.
   b. Alcoholic beverages.
   c. Purchase(s) that exceeds the cardholder's limit.
2) Only purchases directly related to budgeted items are allowed.
3) The Department Head shall be responsible for credit card used in their department.
4) A receipt(s) must be kept for all credit card purchases. Employee will be personally liable for purchases not having a receipt.
5) All receipts will be reviewed and approved by the department head and remitted to the Finance Department in time for payment. Departments that do not have the monthly statement and receipts to the Finance Department in time for payment will be responsible for absorbing any late fee charges; and,

WHEREAS, it is now necessary, for a variety of reasons and just cause, to revise and update the names and signatories of the City Officials and employees who have been designated to use the United Community Bank credit card.

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

Section 1. The following named persons, whose signatures are shown below, are approved for making purchases utilizing a City credit card issued by United Community Bank. Eight (8) credit card accounts were issued: Finance & Human Resources Department, Parks and Property Management, City Clerk, Police Department, Planning Department, Public Works Department, Utilities (Water Plant& Wastewater Treatment Plant) and Fire Department.

1. James R. Fatland, City Manager and Finance Director ______________________________
2. Derrick Swing, HR Director ______________________________

3. Lynn Goldsmith, Parks & Property Mgmt. ______________
4. Desiree D. Perry, City Clerk ______________
5. J. Phil Harris, Chief of Police ______________
6. Joshua Freeman, Projects Director ______________
7. Daniel Cobb, Planning Director ______________
8. David Lutz, Public Works Director ______________
9. Craig Budzinski, Fire Chief ______________
10. Emory Owen, Wastewater Plant ______________
11. Dennis Richardson Water Plant ______________

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

Adopted and approved the 17th day of August, 2015.

K-7. Renewal of Community Development Contracts – Council approved the renewal of the following four Community Development Contracts:

a. Brevard/Transylvania Chamber of Commerce - $10,000
b. Transylvania Farmers Market - $17,000
c. Transylvania Community Arts Council - $10,000
d. Heart of Brevard - $30,000, plus an additional $2,000 for Fireworks.

K-8. Correspondence - **No Action**. (*Offered to Council as information only.*)
a. ABC Board FY 2015-2016 Adopted Budget
b. Native Plants & Our Natural Areas
c. Bike/Hike Path Research Project

K-9. (M-1) Resolution No. 2015-19 To Investigate the Sufficiency of Petition for Annexation, Pisgah Forest Outdoors, LLC

RESOLUTION NO. 2015-19
A RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE THE SUFFICIENCY OF A PETITION FOR AN ANNEXATION PURSUANT TO NCGS 160A-31, AS AMENDED

WHEREAS, a petition was received on June 15, 2015, requesting the annexation of a contiguous area described in said Petition as the Pisgah Forest Outdoors, LLC, property (Tract D Revised), Transylvania County Property Identification Number 8597-45-4982 and located on U.S. Highway #276 at 11 Mama's Place, Pisgah Forest, NC, 28768.

Metes and Bounds Property Description:
LEGAL DESCRIPTION. Being all of Tract D (Revised) as shown on Plat File 16, Slide 396 and beginning on a 5/8 inch found rebar, the southwest property corner of Lot 2 of the Forest Gate Shopping Center as recorded in Plat File 4, Slide 410 in the Transylvania County Registry.

THENCE South 20 degrees 36 minutes 22 seconds West for a total distance of 50.35 feet (passing a 5/8 inch set rebar, 0.3 feet above grade, at 20.29 feet in the northern margin of the 60 foot right of way of U.S. Highway #276) to an unmarked point in the centerline of U.S. Highway 276;

THENCE North 73 degrees 04 minutes 53 seconds West for a distance of 212.31 feet along the centerline of U.S. Highway 276 to an unmarked point in the centerline of U.S. Highway 276, the southeast corner of Big Inc. as recorded in Document Book 591, Page 491 of the Transylvania County Registry and further shown on Plat File 7, Slide 369;

THENCE following the property line of Big Inc., paralleling more or less an existing barbed wire fence North 14 degrees 47 minutes 53 seconds East for a total distance of 181.70 feet (passing a set 5/8 inch rebar, 0.6 feet above grade, at 30.02 feet in the northern margin of the 60 foot right of way of U.S. Highway #276) to a leaning found concrete monument 0.4 feet above grade at the base of a wooden fence post at the angle point of the barbed wire fence;

THENCE following the property line of Big Inc. North 42 degrees 07 minutes 20 seconds East for a distance of 273.48 feet, paralleling more or less the barbed wire fence to a 1 inch found iron pipe 3.0 feet above grade, a corner of Marvin L. Scott and others as recorded in Document Book 107, Page 197 of the Transylvania County Registry and further shown on Plat File 7, Slide 369;

THENCE a new line South 69 degrees 23 minutes 38 seconds East for a total distance of 129.95 feet (passing a 5/8 inch set rebar, set at grade, at 99.96 feet in the western margin of a 30 foot wide right of way) to a set 5/8 inch rebar, 0.4 feet above grade, in the line of the Forest Gate Shopping Center as shown on Plat File 4, Slide 410;

THENCE with the line of the Forest Gate Shopping Center South 20 degrees 36 minutes 22 seconds West for a distance of 371.19 feet to a 5/8 inch found rebar the point and place of beginning.

Together with and subject to covenants, easements, and restrictions of record.

Said property contains 1.94 acres more or less.

WHEREAS, said Petition has been received by the City Council of the City of Brevard, North Carolina; and

WHEREAS, NCGS 160A-31, as amended, provides that the sufficiency of the Petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Brevard deems it advisable to proceed in response to this request for annexation.

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

Section 1. The City Clerk is hereby directed to investigate the sufficiency of the above described Petition and to certify as soon as possible to the City Council the result of her investigation.

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

Adopted and approved this the 17th day of August, 2015.

K-10. (M-4) Ordinance No. 2015-17 Budget Amendment Transferring Patton Donation to Pedestrian Bike Fund

ORDINANCE NO. 2015-17
AN ORDINANCE ESTABLISHING A PROJECT BUDGET FOR PEDESTRIAN BIKE FUND IMPROVEMENTS

WHEREAS, in accordance with the applicable provisions of the North Carolina Local Government Budget and Fiscal Control Act; and

WHEREAS, the City of Brevard requires certain fiscal actions to effectively provide continued and improved service to its citizens; and

WHEREAS, the Brevard City Council now desires to establish a project budget to account for the receipt of a donation from Frank Patton, Jr. and wife Donna Patton and disbursement of funds for the project; and

WHEREAS, the City Council on February 17, 2014, approved a project budget (Ord. No 2014-01) for a donation from Frank Patton, Jr., and wife, Donna Patton, for the disbursement for downtown improvements; and,

WHEREAS, the Brevard City Council desires to use $300,000 of said donation for pedestrian and bike path improvements.

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

Section 1. Revenue for this project is budgeted as follows:

REVENUE	
Transfer from DTMP Fund	$300,000.00
Total Revenue	$300,000.00

Section 2. Expenditures for this project are budgeted as follows:

EXPENDITURE	
Pedestrian Bike Fund Improvements	$300,000.00
Total Expenditures	$300,000.00

Section 3. This Ordinance shall remain in effect until the completion of Pedestrian and Bike Path Improvements.

Section 4. The Finance Officer and City Manager are instructed to take appropriate actions to implement this Ordinance.

Section 5. This Ordinance shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of August, 2015.

K-11. (M-5) Transylvania County-City of Brevard Recreation Strategic Plan. The City is responsible for $51,500, of which $25,000 has already been committed. Execution of the proposed amendment to the FY 2015-16 budget will allocate an additional $26,500 to complete the Transylvania County and City of Brevard Parks and Recreation Strategic Plan. Council accepted the staff report which included commitment to approve a project budget of an additional $26,500; budget ordinance will be presented to Council in near future.

K-12. (M-6) Co-Ed Cinema Assignment of Lease – Ms. Abby Steel has been operating the Co-Ed Cinema Theater and is interested in taking ownership of the movie theater business from Mr. Mark Peddy (Wild About Birds, LLC). Council approved the request to have an Assignment of Lease between Wild About Birds, LLC, Assigner, and Take One Entertainment, LLC, Assignee, and the City of Brevard.

K-13. (M-9) Fiscal Year 2015-2016 Fee Schedule. Council decided to not revisit the Fee Schedule. Fee Schedule remains as adopted on June 15, 2015, Ordinance No. 2015-13.

L. Unfinished Business - None

M. New Business

M-2. Update on Water Treatment Plant (WTP) and Wastewater Treatment Plant (WWTP) Operations and Maintenance.

Mr. Fatland offered information from his staff report (on file). In response to Council's request that he review the situation of the water and wastewater plants, the recently established Council Public Works and Utilities Committee has met three times to review and discuss the matter (April 7, May 11 and August 4). At the Committee's August 4th meeting they unanimously recommended Council withdraw the application for the $9.0 million no interest loan for an extended aeration/activated sludge process at the WWTP, and further recommend the City focus on the operation and maintenance of the plants. Mr. Fatland added funds are available in the Capital Reserve Fund for small capital improvements to improve the operation and maintenance at both the WTP and WWTP.

Mr. Morrow expressed his appreciation for the work of the Public Works and Utilities Committee, staff and consultants as they have all worked well together in order to determine the best course of action. City's image and its sense of being a quality place is tied to its infrastructure, and he feels the City is moving forward in the right direction.

Mr. Jones agreed with Mr. Morrow and added the Committee members worked efficiently and took the time needed to consider all of the options. He expressed his appreciation to the Committee members for their work and to the committee process.

M-2a. Resolution No. 2015-20 Authorizing Withdrawal of Application for No-Interest Loan for Wastewater Treatment Plant (WWTP) Rehabilitation Projects

Mr. Morrow moved, seconded by Ms. Hollingsworth, Council approve the Resolution to withdraw the application for a no-interest loan as presented. Motion carried unanimously.

RESOLUTION NO. 2015-20
AUTHORIZING WITHDRAWAL OF GRANT/LOAN FINANCING FOR WASTEWATER TREATMENT PLANT (WWTP) REHAB PROJECTS

WHEREAS, the Brevard City Council approved a Resolution Authorizing Grant/Loan Financing for Wastewater Treatment Plant (WWTP) Rehab Projects at its September 15, 2014, Meeting; and

WHEREAS, NCDENR approved a no interest loan for the $9.0 Million WWTP Rehab Project with a requirement that the engineering report be submitted by May 1, 2015; and

WHEREAS, the City of Brevard requested a time extension to September 1, 2015, to review options which was approved by NCDENR; and

WHEREAS, the City of Brevard approved the formation of a Public Works and Utilities Committee at its April 20, 2015 City Council Meeting; and

WHEREAS, the Public Works and Utilities Committee on May 11, 2015, approved the scope of engineering services to review: 1) operation and maintenance optimization at the WWTP; 2) Oskar Blues Pretreatment Ordinance; and, 3) existing settlement agreement with NCDENR for the WWTP; and

WHEREAS, the Public Works and Utilities Committee on August 4, 2015, approved a recommendation to withdraw application for the WWTP Rehab Project.

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

That Brevard City Council hereby approves the recommendation to withdraw its application for a no interest loan from NCDENR for the WWTP Rehab Project.

Adopted and approved this the 17th day of August, 2015.

M-2b. Ordinance No. 2015-16 An Ordinance Amending the FY2015-16 Budget, Amendment No. One

Mr. Morrow moved, seconded by Mr. Dickson, Council approve the Budget Amendment Ordinance as presented. Motion carried unanimously.

ORDINANCE NO. 2015-16
AN ORDINANCE AMENDING THE FY2015-2016 BUDGET
AMENDMENT NO. ONE

WHEREAS, the City Council of the City of Brevard has previously approved the annual budget (Ordinance No. 2015-13), and;

WHEREAS, the Public Works & Utilities Committee on August 4, 2015, approved recommendation to amend the Water and Sewer Budget to improve operation and maintenance at the Water Treatment Plant and the Wastewater Treatment Plant.

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

Section 03) Water and Sewer Fund Expenditures is hereby increased $425,000 from $4,672,500 to $5,097,500 as shown as follows:

Water Treatment Plant	$125,000
Sewer Treatment Plant	$300,000
TOTAL EXPENDITURES	$425,000

Section 04) Water and Sewer Fund Revenue is hereby increased $425,000 from $4,672,500 to $5,097,500 as shown as follows:

Transfer from Capital Reserve Fund	
Water Plant	$124,000
Sewer Plant	$300,000
TOTAL REVENUE	$425,000

Section 07) Capital Reserve Revenue is hereby increased $425,000 from $296,868 to $861,368 as shown as follows:

Fund Balance Appropriated	$425,000
TOTAL REVENUE	$425,000

Section 08) Capital Reserve Expenditures are hereby increased $425,000 from $296,868 to $861,368 as shown as follows:

Transfer to Water and Sewer Fund	$425,000
TOTAL EXPENDITURES	$425,000

Section 35) That Revenue and Expenditures Sections 3 through Section 8 of the Ordinance Amendment have increased $850,000 from $24,912,576 to $25,762,576 as follows:

General Fund	$8,742,145
Water and Sewer Fund	5,097,500
Utility Capital Projects Fund	7,234,884
Capital Reserve Fund	861,368
Heart of Brevard MSD Fund	130,415
Bjerg Trust Fund	100
Fire District Fund	630,058
Multi-Use Paths Fund	299,000
Narcotics Task Force Fund	67,857
Downtown Master Plan Fund	882,167
Other Post-Employment Benefits Fund	18,750
Bracken Mountain Project Fund	30,000
Health Insurance Fund	1,291,500
Housing Trust Fund	13,332
T. L. Scruggs Scholarship Fund	16,500
Rosenwald Revitalization Fund	447,000
TOTAL BUDGET APPROPRIATION	$25,762,576

Adopted and approved this the 17th day of August, 2015.

M-3. Resolution No. 2015-______ A Resolution Granting City Recognition to Special Events (Amending Resolution No. 2005-24 adopted March 21, 2005, and Resolution No. 2005-34 adopted June 6, 2005) Consideration of adding Assault On The Carolinas as a City Sponsored Event.

Mr. Fatland explained at Council's June 15 meeting, Council member Dickson asked that consideration to add the Assault on the Carolinas be added as a City sponsored special event be placed upon tonight's Agenda.

Mr. Dickson shared the Assault on the Carolinas was started by the Pisgah Forest Rotary Club the same year he opened his bicycle shop. The Assault has proved to be a good fund raising effort, and it's one where the revenue is given to local charities. Brevard is known for its waterfalls, white squirrels and bicycling. He sees the City's sponsorship as a way to help the Rotary in the event. It is an event that continues to grow and brings recognition to Brevard, as well as, provides revenue for local community charities such as back pack buddies, SAFE, Boys and Girls Club, etc. The Assault is a great signature event in the spring.

Mr. Morrow agreed it is a good event. However, what is being proposed is a partnership; therefore, he feels this matter should be considered in March (Budget Input) as has been done when considering partnerships with others. He suggested the matter be tabled until March.

Mayor Harris stated he understands the Assault collects a considerable amount of revenue for local charities, and added it fits our Brand, and he understands the City invoice for police and fire support at last year's Assault was for about $1,000 – less than he would have expected. Currently the City has four sponsored events and suggested if an organization is desiring City sponsorship that they come before City Council and give a report and make their request.

All Council members acknowledge the Assault is a good event. Discussed value of establishing some sort of guidelines/measurements to help in deciding who and how much support should be considered for any given partnership.

Ms. Hollingsworth offered she would like the City to provide partnership support in the amount of $500 to go towards police and fire support service.

Mr. Morrow moved, seconded by Mr. Jones, that Council table the matter until March when non-profit agency requests are considered by Council.

Vote on the Motion:
Aye: Mr. Morrow and Mr. Jones
No: Mr. Landreth, Ms. Hollingsworth and Mr. Dickson.
Motion failed.

Ms. Hollingsworth moved, seconded by Mr. Dickson, to table the discussion until Council's September 21st meeting, allowing staff time to get more information on the financial / fiscal impact to sponsor the event. Further requested Mr. Fatland to invite a Pisgah Forest Rotary Club representative(s) to come to the September meeting. Motion carried unanimously.

M-7. Resolution No. 2015-21 Resolution Modifying the Membership Structure of the City Council Committees

Council briefly discussed the value of having at-large member representation on the two Committees. Ms. Hollingsworth moved, seconded by Mr. Landreth, the Resolution to modify the membership of Council committees be adopted as presented. Motion carried unanimously.

RESOLUTION NO. 2015-21
RESOLUTION MODIFYING THE MEMBERSHIP STRUCTURE OF THE CITY COUNCIL COMMITTEES
(Amending Resolution Numbers 2015-12, 2015-13, 2015-14, 2015-15, and 2015-16)

WHEREAS, the Brevard City Council initiated five new City Council Committees at their April 20, 2015, meeting. City Council Committees will operate as policy review and discussion arms of City Council, providing an opportunity to explore implications of policy alternatives and the policy development process while serving in an advisory capacity to Council as a whole; and

WHEREAS, Committees will review policy matters referred to them, inform and educate Council on existing City programs and issues, and review other related matters. City Council Committees will not become involved in City administration but instead are expected to anticipate the full range of considerations and concerns related to various policy questions. When participating on Committees, members are expected to temper their role as policy advocates in order to fully evaluate all alternatives; and

WHEREAS, each Committee is composed of two City Council members, one to serve as Chair and the other serving as Vice Chair, with the Mayor appointing the Chair and Vice-Chair of the Committee. The Mayor will serve ex officio. Although not required, each Committee may have citizen members appointed by City Council utilizing the same application appointment process as required for appointment to Citizen Advisory Boards or Committees; and

WHEREAS, the Brevard City Council established the following five Committees at their May 18th and June 15, 2015, meetings: City Council Public Works and Utilities Committee (Res. No. 2015-12); City Council Public Safety Committee (Res. No. 2015-13); City Council Parks, Trails and Recreation Committee (Res. No. 2015-14); City Council Finance and Human Resources Committee (Res. No. 2015-15); and, City Council Downtown Master Plan Committee (Res. No. 2015-16).

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

Section 1. Modify the membership structure of all five City Council Committees to include:

A. Ex officio member (Mayor) is not counted in determining quorum and is a non-voting member.

Section 2. Following are modifications to the membership structure of the City Council Parks, Trails and Recreation Committee:

A. Include the Development & Special Projects Director as a permanent member.

B. Allow for the appointment of one at-large (non-city resident) member. An individual who will offer expertise in the field of park/trail/recreation design or development.

Section 3. Following are modifications to the membership structure of the City Council Downtown Master Plan Committee:

A. Include the Development & Special Projects Director as a permanent member.

B. Clarify that the Heart of Brevard representatives to the Downtown Master Plan Committee shall be the Heart of Brevard President (or designee thereof) and the Heart of Brevard Executive Director.

C. Allow for the appointment of one at-large (non-city resident) member. An individual who will offer expertise in the field of downtown revitalizations / re-development.

D. Reduce the number of citizen appointees from four to two, thereby reducing the total number of committee members from eleven to nine members.

Approved and adopted this the 17th day of August, 2015.

M-8. Board and Committee Appointments

Planning Board – Mr. Landreth moved, seconded by Ms. Hollingsworth, Council reappoint Demi Loftis to a second term and to appoint a new member, Keenan Smith, to the Planning Board filling the vacancy from Seyl Park. Both terms will expire September 2018. Motion carried unanimously.

City Council Downtown Master Plan Committee – Ms. Hollingsworth moved, seconded by Mr. Jones, Council appoint Dee Dee Perkins to the Committee, and to appoint Susan Threlkel, an at-large member. Terms will expire May 2017. Motion carried unanimously.

N. Remarks By Officials / Future Agenda Considerations

Mayor Harris shared he likes the Council Committees and enjoys the participation of staff, consultants and citizens. City has been busy in July as new parking spaces have been created and work at Franklin Park has been done. Staff is discovering ways to make Brevard more efficient.

Mr. Morrow suggested an arborist be consulted to look at a few tall pine trees at Franklin Park that appear to be dead (on Hilt Street side of the pool).

Mr. Landreth requested, in response to the two citizens who spoke during Public Participation, that (1) the Manager direct staff to provide an update on the City's position on animal cruelty laws, what our current stance is with regard to enforcement, and what our options are; and, (2) for Council to be provided a recommendation on the impact/concerns of short-term rentals in the City limits.

Clarification: Staff is directed to take short-term rental item to Planning Board for their recommendation to Council; therefore, this matter will not come back before Council at the September meeting.

Mr. Jones extended his condolences to Chief Harris' family with the recent loss of his Mother, and to the family of Jimmy Bullock. He reminded Council members that he will be coming to them in the next month or so with ideas and questions in regard to how to assist the NC BEMO with their summer retreat scheduled to be held in Brevard in 2016; and, asked if the Planning Department can soon give Council an update on the Railroad Avenue Small Area Plan.

Mr. Cobb shared Planning staff plans to do so at Council's September meeting.

Ms. Hollingsworth shared we've done some great things with the picnic shelter at Franklin Park. Now focus upon the playground equipment needs to take place to make some needed repairs.

Ms. Goldsmith shared she is in the process of getting an inspection done to determine the condition of the Franklin Park playground equipment. Upon completion the results of the inspection will be reported to the Council Park, Trail and Recreation Committee.

Mr. Fatland expressed his appreciation to Mr. Swing and Ms. Murray for their hard work in preparation for the City employee luncheon that was held at Brevard Music Center on Wednesday, August 12th. The facility was nice and the event was well supported by Council and City employees.

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 potential 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.

Closed Session #1 - At 8:57 p.m. Mr. Jones moved, seconded by Ms. Hollingsworth, Council go into closed session to discuss a potential litigation matter. Motion carried unanimously. Authorized to remain with Council and the Attorney were the Interim Manager and Finance Director, City Clerk, Planning Director, Parks and Property Management Director and Deputy Clerk. (A brief break was taken to allow Council Chambers to be cleared.)

Council Returned to Regular Session – At 9:25 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 9:25 p.m. Council dismissed the City Clerk to hold a second 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.

Closed Session #2 – At 9:25 p.m. upon motion of Mr. Jones and a second by Ms. Hollingsworth, Council unanimously voted to go into closed session to discuss a personnel matter.

Council Returned to Regular Session – At 10:10 p.m. upon motion of Mr. Morrow and a second by Mr. Jones, Council unanimously voted to approve **Ordinance No. 2015-18** An Ordinance Fixing Compensation and The Other Terms for Employment for City Manager Jim Fatland

ORDINANCE NO. 2015-18
AN ORDINANCE FIXING COMPENSATION AND
THE OTHER TERMS FOR EMPLOYMENT
FOR CITY MANAGER JIM FATLAND

WHEREAS, in accord with Chapter 2, Article III of the Brevard City Code, the compensation of the City Manager and other terms of his employment are to be fixed by Ordinance; and,

WHEREAS, Council now desires to set forth the terms of such employment in this Ordinance;

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

SECTION 1. RATIFICATION OF APPOINTMENT. Mr. Jim Fatland (herein after referred to as the "City Manager") was duly appointed to the Office and the position of City Manager of the City of Brevard, effective as interim City Manager on April 1, 2015, and has served since that date, and City Council desires his continued service as permanent City Manager, subject to the terms and provisions of the Ordinance, and hereby ratifies that term of his employment between April 1, 2014, and August 17, 2015.

SECTION 2. SALARY. The City Manager's base salary is hereby set at $116,000.00, retroactive to April 1, 2015, with the difference between that salary and his former salary as Finance Director, paid between April 1, 2015, and August 17, 2015, pro-rated for that period so as to be consistent with this gross annual salary. This Ordinance will be effective until July 1, 2016, unless earlier terminated by Council.

SECTION 3. EQUIPMENT USE AND ALLOWANCE

(a) MOTOR VEHICLE MAINTENANCE AND GAS ALLOWANCE. In addition to the City Manager's salary, the City of Brevard has been paying and shall continue to pay to him the monthly sum of $200.00 as compensation for providing a vehicle for his use in connection with the conduct of his office. This payment shall be designated as a motor vehicle maintenance and gas allowance, and shall be paid in lieu of any reimbursement for actual mileage traveled in the course of the conduct of his office, except as mileage for attending those Professional Growth and Development meetings contemplated in Section 8, and other meetings or events job-related, outside of Transylvania County, which shall be subject to mileage reimbursement at the then-current rate paid by the City.

(b) STANDARD OFFICE EQUIPMENT. The City of Brevard has been providing and shall continue to provide, for the use of the City Manager, all standard and reasonably necessary office equipment, including but not limited to a cell phone and a laptop computer, which shall be provided for business use at no cost to the City Manager.

SECTION 4. NO RESIDENCE REQUIREMENT. The City Manager shall not be required to reside within the city limits of the City of Brevard or within the Extra-Territorial Jurisdiction of the City, provided that the City Council retains the right to change this requirement upon due notice to the City Manager.

SECTION 5. ANNUAL EVALUATION. The City Manager's ongoing job performance will be reviewed in 2016 prior to the establishing of the next fiscal year's budget. The evaluation shall include a written report and presentation by City Council to the City Manager.

SECTION 6. FUTURE INCREASES. The City Manager shall not qualify for or participate in any longevity pay raise or Cost of Living Adjustment (COLA) pay raise plan. Any salary raises shall be individually considered by City Council and shall be based on performance, as well as other factors which are deemed relevant by City Council.

SECTION 7. PERSONNEL POLICY AND BENEFITS.

(a) 401K PLAN CONTRIBUTION. The City of Brevard shall contribute an amount equal to three percent (3%) of the City Manager's salary to his 401K plan, annually.

(b) VACATION. The City Manager shall accrue vacation as per the provisions of Section 7 of the Personnel Policy, but Section 8 thereof shall not apply to him, and he shall be entitled to accumulate 320 vacation hours, instead of the limits imposed on employees pursuant to Section 8 of the Personnel Policy.

(c) OTHER BENEFITS. The City of Brevard Personnel Policy shall not apply to the City Manager. However, the Personnel Policy shall be followed for certain benefits to which he shall be entitled, to wit:

- Health Insurance/Health Savings Account for the City Manager and his family;
- Sick leave and payment therefor;
- Paid holiday schedule; and
- Group life insurance, short term disability insurance, and dependent life insurance.

SECTION 8. PROFESSIONAL GROWTH AND DEVELOPMENT. The City Manager shall be permitted, and is encouraged to attend appropriate professional and municipal functions, meetings, conferences, etc., as a legitimate travel expense in accordance with the travel policies of the City. These may include the North Carolina League of Municipalities, the International City Management Association, the North Carolina City and County Management Association, and other professional organizations.

SECTION 9. COMMUNITY INVOLVEMENT. The City Manager is encouraged to be active and involved in all positive and appropriate facets of the community, including in his discretion, participation in civic organizations, charitable events, speaking engagements and the like. Upon the request of the City Manager, City Council will consider an allowance for participation in civic organizations.

SECTION 10. STANDARDS FOR BEHAVIOR AND CONDUCT. The City Manager shall at all time, and in all locations, present himself in public and in the presence of others, in such manner as is appropriate to the person who is the primary spokesperson and manager for the City of Brevard. In this regard, his conduct shall at all times be that of a competent, truthful, ethical and moral individual, and shall be beyond reproach. Any conduct in violation of this provision, including but not limited to a criminal misdemeanor or felony conviction of any kind, shall be grounds for immediate dismissal.

SECTION 11. TERMINATION OF EMPLOYMENT.

(a) VOLUNTARY SEPARATION. In the event that the City Manager voluntarily terminates his employment, no severance of any kind shall be paid by the City of Brevard.

(b) INVOLUNTARY SEPARATION. City Council retains the absolute right to terminate the City Manager's employment at will. In the event that the City Manager's employment is terminated by act of City Council:

(1) He shall receive six (6) months' salary as severance pay in lieu of any other remaining salary. Severance pay shall be terminated immediately upon his acceptance of any other employment. Severance pay may be paid in lump sum or over the regularly scheduled pay days, in the discretion of City Council; and

(2) He shall receive an amount of money designed to allow him to keep his health insurance policy in effect during the six (6) month severance period, or until he becomes insured by another employer, whichever occurs first. This provision could be fulfilled by continuing him on the current policy, if feasible; or by paying for another policy with similar benefits; or by paying him the funds Council determines to be appropriate to comply with this provision, whichever Council determines to be more appropriate at the time. This provision will be null and void if he is eligible for Medicare upon termination, and shall be voidable as of the date he becomes eligible for Medicare if within the six (6) months severance period.

(3) No other benefits shall be paid or continued in effect following termination except as may be required by law.

SECTION 12. RATIFICATION AND EFFECTIVE DATE. This Ordinance shall be retroactively effective as of April 1, 2015.

Adopted and approved this the 17th day of August, 2015.

P. Adjourn – Then, upon Motion of Mr. Landreth and a second by Mr. Jones, by unanimous vote, Council adjourned the meeting at 10:10 P.M.

Jimmy Harris
Mayor

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

Minutes Approved: September 21, 2015