

**MINUTES
BREVARD CITY COUNCIL
Regular Meeting
October 16, 2017 – 7:00 PM**

The Brevard City Council met in regular session on Monday, October 16, 2017, 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 Michael Pratt, City Clerk Desiree Perry, City Manager's Executive Assistant/Deputy Clerk Jill Murray, Planning Director Daniel Cobb, Planner Aaron Bland, Deputy Finance Director Tom Whitlock, HR Director Kelley Craig, Public Works Director David Lutz, PW Administrative Service Manager Letha Cox, Police Chief Phil Harris and FD Captain Adam Hughey.

Others Present – City Council Candidate Maureen Copelof and Farmers Market Manager Leslie Logemann

Press – Matthew 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 City Clerk.

B. Invocation – Mr. Norman Bossert, Brevard Jewish Community, 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. Morrow, the Agenda be approved as presented. Motion carried unanimously.

F. Approval of Minutes – Ms. Hollingsworth moved, seconded by Mr. Daniel, the September 18, 2017, meeting minutes be approved as presented. Motion carried unanimously.

G. Certificates / Awards / Recognition

G-1. Proclamation 2017-12 Domestic Violence Awareness Month was read aloud and then presented to S.A.F.E. Board of Directors representatives Ms. Jill Beech, Ms. Susan Huter, and Police Chief Phil Harris.

**Proclamation No. 2017-12
Domestic Violence Awareness Month
October 2017**

WHEREAS Domestic violence is the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another; and

WHEREAS, children that grow up in violent homes are believed to be abused and neglected at a rate higher than the national average; and

WHEREAS, domestic violence costs the nation billions of dollars annually in medical expenses, police and court costs, shelters, foster care, sick leave, absenteeism, and non-productivity. Only a coordinated community effort will put a stop to this heinous crime; and

WHEREAS, Domestic Violence Awareness Month provides an opportunity for citizens to learn more about preventing domestic violence and to show support for the numerous organizations and individuals who provide critical advocacy, services, and assistance to victims.

WHEREAS, Since 1985, SAFE, Inc. has been providing shelter, programs and services to people impacted by domestic and/or sexual violence. In the last year SAFE, Inc. served 387 victims of domestic violence and/or sexual assault and provided shelter to 82 adults and 90 children. To this end, SAFE, Inc. invites all of us to support October 2017 as "Domestic Violence Awareness Month"

NOW, THEREFORE, IT IS PROCLAIMED by the Mayor and City Council of the City of Brevard, North Carolina, proclaims the month of October as **Domestic Violence Awareness Month** and urge the citizens of Brevard to work together to eliminate domestic violence from our community.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Brevard to be affixed on this 16th day of October, 2017.

G-2. Proclamation No. 2017-13 Fire Prevention Month was read aloud and presented to Brevard FD Captain Adam Hughey.

**Proclamation No. 2017-13
Fire Prevention Month
October 2017**

WHEREAS, the City of Brevard is committed to ensuring the safety and security of all those living in and visiting Brevard; and

WHEREAS, U.S. fire departments responded to 365,500 home fires in 2015, according to the National Fire Protection Association (NFPA); and

WHEREAS, U.S. home fires resulted in 2,560 civilian deaths in 2015, representing the majority (78 percent) of all U.S. fire deaths; and

WHEREAS, newer homes are built with lightweight materials that burn faster than older home constructions. Many of today's products and furnishings produce toxic gases and smoke when burned, making it impossible to see and breathe within moments; and

WHEREAS, these conditions contribute to a much smaller window of time for people to escape a home fire safely, with people having as little as one to two minutes to escape from the time the smoke alarm sounds; and

WHEREAS, a home fire escape plan includes two exits from every room in the home; a path to the outside from each exit; smoke alarms in all required locations; and a meeting place outside where everyone in the home will meet upon exiting; and

WHEREAS, home fire escape plans should be developed by all members of the household. Practicing a home fire escape plan twice a year ensures that everyone in the household knows what to do in a real fire situation; and

WHEREAS City of Brevard Firefighters are dedicated to reducing the occurrence of home fires

THEREFORE, I, Mayor Jimmy Harris and the Brevard City Council, do hereby proclaim October 2017 as Fire Prevention Month throughout this community. We urge all citizens to develop a home fire escape plan with all members of the household and practice it twice a year.

G-3. Certificate of Appreciation – Mr. Calvin Parton. Mayor and Council presented a Certificate of Appreciation to Mr. Parton and expressed their appreciation to him for his dedicated service and exemplary performance while serving as the Resident Project Inspector on the City of Brevard Neely Road Force Main, Pump Station and Equalization Tank Sewer Infrastructure Improvement Projects.

H. Public Hearing

H-1. Voluntary Contiguous Annexation Petition of John J. Brown Trust. Property is located at 1085 Ecusta Road, Brevard; TC Tax Property Identification Number 8596-59-0493-000. The public hearing was properly advertised on Monday, October 2, 2017. (Annexation Plat Title: Annexation Plat for Ordinance #_____ "John Brown Trust", Dated December 1, 2016, Revised 7/17/17 and 9/7/17; Title Source DB 299 PG 580; Survey by Kevin D Goldsmith, P.L.S., 2847 Pleasant Grove Church Road, Hendersonville, NC 28739)

Mayor Harris opened the public hearing at 7:26 p.m.

Mr. Bland reported in July Co-Trustees Don and Jerry Brown submitted the voluntary contiguous annexation Petition, with their primary reasoning in doing so is to connect to City utilities. Property is currently within the City's ETJ and is zoned for residential. City has the capacity and utilities are available for the property. Both Staff and the Planning Board recommend approval of the requested annexation.

Mr. Jerry Brown, Co-Trustee, John J. Brown Trust, was present and available to answer any questions that may be asked.

Public Hearing Participation – None

Public Hearing Closed – There being no questions or comments, Mayor Harris closed the hearing at 7:32 p.m.

H-2. Dog Training Facilities Text Amendment – Proposed is to amend the text of City Code Unified Development Ordinance, Chapter 19, Subsection 19.3 Definitions to allow for indoor canine obedience and agility training under the same definition of animal services.

Mayor Harris opened the public hearing at 7:32 p.m.

Public Hearing Participation – None

Public Hearing Closed – There being no questions or comments, Mayor Harris closed the hearing at 7:34 p.m.

H-3. Brevard Music Center Planned Development District (PDD). Request of Brevard Music Center to revise their previously approved Brevard Music Center PDD Master Plan (Ord. No. 2009-11). The public hearing was properly advertised on Monday, October 2nd and 9th, 2017, and Notice requirements of posting the property and notifying adjoining property owners by USPS first-class mailing were met on Monday, October 2, 2017. (Plan Title: Brevard Music Center Master Plan; Master Plan Submittal date 10/14/2007, Revision Date 9/7/2017; Project Location: Andante Lane, Brevard; Project Landscape Architect: Eugene Land Planning & Design, PLLC, Matthew L. Eugene, PLA, ASLA, PO Box 9012, Asheville, NC

neighboring parcels they are requesting to update and revise their Master Plan. The Planning Board met on September 19, 2017, and unanimously recommended approval of the amendments as presented. Staff also recommends approval of the amendments as presented.

Brevard Music Center's Mr. Keith Arbogast, and, Mr. Matthew Fusco, Fusco Land Planning & Design, PLLC, were present to answer questions the public or Council may have.

Council review included the following questions/comments:

1. Question: Drafted Ordinance, Exhibit B, 4 Public Infrastructure (b), requires the construction of a pedestrian sidewalk and pathway system from the intersection of Probart Street and Andante Lane within 10 years of the adoption of the Ordinance. Is that ten year time frame from the original date of adoption (June 15, 2009), or, with this requested amendment will it become ten years from amendment date of adoption?
2. Answer: (Mr. Cobb) Ten years from the original date of adoption; described infrastructure to be completed by June 2019.
3. Question: There was a fifty foot (50') easement along the Music Center property that was intended for a future roadway, is that still in place?
4. Answer: (Mr. Fusco) Yes. Although it may not show up upon the Master Plan; the easement shows up on the City/County maps.
5. Master Plan sheet 4 – Brushy Creek watershed.

Public Hearing Public Participation

Mr. Gene McCrary stated he lives next to the Music Center as his property adjoins the Music Center property. Tonight it was stated that Music Center Road is the main entrance; however, Adante Lane provides public access into the Music Center too. Sidewalks are provided up Adante adjacent to the first lake and then it ends.

Mr. Bill Arnold, 197 Waterford Lane, explained he comes as representative of the Waterford Development Homeowners Association. Asked that BMC give consideration to using Adante Lane to service any future construction traffic, rather than using Music Camp Road, due to it being such a narrow road.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 7:56 p.m.

I. Public Participation

Mr. David Heckman, 92 Green Acres, expressed concern with a noise problem within our City from trucks using compression brakes. He asked if City Council would do what is necessary to allow Brevard to post signs like the City of Hendersonville has that states, "Use Of Compression Brakes Prohibited Within City Limits. Maximum \$500 Fine".

City Attorney and staff explained to Mr. Heckman (a) the City cannot place such signage without first obtaining permission from NC DOT, and (b) if granted permission to place such signage, the City would first have to have a way to measure sound.

J. Special Presentation

J-1 C A P E Coalition Presentation C A P E Coalition representatives Karen

most important local resource. We want to show our young people that we value them, support their sense of adventure, and are working to create a great place for them to grow up. We want to create a movement that celebrates our youth and as a result, the youth know this and come to understand how and where they fit in. She then introduced two from their youth coalition, Teens Advocating for Future Youth.

Mr. Bain Brown shared he is a junior and co-founder of TAFFY. TAFFY is a group of teens for teens. We speak out on teen issues through education and empowerment. We are youth-led, youth-imagined, and youth-organized. We ask that you value kids just as much as you value Brevard's natural resources and cultural opportunities. We are determined. We are naturally thrill seekers. As teens, we are going to take risks. But help us take the right risks. Ones that keep us healthy. Ones that make us grow.

Ms. Madison Murr spoke and shared their request. We would like you to embrace our sense of adventure and our right to grow up in a safe, healthy place free of substance abuse and underage drinking. We hope you, as individuals, can pledge to:

- Encourage safe risk taking and thrill seeking, determination and grit.
- Encourage kids to live "above the influence."
- Talk with your kids.
- Keep medications and alcohol out of your kids' reach.
- Celebrate responsibly.
- Help make Transylvania a safe, health place to be a kid.

We ask you, Brevard City Council, to pledge to value the safety and health of our town's youth, and make us a priority in your decisions. When we make Brevard better for young people, we can make it better for everyone.

Ms. Gentry concluded the presentation by sharing she hopes Council will support our City's young people by signing the Pledge.

J-2. Joint Historical Preservation Commission Update. In keeping with NC State requirements, Chair Marcy Thompson, Joint Historical Preservation Commission, presented the annual report. (Report is on file with Agenda Packet materials.)

Council accepted the Report and thanked Ms. Thompson for her and the Commission's work.

J-3. Form Base Code Project Update. Mr. Cobb presented a brief power-point showing the planned steps forward in the Form Base Code (FBC) project, which, upon completion will basically replace the City's Unified Development Ordinance (UDO). Like the UDO, the Form Base Code (FBC) will contain all of the City's development codes/regulations. Starting next month, the Planning Board is scheduled to begin their review. Below is the planned schedule:

Planning Board Review

- November 21 – Preamble, Chapters 1 and 2
- December 19 – Chapters 3, 4 and 5
- January 16 – Chapters 6 and 7
- February 20 – Chapters 8, 9 and 10

~~ At 8:37 p.m. Mayor Harris called for a ten minute break. Meeting resumed at 8:45 p.m. ~~

Mr. Landreth shared when the City first started on the Form Base Code process,

rather than redoing our UDO. What he had originally envisioned was a radical change in our ordinances, but to do that will call for a concentrated effort and perhaps require more time than we have available staff to accomplish. At this point, before we proceed further, it seems we need to ask the question, "What was our goal when we went into this? Are we getting what we wanted?" This will be a big job that will require a lot of work and a staff that already have a full-time job.

Mr. Cobb shared the steering committee has expressed some similar concerns to him in that the FBC project started off very well and strong; however, when it came to putting a document together, consultant delivered what was in the contract, but it was not what the steering committee anticipated or what they believed should be used to go forward. Staff can modify the document; however, to radically change it would require some outside assistance.

Mr. Cobb asked Council if they desire to step back and take a look at what they ultimately want before proceeding. From a staff point of view we can do a modified version of the UDO; however, to go deeper than that we would need outside assistance.

Mr. Daniel shared he feels to proceed with BPB review and staff working on it that we would end up with a good product and better than what we have now; however, he had hoped to get something great. Before proceeding, this is the time for Council to decide what it is we want. Do we want to fix what we have or create a vision for the future of our City?

Mr. Landreth shared he agrees with Mr. Daniel's comments and concerns, and therefore suggested this be a topic at Council's January retreat. There is enough going on around us in our region with recreation, hotel industry, and significant regional developments that should cause us to ask ourselves, "What does Brevard look like in 10 - 15 - 50 years." Let's use the Retreat to craft a really good zoning document.

Ms. Hollingsworth shared she likes the idea of revisiting the FBC topic at Retreat. The FBC was to make it easier and less cumbersome to develop, and was to be a "common sense" way of looking at zoning. Would not like the project to result in less than a "great" product.

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 Council consider adding: New Business Items M-1, M-2, M-3, M-4, M-5, M-6, M-7, M-8 and M-9 Board Appointment of Mr. Copeland.

Mr. Landreth suggested M-4 be removed in order that the C.A.R.E. Pledges can be signed at this time while the CARE representatives are present.

Mr. Daniel requested Item M-3 Brevard Music Center PDD, Exhibit B, 4b, be amended to include clarification that the timeline be retroactive to 2009. Text Amended to Read: "Brevard Music Center shall construct a pedestrian sidewalk and pathway system within the District, from the intersection of Probart Street and Andante Lane within 10 years of the June 15, 2009, adoption date of Ordinance No. 2009-11; completion date June 15, 2019."

Mr. Landreth moved to add to the Consent Agenda New Business Items M-1, M-2, M-3 as amended, M-5, M-6, M-7, M-8, and M-9, and that the Consent Agenda be approved as amended. Motion was seconded by Ms. Hollingsworth and carried.

K-2. Ordinance No. 2017-20 An Ordinance Declaring A Road Closure For
Twilight Tour Festival

ORDINANCE NO. 2017-20
AN ORDINANCE DECLARING A ROAD
CLOSURE FOR TWILIGHT TOUR FESTIVAL

WHEREAS, Brevard City Council acknowledges a tradition of providing an annual Twilight Tour Festival for the pleasure and enjoyment of its citizens and visitors; and,

WHEREAS, Brevard City Council acknowledges this festival provides an opportunity for family-oriented activities; and,

WHEREAS, Brevard City Council acknowledges this festival requires a portion of Main Street (US Highway 276) and Broad Street (US Highway 64) to be closed for setup, activities, and cleanup.

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

SECTION 01. Pursuant to authority granted by G.S. 20-169, the City of Brevard hereby declares the following temporary road closure during the day and times set forth below on the following described portion of a State Highway System route:

Twilight Tour Festival

Date: Saturday, December 2, 2017

Time: 12:30PM – 9:00PM

Route Description: Main Street (US 276) from Caldwell Street to Gaston Street, and
Broad Street (US 64) from Main Street to Morgan Street.

SECTION 02. This Ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this the 16th day of October, 2017.

K-3. Resolution No. 2017-19 A Resolution Directing The City Clerk To Investigate The Sufficiency Of A Petition For An Annexation Pursuant To NCGS 160A-58.2, As Amended (Little Mountain Properties of Brevard, LLC)

RESOLUTION NO. 2017-19
A RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE
THE SUFFICIENCY OF A PETITION FOR AN ANNEXATION PURSUANT TO
NCGS 160A-58.2, AS AMENDED

WHEREAS, a petition was received on October 4, 2017, requesting the annexation of a non-contiguous area described in said Petition as the Little Mountain Properties of Brevard, LLC, property located at 3141 and 3143 Asheville Highway, Pisgah Forest, NC 28768, consisting of 4.816 acres, be annexed into the City of Brevard. (Tax Property Identification Numbers: 8597-67-8330-000 and 8597-77-0460-000)

Metes and Bounds Property Description:

TRACT I

Being all of that 2.415 acre parcel of property as surveyed by Clarence A. Jenkins, PLC, and shown on a plat thereof dated April 26, 2001 and recorded in Plat File 9, Slide 166, Transylvania County Registry.

Subject to the rights-of-way of all roads which may presently traverse the property to

Subject to the rights-of-way of all roads, which may presently traverse the property, to all road rights-of-way which may presently appear of record, to the rights-of-way of all utility lines which may presently traverse the property and to all rights-of-way for public utilities which may presently appear of record.

TRACT III

Being all of that 0.098 acre parcel of property as surveyed by Clarence A. Jenkins, PLC, and shown on a plat thereof dated April 26, 2001 and recorded in Plat File 91, Slide 166, Transylvania County Registry.

Subject to the rights-of-way of all roads, which may presently traverse the property, to all road rights-of-way which may presently appear of record, to the rights-of-way of all utility lines which may presently traverse the property and to all rights-of-way for public utilities which may presently appear of record.

The total area for annexation is 4.816 acres, plus or minus.

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

WHEREAS, NCGS 160A-58.2, 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 16th day of October, 2017.

K-4. Community Development Contracts, October 2017 Reporting – City Council accepted the following October 2017 Reports as presented:

- a. Transylvania Community Arts Council (TCarts)
- b. Transylvania Farmers Market
- c. Heart of Brevard
- d. Bread of Life
- e. Sharing House

K-5. Correspondence *(No Action. Offered as information only.)*

- a. Pipeline Safety and Awareness for Public Officials
- b. City Recycling Contract with Waste Pro (former Republic Services)
- c. FY13 Capital Equipment Vehicle Condition Report

K-6. (M-1) Ordinance No. 2017-21 An Ordinance To Extend The Corporate Limits Of The City Of Brevard, North Carolina. (John J. Brown Trust)

WHEREAS, the Brevard Planning Board reviewed the Petition at their meeting held on September 19, 2017, and recommend approval of the voluntary contiguous annexation; and,

WHEREAS, the City Clerk has certified the sufficiency of said petition (relying on the opinion of the City Attorney) and the City Council adopted Resolution No. 2017-18 fixing a date of public hearing. By authority granted by G.S. 160A-31, a public hearing on the question of this annexation was held at the Brevard City Hall at 7:00 o'clock, P.M. on the 16th day of October, 2017, after due notice by publication on the 2nd of October, 2017; and

WHEREAS, the City Council does hereby find as a fact that the petition meets the requirements of G.S. 160A-31, as amended.

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

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, all of that property lying in Transylvania County, owned by John J. Brown Trust, as shown and being all of that property recorded in Document Book 790, Pages 83-85, Plat File 16, Slide 963 in the Transylvania County Registry and that certain annexation plat provided by the Petitioners to be duly recorded upon annexation is hereby annexed and made a part of the City of Brevard as of the 16th day of October, 2017.

Said property is more fully described as follows:

Location: 1085 Ecusta Road, Brevard, NC, 28712. Transylvania County Property Identification Number: 8596-59-0493-000 (Exhibit A)

Metes and Bounds Property Description:

Beginning at an iron pin in the existing Brevard City Limits line, in the southern right of way for Ecusta Road (S.R. 1512), at a point opposite the westernmost corner of the John Brown Trust property on the opposite side of Ecusta Road (said property being described in a Deed recorded in Book 299, page 580 of the Transylvania County Registry, and also being Tax Parcel PIN 8596-59-0493), and running North 50 deg.40 min. 12 sec. East across the Ecusta Road right of way, for 30 feet to the westernmost corner of the said John Brown Trust property at the northern boundary of the Ecusta Road right of way; thence continuing North 50 deg. 40 min. 12 sec. East 370.73 feet along the western boundary of the said property (being also the common property line of Brown and the Robert Justus property described in the Deed recorded in Book 338, page 238) to a concrete monument (referred to as "ECM" on the plat which is referred to herein below) in a ditch; thence South 80 deg. 48 min. 59 sec. East 218 feet to an iron rod set in the same ditch; thence South 48 deg. 28 min. 07 sec. West 300 feet along the eastern boundary of the said property (being also the common property line of Brown and the Southern Concrete property described in a Deed recorded in Book 257, page 431; and Brown and the Miguel Alonso property described in a Deed recorded in Book 341, page 274) and crossing a wire fence a short distance before reaching the common corner of Southern Concrete and Alonso, to a corner of the Cathy Brown property described in a Deed recorded in Book 213, page 305; thence with the Cathy Brown line South 57 deg. 30 min. 00 sec. West 221.90 feet, again crossing the said wire fence a short distance from the common corner of Alonso and Cathy Brown, to the southernmost corner of the John Brown Trust property, located in the northern boundary of the Ecusta Road right of way; thence leaving the John Brown Trust property line and continuing South 57 deg. 30 min. 00 sec. West 30 feet to a point on the opposite side of the Ecusta Road right of way, being in the southern boundary of Ecusta Road and being in the Brevard City Limits line; thence with the Brevard City Limits line and the southern boundary of the Ecusta Road right of way, North 37 deg. 27 min. 10 sec. West 144.95 feet to the Point of Beginning.

The said property being that certain property shown on a Plat prepared by Kevin D. Goldsmith, dated December 1, 2016 (revised 7-17-17 and 9-7-17), entitled, (annexation plat for the) "John Brown Trust," and recorded in Plat File 17, Slide 332, in the Transylvania County Registry.

Description as presented in Resolution No. 2017-13 and 2017-18

Beginning at 1.702 acres parcel of property as surveyed by Kevin D. Goldsmith, PLS, and shown on a plat dated December 1, 2016, and recorded in Plat File 16, Slide 963, Transylvania County Registry.

advance on the property; (b) to inquire into the authority necessity or expediency of any act of the Trustees; or (c) be privileged to inquire into any of the terms of the Trust Agreement.
The total area for annexation is 1.702 acres.

Section 2. Upon and after the 16th day of October, 2017, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Brevard and shall be entitled to the same privileges and benefits as other parts of the City of Brevard. Said territory shall be subject to the municipal taxes according to G.S. 160A-31.

Section 4. Pursuant to 160AA-29 it shall be the duty of the Mayor of the City of Brevard to cause an accurate map of the annexed territory as described in Section 1 hereof, together with a duly certified copy of this Ordinance, to be recorded in the office of the Register of Deeds of Transylvania County, North Carolina, and in the office of the Secretary of State at Raleigh, North Carolina. Such a map shall also be delivered to the Transylvania County Board of Elections as required by G.S. 163.288.1.

Section 5. Notice of adoption of this Ordinance shall be published once, following the effective date of annexation, in a newspaper have general circulation in the City of Brevard.

Adopted and approved the 16th day of October, 2017.

K-7. (M-2) Ordinance No. 2017-22 An Ordinance Amending The Unified Development Ordinance Chapter 19, Subsection 19.3 Definitions (Dog Training Facilities)

ORDINANCE NO. 2017-22
AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
CHAPTER 19, SUBSECTION 19.3 DEFINITIONS

WHEREAS, a public hearing was conducted on Monday, October 16, 2017, to amend Unified Development Ordinance Chapter 19, Subsection 19.3 Definitions, and,

WHEREAS, the City Council considers this to be in the best interest of the health, safety, and welfare of the City's residents, businesses, and visitors to allow for indoor canine obedience and agility training; and,

WHEREAS, the amendment was considered by the Brevard Planning Board at their September 19, 2017, meeting and recommend City Council approve the amendments as presented; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the City of Brevard Comprehensive Plan, specifically the following section:

OBJECTIVE 4.1: Increased efficiency of land uses to help stabilize and grow the City's tax base.

POLICY 4.1.A: Evaluate and amend development ordinances to facilitate infill development on vacant and under-developed parcels, as well as revitalization of developed parcels.

and,

WHEREAS, the City Council of the City of Brevard, after hearing all persons wishing to comment on the amendment, desires to approve said amendment.

NOW, THEREFORE, be it ordained by the city council of the City of Brevard, North Carolina that:

surgery for animals, boarding services for pets, grooming *and indoor canine obedience and agility training*. This term does not include outdoor "kennels."

SECTION 2. SEVERABILITY. If any provision of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance.

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective upon its adoption and approval.

Adopted and approved upon first reading this the 16th day of October, 2017.

K-8. (M-3) Ordinance No. 2017-23 An Ordinance Amending the Brevard Music Center Planned Development District Ordinance Number 2009-11

**ORDINANCE NO. 2017-23
AN ORDINANCE AMENDING THE
BREVARD MUSIC CENTER PLANNED DEVELOPMENT DISTRICT
ORDINANCE NUMBER 2009-11**

WHEREAS, the City of Brevard has the authority, pursuant to Part 3 of Article 19 of Chapter 160A 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, a public hearing was conducted on Monday, October 16, 2017, to amend the Brevard Music Center Planned Development District, Ordinance Number 2009-11 adopted on June 15, 2009, and,

WHEREAS, Brevard Music Center has acquired additional property and desires it to be incorporated into the Planned Development District; and

WHEREAS, Brevard Music Center has taken great strides to improve inflow and infiltration problems they once had; and,

WHEREAS, the amendment was considered by the Brevard Planning Board at their September 19, 2017, meeting and recommend City Council approve the amendments as presented; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the City of Brevard Comprehensive Plan as identified in Exhibit C and which is hereby adopted and incorporated by reference; and,

WHEREAS, the City Council of the City of Brevard, after hearing all persons wishing to comment on the amendment, desires to approve said amendment.

NOW, THEREFORE, be it ordained by the City Council of the City of Brevard, North Carolina that:

SECTION 1. In accordance with N.C.G.S 160A-364, as amended and Brevard City Code, Ordinance Number 11-09 is hereby amended and subject to the list of conditions as described in Exhibit B.

SECTION 2. The zoning classification of that certain real property described in Exhibit A, attached hereto and made a part hereof, is hereby changed from General Residential (GR) to Brevard Music Center Planned Development District. Said property is also

Brevard Music Center Planned Development District: List of Conditions, which is attached to this Ordinance as Exhibit B and incorporated herein; and the final 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 Music Center, its heirs and assigns.

SECTION 4. The Planning Director is hereby authorized and directed to modify the City's Official Zoning Map consistent with this Ordinance.

SECTION 5. If any provision of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance.

SECTION 6. All ordinances or portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7. This Ordinance shall become effective upon its adoption and approval.

Adopted and approved upon first reading this the 16th day of October, 2017.

K-9. (M-5) Contract – Railroad Avenue Land Acquisition. Council approved a purchase contract with Comporium for the appraised amount of \$75,000 subject to completion of survey and City Attorney approval. The Pedestrian Fund is the source of funds for this project. The property acquisition is for the intended purpose of extending the Estatoe Trail from McLean to Whitmire Street prior to the closure of the existing vehicle bridge, allowing for pedestrian and bicyclists to navigate around the construction area while vehicles will be provided a detour.

K-10. (M-6) Resolution No. 2017-20 A Resolution Awarding The Contract To Purchase Complete Scott Air-Paks and Pak-Trackers Equipment For The City Of Brevard Fire Department

**RESOLUTION NO. 2017-20
A RESOLUTION AWARDED THE CONTRACT TO PURCHASE
COMPLETE SCOTT AIR-PAKS AND PAK-TRACKERS EQUIPMENT
FOR THE CITY OF BREVARD FIRE DEPARTMENT**

WHEREAS, the City of Brevard Fire Department has need to replace Self Contained Breathing Apparatus (SCBA) and Accountability Systems, and therefore desire 45 Complete Scott Air-Paks and Pak-Trackers, herein after the "Project" and received budget approval by City Council for this Project; and

WHEREAS, the City placed the Project to public bid under NC State requirements by publishing Invitation to Bid on the Project in both the Transylvania Times and Hendersonville Times News newspapers on Thursday, September 14, 2017; and

WHEREAS, in addition to the newspaper advertisement publications, the City Fire Department mailed complete Bid packets to three Fire Equipment companies: (a) Valley Safety, Candler, NC; (b) Thermo Fisher Scientific, Waltham, MA; and, (c) Rhinehart Fire Services, Candler, NC; and

WHEREAS, the Project cost total is \$313,750.00. The City has secured partial funding for the Project through a 2016 FEMA Assistance to Firefighters Grant in the amount of \$265,715. The City portion of the grant being a five percent (5%) match in the amount of \$13,285.00; and

WHEREAS, in accordance with G.S. 143-129, the City of Brevard received a formal proposal for the Project at 10:00 A.M. on Tuesday, September 26, 2017, at Brevard City Hall; and

WHEREAS, after receiving the Bid Tabulation from this bid opening for the proposed Project, the Brevard City Council now desires to approve an award of contract.

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

Section 1. A contract for the purchase of 45 Complete Scott Air-Paks and Pak-Trackers is hereby awarded to Rhinehart Fire Services, Post Office Box 36, Candler, NC 28715, for the bid price of \$313,750.00 as received at 10:00 A.M., on Tuesday, September 26, 2017, in accordance with the City's bid documents for this Project.

Section 2. The City Manager is hereby authorized and directed to execute contracts for this Project on behalf of the City as set forth in Section 1 of this Resolution.

Section 3. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 16th day of October, 2017.

K-11. (M-7) Ordinance NO. 2017-24 An Ordinance Amending The Brevard City Code of Ordinances Chapter 30 Fire Prevention and Protection (Knox Box)

**ORDINANCE NO. 2017-24
AN ORDINANCE AMENDING THE
BREVARD CITY CODE OF ORDINANCES CHAPTER 30
FIRE PREVENTION AND PROTECTION**

WHEREAS, Knox Box Rapid Entry systems aid in providing quick, efficient, and safe access to commercial, industrial, and multifamily structures; and,

WHEREAS, Fire Department Connections (FDC) are an integral component of fire suppression; and,

WHEREAS, the City Council considers this to be in the best interest of the health, safety, and welfare of the City's residents, businesses, and visitors to require additional security and safety measures for Fire Department Personnel; and,

NOW, THEREFORE, be it ordained by the City Council of the City of Brevard, North Carolina that:

SECTION 1. KNOX BOX RAPID ENTRY SYSTEMS. The City Council hereby declares that Knox Box Rapid Entry Systems aid in the prevention of fire and protection of the community.

SECTION 3. AMEND BREVARD CITY CODE OF ORDINANCES, CHAPTER 30, SECTION 30.8 to read:

Sec. 30-8. Knox-Box Rapid Entry System

(a) The owner or person in control of the following types of buildings shall install and maintain a Knox-Box Rapid Entry System:

(1) A structure which contains a fire alarm that uses an automatic dialer or contains an automatic fire suppression system.

(2) Multi-family residential structures, with four (4) or more units, including senior

of an approved type and shall contain keys to gain necessary access as required by the fire chief.

- (b) Persons or entities who own existing buildings or structures which are subject to the requirements of this section shall have two (2) years from the effective date hereof to comply with the requirements. Persons or entities who construct buildings or structures which would be subject to the requirements of this section shall comply with the requirements at the time of construction.
- (c) An approved lock shall be installed on gates and sprinkler control valves when required by the chief of the fire department, or his or her designee.
- (d) Locking Fire Department Connection (FDC) and standpipe plugs/caps shall be installed on all FDC and standpipe locations when required by the chief of the Fire Department, or his or her designee.
- (e) The operator of the building or area shall immediately notify the chief of the fire department, or his or her designee and provide the new key when a lock is changed or rekeyed. The key to such lock shall be secured in the key box.

SECTION 2. SEVERABILITY. If any provision of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance.

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective upon its adoption and approval.

Adopted and approved this the 16th day of October, 2017.

K-12. (M-8) Resolution No. 2017-21 A Resolution Declaring The Intent Of The Brevard City Council To Consider The Closing Of An Unopened Portion Of McMinn Avenue

RESOLUTION NO. 2017-21
A RESOLUTION DECLARING THE INTENT OF THE BREVARD CITY COUNCIL
TO CONSIDER THE CLOSING OF AN UNOPENED PORTION OF McMINN AVENUE

WHEREAS, North Carolina General Statute 160A-299 authorizes the City Council to permanently close public streets and alleys; and

WHEREAS, the City has received a request to close an unopened portion of McMinn Avenue, located at the corner of McMinn Avenue and Verdery Avenue. The unopened street right-of-way is thirty-six feet (36') in width, and is approximately two hundred and thirty six feet (236' +/-) in length. The street right-of-way runs between properties owned by Erica Damman, Royce Chestnut, Zachary R. Noble and Kathryn Grace MacEachern; and

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to permanently closing the aforementioned street right-of-way.

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

Section 1. That a Public Hearing will be held at 7:00 p.m., or as soon thereafter as possible, on Monday, November 20, 2017, in Council Chambers located at 95 West Main Street, Brevard, North Carolina, to consider an order to permanently close said street right-of-way.

Section 2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four (4) successive weeks prior to the Public Hearing in the Transylvania Times.

Section 3. The City Clerk is further directed to transmit by Certified Mail Return Receipt

K-13. (M-9) Board and Committee Appointments

City Council Parks, Trails and Recreation Committee – Appointed Mr. Gregory A. Copeland as an At-Large member; term will expire May, 2019.

L. Unfinished Business - None

M. New Business

M-4. C.A.R.E. Coalition Pledge – City Council Members, City Manager and City Attorney all individually signed a C.A.R.E. Coalition Pledge. (On file.)

N. Remarks / Future Agenda Considerations

Mayor Harris reminded everyone that the annual Halloweenfest will soon take place.

Mr. Morrow reminded everyone the Municipal Election will take place on Tuesday, November 7th, and encouraged folks to vote. Thanked Farmers Market Manager Leslie Logemann for their report and being in attendance tonight, and expressed his appreciation for all the Farmer's Market does for our community.

Mr. Fatland thanked the Public Works Department for installing a ramp on the corner at United Community Bank to assist a citizen with disabilities who has been having difficulty navigating that corner.

O. Closed Session(s) - Mayor Harris asked the City Attorney if it would be appropriate for Council to hold a closed session to discuss a personnel matter. City Attorney advised pursuant to **GS § 143-318.11. (a)(3) (5) and (6)** it would be appropriate to convene closed session. A closed session requires a separate motion, second and vote to discuss the matter.

O-1. Closed Session #1 - At 9:16 p.m. Mr. Landreth moved, seconded by Ms. Hollingsworth, Council go into closed session to discuss a personnel matter. Motion carried unanimously. The City Clerk and City Manager were dismissed from the closed session. 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 9:30 p.m. Council re-entered Open Session after first personnel closed session ended. The minutes of the closed session are authorized to be sealed.

O-2. Closed Session #2 – At 9:30 p.m. Mr. Morrow moved, seconded by Mr. Landreth, Council go into closed session to discuss a second personnel matter. Vote in favor was unanimous.

Council Returned to Regular Session – At 10:57 Council re-entered Open Session after second personnel closed session ended. The minutes of the closed session are authorized to be sealed.

P. Adjourn – There being no further business, a motion to adjourn was made by Mr. Landreth, seconded by Ms. Hollingsworth. Meeting adjourned on unanimous vote at 10:57 p.m.