MINUTES
BREVARD CITY COUNCIL
Regular Meeting
November 21, 2016 – 7:00 PM

The Brevard City Council met in regular session on Monday, November 21, 2016, 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 Ann Hollingsworth, Gary Daniel, Charlie Landreth and Maurice Jones.

Staff Present – City Manager and Finance Director Jim Fatland, City Attorney Mike Pratt, Deputy City Clerk Jill Murray, Accounting Clerk Tom Whitlock, Planning Director Daniel Cobb, Police Chief Phil Harris, Human Resources Director Kelley Craig, Parks and Property Management Director Lynn Goldsmith, Public Works Director David Lutz, Emory Owen ORC Wastewater Treatment Plant, and Dennis Richardson ORC Water Plant.

Press – Matt McGregor, 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 Deputy City Clerk.

B. Invocation – Sharad Creasman, Campus Minister of Brevard College offered an invocation.

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

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

E. Approval of Agenda – The Mayor stated that he would like item J under Special Presentations be moved after new business as it will take a little while. Ms. Hollingsworth moved, seconded by Mr. Daniel, the Agenda be approved as presented including moving item J. Motion carried unanimously.

F. Approval of Minutes – Ms. Hollingsworth moved, seconded by Mr. Landreth, the October 17, 2016, meeting minutes be approved as presented. Motion carried unanimously.

G. Certificates, Awards and Recognition

G-1. Recognition of Jill Murray's Completion of UNC SOG Clerk Certification

Mayor Jimmy Harris expressed his appreciation of the time it takes to get the Clerk's Certification at the North Carolina School of Government and explained that Jill Murray completed the course and received her certification.

H. Public Hearing(s) - Pisgah Forest Small Area Plan

The public hearing was properly advertised in the Transylvania Times on November 7th and 14th, 2016.

Mr. Fatland expressed that he would like to move this item to the retreat in January and Mr. Cobb agreed. Moved by Mr. Landreth and seconded by Mr. Morrow that the Pisgah Forest Small Area Plan be moved to the retreat in January. Motion carried unanimously. No one signed up to speak.

I. Public Participation - None

J. Special Presentation - Land Development Code Update by Demetri Baches

Moved to the end of the agenda.

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.

Mr. Landreth moved, seconded by Mr. Morrow, the Consent Agenda be approved as presented. Motion carried unanimously.

K-1. Staff Reports:

a. Financial Report for month ended October 31, 2016
b. Parks and Property Management Report, Oct-Nov 2016
c. Public Works Monthly Report, September 2016

K-2. Community Rating System Annual Recertification

The City of Brevard has been a participating community in the National Flood Insurance Program (NFIP) since 1978. An additional program, recognizing higher standards, is known as the Community Rating System which the City entered in 1992. Each year the City must recertify this designation.

K-3. Correspondence *(No Action. Offered as information only.)*

a. The Little River Watermark Membership Newsletter, October 2016
b. Building Activity Report, October 2016
c. Vision Transylvania Government Day

L. Unfinished Business - None

M. New Business

M-1. Water Treatment Plant Off-Stream Storage.

Mr. Charles Anderson and Mr. George Athanasakes from the Resource Institute briefly spoke on why off-stream storage is important. Mr. Anderson stated that the City currently has a system that draws from the river with a lot of sediment. Having the storage system will give the City better water supply overall, as well as, giving us continuous clean water.

Mr. Athanasakes explained that by creating this storage, it will take the flow that's currently going down Cathey's Creek and put it into storage for future use. In order to do this we need to see how deep the bedrock is and look at the hydraulics and also look into getting grants. Mr. Anderson added that once we determine what the estimated costs are, then you can make a decision on how to move forward.

Mr. Jones stated that something that stood out to him was taking into consideration the days that we've gone without rain and having this storage would mean not being worried if we'll have enough water. Also, if our water source becomes contaminated, this storage will give us time to get it taken care of and in the meantime, we'll have water.

Mr. Morrow added this would also remove restrictions for the fishery, it does some improvements to the natural ecosystem, which is another benefit.

Mr. Landreth asked if there is a structural basin and Mr. Athanasakes said basically it would be taking Cathey's Creek and divert it into a basin so that basin would be partially excavated and it would be a partial dam coming around and that's what the study would help to determine. Cathey's Creek will still flow, it's just having the intake there for whenever the City wants water to go into the basin. During a flood event, you would be able to turn it off so all of that sediment wouldn't find its way into the basin. You should be able to reduce the cost of treating the water itself and reduce the sediment flow as well.

Mayor Harris said it sounds like there are three reasons to do this: (1) your services will help identify grants that would pay for this; (2) reduced operational costs and (3) we're in drought conditions now and we're not currently under any restrictions, but you never know what could happen down the road. I feel this is a good and safe measure to have in place.

Mr. Landreth said that he agrees and that it's a way to have a reserve in place.

Ms. Hollingsworth asked what the main need is and asked for clarification. Dennis Richardson explained that when we have a heavy rain, the creek gets really dirty. If the plant gets too dirty, sometimes they have to shut it down and let it run its course. The off-stream storage will help with this and we wouldn't need to chase chemicals. We will be able to turn the water off from the creek and use the stored water until the creek clears up. Our creek has gone down significantly with this droughts so the off-stream storage will give us more availability but does not increase our storage.

Mayor Harris confirmed with Mr. Fatland that we have to submit an application along with $78,500 for the application fee and asked where the money would come from.

Mr. Fatland confirmed that the money would come from the Water Treatment Plant budget. What I like is it's an investment in the operating costs of running the plant. It's going to make things so much easier and give us a 3-5 day supply. Once they do the study and find out about any grant opportunities, they'll be able to come back to Council and give us an answer.

Mr. Anderson stated they are trying to get ahead of the game and get our estimate in by February 1st so that we're not waiting until April or May when everything is already put into the budget.

Mr. Landreth moved, seconded by Mr. Daniel, the proposal from the Resource Institute, in the amount not to exceed $78,500, be approved as presented. Motion carried unanimously.

M-2. Resolution – Creating Trust Fund Committee and Appointment of Members.

Mayor Harris stated he wanted to put it on the consent agenda but wanted more information first.

Mr. Fatland explained that there has been a couple of projects, Broad River Terrace and The Cottages and the developers of those two projects are paying back the City roughly $13, 300 each year and paying back the $350,000 over a 20 year period. That money is going to go into a trust fund and we've accumulated about $80,125.00 through last June 30th. We have accumulated money and have not spent it yet so after meeting with the Planning staff, we decided that we would like to get a committee formed and invest the money back into the community.

Mr. Cobb added that back in 2012 an Ordinance was approved to create a housing trust fund as a product of the loan repayment from Broad River Terrace and then when The Cottages came through, the same agreement was put in place so both of those developments are paying the City back over a 20 year period. The first step for anyone to apply for these funds is to get a selection committee put together. The committee will meet on an as-needed basis depending on the need. It's available to developers, home-owners, tenants and a wide variety of folks can apply for this funding.

Ms. Hollingsworth added that she would love to see another project like Broad River Terrace and that we need more affordable housing.

Mr. Landreth asked if when you look at the group of applicants, is it always a citizen or if the police department is making a call and they discover a housing situation that needs attention, can they make an application.

Mr. Cobb stated yes, there are many possibilities.

Ms. Hollingsworth moved, seconded by Mr. Landreth to move forward with a Resolution creating a Trust Fund Committee with appointments to take place at a future date. Motion carried unanimously.

RESOLUTION NO. 2016-19

RESOLUTION ESTABLISHING THE SELECTION COMMITTTEE FOR THE HOUSING TRUST FUND

WHEREAS, the Brevard City Council created the Housing Trust Fund on January 23, 2012 by adopting Ordinance 2012-02; and

WHEREAS, the Selection Committee will meet as needed to review applications; and

WHEREAS, the Committee shall be composed of one City Council member, the Chairman of the Planning Board, one citizen, City Manager, Finance Director, and Planning Director; and

WHEREAS, the initial appointment term the City Council member and Planning Board Chairman shall be from December 1, 2016, to December 31, 2018. Thereafter, appointed Council members and Planning Board Chairman will serve a two year term beginning January 1 following an election. Citizen members shall serve a two year term ending in December. City Directors and staff members (by position) are permanent Committee members; and

WHEREAS, the purpose of the Selection Committee will be to review applications, based on initial staff review, compliance with Housing Trust Fund Priorities and availability of funds, the Selection Committee will either approve or reject applications. All loan recommendations of the Selection Committee are then submitted to the City Council for final approval.

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

Section 1. Brevard City Council approved the appointment of Council Member_____________ to serve on the Housing Trust Fund Selection Committee. His/Her initial term to serve will be December 1, 2016 - December 31, 2018.

Section 2. The Housing Trust Fund Selection Committee is scheduled to meet on _____________for its initial organizational meeting.

Section 3. The Housing Trust Fund Selection Committee shall consist of the following members and terms of office:

One City Council Member	Two Year Term; Appoint in January
Chairman of the Planning Board	Two Year Term; Appoint in January
One Citizen	Two Year Term; term ends in December
City Manager	Permanent
Finance Director	Permanent
Planning Director	Permanent

Section 4. The Housing Trust Fund Selection Committee will fix a scheduled date and time to meet, or, will meet on an as needed basis. All meetings are subject to the Open Meeting laws and meeting Notice requirements. Minutes shall be provided by a City staff member or their representative.

Section 5. Restriction on Quorum. This Committee shall not meet unless at least the City Council Member or Planning Board Chairman who are Committee members are present.

Approved and adopted this the 21st day of November, 2016.

M-3. Railroad Avenue Bridge Design.

Mr. Fatland gave some background information that back in August of 2013, the Council approved an MOU (Memorandum of Understanding) with the DOT to look at the design and construction of the Railroad Avenue Bridge. The City owns the bridge, usually it's the DOT that owns them. The agreement called for 80% of the funding from DOT and 20% from the City. So the City has budgeted its share, about $280,000, however as the project moves forward the design costs and latest estimate is approaching 1.6 million dollars. The Public Works Director and I have taken this back to the Committee to find some ways to bring the costs back in line and maybe more with the character of the neighborhood. The 54' design is what was shown during the West Loop presentation and shows two lanes of traffic, 2 bike lanes and 2 sidewalks and as you know, the West Loop project is not funded. This project is funded but needs an amendment to go up to the higher cost and I have a meeting with DOT in Raleigh scheduled for December 5th. If the bridge got built with this design, it would have 2 bike lanes and 2 sidewalks going to nowhere for several years and so we asked the Committee to look at 2 additional options. We have to amend the agreement with the MOU because all three options exceed the current budget. We wanted to take options 4 and 5 to DOT and try to bring the cost down and maybe they would be in support of keeping our current pedestrian plan that we have in Brevard.

Mr. Jones asked what the current width of the bridge is and Mr. Fatland stated it is 27 feet. So the 33' would be more in tune with the current right-of-way. One thing that transpired since the original agreement is that DOT had a rule that if you're a town of 5,000 or less, they paid for 100% of water/sewer relocation cost. On January 1st of this year, they raised the population to 10,000 so that's going to help and we're going to ask them to apply that new rule to the amended MOU and that will bring the cost down. But we go from 27' to 54' with the top one but we'll have the funding for the bridge to be done over the next two years. If we built the bridge with a pedestrian path, I'd like to see the pedestrian path completed by the time the bridge is done so you could go from McLean Road to Probart Street with a completed bridge and completed pedestrian path. The path would go on the East side toward the college as there's more right of way.

Mr. Daniel confirmed that option 5 is 1.275 million the multi-use bridge would be separate and Mr. Fatland agreed and said he has an estimate of about $65,000 to do an engineered prefab bridge or about $40,000 to build a wood structure.

Mr. Jones, asked if both options 4 and 5 are actually going to be narrower for car traffic? Mr. Fatland said yes, by 1 foot.

Mr. Daniel stated a concern that option 5 has no reference to the separate multi-use path which I feel is critical to that option so I'm a little nervous that we'll get the bridge, but not the multi-use path as well.

Ms. Hollingsworth moved, seconded by Mr. Morrow giving staff leeway to discuss options 4 and 5 with option 5 showing on the drawing a multi-use bridge over the creek. Motion carried unanimously.

M-4. Wastewater Treatment Plan Road Project.

Mr. Fatland stated that this item was discussed at the Public Works and Utilities Committee meeting and that we've had a problem with septic trucks and sanitation trucks getting up to the plant.

Emory Owen added that the project was originally designed to be outside and the structure was never intended to be covered up. When we went through a severe cold snap, the equipment froze up and some of it broke so we decided to put a building around it, however, once the walls were up, it constricted everything more. Now the trucks are having to pull in nose first and dump and they're on an angle. We had to buy a smaller dumpster to put in because the garbage trucks have to back in and it's off kilter because it's a very severe grade. The very first day in operation after the building was put up, the garbage truck could not see when he was dumping so he backed into the building and we had to replace some panels. It is really a safety issue Mr. Lutz will not let his guys come and dump until we get this issue resolved. What we did as operators, we decided to get a small dumpster and we manually do everything and this has been going on for 5 or 6 months now. The road needs to be longer and wider to serve our needs and it has to be regraded so the trucks can see where they're going. The chain link fence needs to be taken out so the road can be made longer. The quote you see is from Carolina Specialties, they have been doing our work for years now and they're very efficient and give us the best price they can.

Mayor Harris asked if the $113,000 would come from the utility fund balance and Mr. Fatland said yes it would.

Mr. Morrow moved, seconded by Ms. Hollingsworth, that Council accept the Public Works and Utilities Committee recommendation to approve the proposal/contract with Carolina Specialties for a new drive to the Septic Dump and Pretreatment Station at an amount not to exceed $113,500.

M-5. Board and Committee Appointment(s): Personnel Board

Mayor Harris announced that Mr. Morris Davis and Mr. Roger Shiley had applied and that we're looking for a third person, possibly Mr. Frank Pearsall.

Mrs. Hollingsworth added that she contacted Nancy Dowdy to ask if she would like to serve and anticipates she will soon submit an application.

Mr. Fatland suggested that Council appoint Mr. Davis and Mr. Shiley and then we can appoint two additional people in the future provided they accept.

Mr. Morrow moved, seconded by Mr. Jones, approving the appointment of Mr. Davis and Mr. Shiley to the Personnel Board and Mrs. Dowdy upon receipt of her application. Motion carried unanimously.

Special Presentation - Land Development Code Update by Demetri Baches

J-1. Land Development Code Update by Demetri Baches

Mr. Cobb introduced Mr. Demetri Baches of Metrocology and Mr. Joe Minicozzi of Urban 3 and JT Barnes. What you've seen mostly is the writing up of the Ordinance itself and a good chunk of that is in draft mode but a lot of the really important and very measurable items that need to be finished up in order to finish that document in terms of the zoning map are just now coming to fruition and that's what Demetri and Joe are going to talk about tonight. Think of it in terms of the new development code. What they've come up with is going to help steer a recommendation to you all in terms of a new zoning map to go with the new Ordinance which will tie our comprehensive plan, the zoning ordinance and all of our various small area plans all together into one cohesive system into a master plan that will work for the whole City.

Mr. Demetri Baches presented a Powerpoint presentation regarding the Land Development Code (Form-Based Code) Update which is on record with the staff report.

N. Remarks by Officials / Future Agenda Considerations

Mayor Harris mentioned that Thanksgiving is this week and we have a lot to be thankful for in our community and our City staff and management. We are an above average community. December 3rd is our Twilight Tours and Christmas parade and one thing that's new this year, they're going to have snowfall on the Square. He also asked City Manager, Jim Fatland if we need to have a meeting in December because in the past we have not.

Mr. Fatland asked the Planning Department Director, Daniel Cobb if anything needed to be handled in December and Mr. Cobb said no. Mayor Harris recommended there be no meeting in December.

Motion. Ms. Hollingsworth moved, seconded by Mr. Landreth to not have a December Council meeting. Motion carried unanimously.

Mr. Landreth had no comments.

Mr. Morrow had no comments.

Mr. Daniel had no comments.

Ms. Hollingsworth had no comments.

Deputy City Clerk had no comments.

Mr. Jones wanted to thank all of the members of the Public Works and Utilities Committee. We have been meeting and working quite a bit and I'd like to thank those individuals for their time. Also, I am sporting a mustache in support of men's health.

Mr. Fatland mentioned the employee Christmas lunch is on December 21st. Thank you to Council for its continued support for recognizing the longevity of our employees.

O. Closed Session – Mayor Harris asked the City Attorney if it would be appropriate for Council to hold closed sessions to discuss matters of potential litigation, pending litigation and a personnel matter. City Attorney advised pursuant to **GS § 143-318.11. (a)(3) (4) (5) (6)** it would be appropriate to convene. Closed sessions will require a separate motion, second and vote to discuss the matter.

O-1. Closed Session #1 - At 8:58 p.m. Mr. Landreth moved, seconded by Mr. Jones, Council go into closed session to discuss a potential litigation matter. Motion carried unanimously. (A five minute break was taken to allow Council Chambers to be cleared.)

<u>Council Returned to Regular Session</u> – At 9:34 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.

O-2. Closed Session #2 – At 9:35 p.m. Council dismissed the Deputy City Clerk to hold a closed session to discuss pending litigation and a personnel matter. **Pending Litigation: Case NO: 16-CVS-546**. City Attorney will provide Minutes of the closed session, and will provide to the Deputy Clerk the record of Council's return to regular session and actions taken (if any) and adjournment.

<u>Council Returned to Regular Session</u> – At 10:20 p.m. Council resumed the meeting in regular session. Minutes of the closed session are authorized to be sealed.

P. Adjourn – There being no further business, Mr. Landreth moved, seconded by Ms. Hollingsworth, the meeting be adjourned. Motion carried unanimously. Meeting adjourned at 10:20 P.M.

Jimmy Harris
Mayor

Jill Murray
Deputy City Clerk

Minutes Approved: <u>January 17, 2017</u>

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