

**MINUTES
BREVARD CITY COUNCIL
Regular Meeting
September 16, 2019 – 7:00 PM**

The Brevard City Council met in regular session on Monday, September 16, 2019, at 7:00 p.m. in the Council Chambers of City Hall with Mayor Jimmy Harris presiding.

Present – Mayor Jimmy Harris, Mayor Pro Tem Mac Morrow, Council Members Charlie Landreth, Maureen Copelof, Gary Daniel and Maurice Jones.

Staff Present – City Attorney Michael Pratt, Jim Fatland, Finance Director and City Manager, City Clerk Jill Murray, Deputy Finance Director Tom Whitlock, Executive Assistant to City Manager Denise Hodsdon, Fire Chief Bobby Cooper, Interim Planning Director Paul Ray, Planner Aaron Bland, Police Chief Phil Harris and Public Works Director David Lutz.

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 – Mayor Jimmy Harris, 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 – Mayor Jimmy Harris asked that two resolutions be added to New Business as Items M5 and M6. Mr. Pratt added that under Closed Session there will be no Pending Litigation and no Property Acquisition but instead there will be two Potential Litigations and one Personnel Matter. Mr. Jones moved, seconded by Mr. Morrow, the agenda be approved to add the Resolution Approving Property Tax Releases and a Resolution Accepting the Donation of Land from Transylvania County to the City of Brevard to be used as a Connection to the Estatoe Trail at Tannery Park (the Duckworth Property) to New Business as Items M5 and M6 and changing the Closed Sessions to two Potential Litigations and one Personnel Matter as amended. Motion carried unanimously.

F. Approval of Minutes – Mr. Jones asked that his name be removed from receiving a Proclamation and Ms. Copelof asked about a date change at the beginning of the minutes. Mr. Morrow moved, seconded by Mr. Daniel, the August 19, 2019 minutes be approved as amended. Motion carried unanimously.

G. Certificates / Awards / Recognition – None

H. Public Hearing(s) –

H-1. Voluntary Contiguous Annexation Petition of Felipe Flores Duenes.

Mr. Fatland explained that this is the last piece of the annexation for the property located at 961 Ecusta Road and it has been properly advertised and the applicant is in the audience if anyone has any questions. Annexation will make both City water and wastewater service available to the property which currently has an aging septic system.

Public Hearing Public Participation – Michael Galloway, a neighbor of Duenes, asked if this annexation would lead to his land being annexed. Mayor Harris explained that he would have to ask the City to be voluntarily annexed before that would happen.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 7:19 PM.

I. Public Participation –

Mr. Art Odell, manager of Sycamore Cycles, came to ask for a text amendment to its regulations prohibiting motorized vehicles, specifically the pedal assist bike, or E-Bikes. It looks like a normal bike but it has a small motor powered by a rechargeable battery located on the frame. The cyclist pedals as normal but with a very quiet assist from the electric motor that only gives what you put in. When you stop pedaling, there is no assist from the motor.

Mayor Harris asked how fast they can go. Mr. Odell said 20mph, no faster. Mr. Harris said that one of Council’s tasks is to anticipate changing technology and this is something that we will look at and ask the City Manager and City Attorney to look at.

Maurice Jones moved, seconded by Mr. Daniel that City staff spend time looking into this further. Motion carried unanimously.

J. Special Presentation(s) - None

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 Harris asked Council to consider adding New Business items M1, M2 M3 and M4 and the recently added M5 and M6 to Consent. Charlie Landreth asked that Item M2 stay under New Business. Mr. Morrow moved, seconded by Mr. Jones that items M1, M3, M4, M5 and M6 be added to the Consent Agenda and be approved as amended. Motion carried unanimously.

K-1. Staff Reports:

- a. Financial Report for month ending August, 2019.
- b. Public Works Monthly Report, July 2019.

K-2. Community Development Contracts – Council Parks, Trails and Recreation Committee Minutes – June 19, 2019.

K-3. Mary C. Jenkins Community Task Force Minutes – June 25, 2019.

K-4. Council Downtown Master Plan Committee Minutes – February 27, 2019.

K-5. Council Downtown Master Plan Committee Minutes – March 27, 2019.

K-6. Tax Settlement Report for Month Ending August 31, 2019.

K-7. Bracken Mountain Master Plan Update. Aaron Bland presented an updated map showing trails that now exist and the remaining approved future trails to be constructed.

K-8. Ordinance No. 2019-21 – Ordinance Street Closure Halloweenfest-Saturday, October 26, 2019.

ORDINANCE NO. 2019-21

**AN ORDINANCE DECLARING A ROAD
CLOSURE FOR 37th HALLOWEENFEST**

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

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

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

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

SECTION 1. Pursuant to authority granted by G.S. 20-169, the City of Brevard hereby declares the following temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

Halloweenfest Festival
Date: Saturday, October 26, 2019
Time: 7:00AM – 6:00PM
Route Description: Main Street (U.S. 276) from Caldwell Street to Johnson Street, and Broad Street (U.S. 64) from French Broad Street to Morgan Street.

SECTION 2. 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 September, 2019.

K-9. Ordinance No. 2019-22 – Ordinance Amending the Brevard Traffic Schedule and Brevard City Code Chapter 66.
into the minutes; and

ORDINANCE NO. 2019-22

AN ORDINANCE AMENDING THE BREVARD TRAFFIC SCHEDULE AND BREVARD CITY CODE CHAPTER 66

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT THE TRAFFIC SCHEDULE AND THE BREVARD CITY CODE SHALL BE AMENDED AS FOLLOWS:

Section 1. Chapter 66, Schedule I, Section 66-122 of the Brevard City Code and the City’s Traffic Schedule is hereby amended as described below:

- a) Both sides of Jordan Street from Gaston to Johnson.

Section 2. Chapter 66, Article IV, Schedule XXXI, Section 66-89 of the Brevard City Code and the City’s Traffic Schedule is hereby amended as described below:

- a) Add Big Bed Road.
- b) Add East Main Street at Greenville Highway and Wilson Drive split.

Section 3. Chapter 66, Schedule XXI, Section 66-87(4) of the Brevard City Code and the City’s Traffic Schedule is hereby amended as described below:

- a) Remove Carolina Avenue (SR 1347) from Cashiers Valley Road (SR 1344) to City Limit (Rosman Highway).

Section 4. Chapter 66, Schedule XIX, Section 66-87(2) of the Brevard City Code and the City’s Traffic Schedule is hereby amended as described below:

- a) Add Carolina Avenue (SR 1347) from Cashiers Valley Road (SR 1344) to City Limit (Rosman Highway).

Section 5. Chapter 66, Schedule XIX, Section 66-87(2) of the Brevard City Code and the City’s Traffic Schedule is hereby amended as described below:

- a) Remove Mills Avenue.

Section 6. Chapter 66, Schedule XVIII, Section 66-87(6) of the Brevard City Code and the City’s Traffic Schedule is hereby amended as described below:

- a) Add Mills Avenue.

Section 7. The City Clerk of the City of Brevard is hereby authorized and directed to revise and amend the official records and the Brevard Traffic Schedule to reflect the change as set forth herein.

Section 8. The City Manager of the City of Brevard is hereby authorized and directed to cause the appropriate signs to be installed and enforcement of the foregoing provisions to be implemented.

Section 9. This Ordinance shall become effective upon its adoption and approval.

Adopted and approved this 16th day of September, 2019.

K-10 Memorandum of Transportation Agreement.

K-11. Correspondence (No Action. Offered as information only.)

- a. Transylvania County Building Permit Activity Report, July, 2019.
- b. TCart's Gallery Walk August.
- c. Signage and Wayfinding Program Financing.

K-12. (M-1) Ordinance No. 2019-20-Voluntary Contiguous Annexation, Felipe Flores Duenes.

ORDINANCE NO. 2019-20

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF BREVARD, NORTH CAROLINA**

WHEREAS, the Brevard City Council has been petitioned under G.S. 160A-31, as amended, to annex the contiguous area described herein, and,

WHEREAS, the City Council has by Resolution No. 2019-04 directed the City Clerk to investigate the sufficiency of said petition; and,

WHEREAS, the Brevard Planning Board reviewed the Petition at their meeting held on February 19, 2019 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. 2019-20 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 September, 2019, after due notice by publication on the 2nd of September, 2019 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 Felipe Flores Duenes, as shown and being all of that property recorded in Deed Book 861, Page 395 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 September, 2019.

Said property is more fully described as follows:

Location: 961 Ecusta Road, Brevard, NC 28712. Transylvania County Tax Property Identification Number 8596-49-5834-000.

Metes and Bounds Property Description:

BEGINNING at an iron pipe found on the northeast margin of the right of way for Ecusta Road (a/k/a Vanderbilt Road), the southwestern adjoining corners of Lots 3 and 4 of the Carr Lumber Company subdivision, and running thence with the common boundary of Lots 3 and 4, North 54 degrees 33 minutes 08 seconds East 131.25 feet to the Galloway (Lot 23) line; thence running with the Galloway line South 60 degrees 05 minutes 52 seconds East 82.13 feet to an iron pipe found in the common corner of Lots 4 and 5; thence with the common boundary of Lots 4 and 5, South 55 degrees 21 minutes 08 seconds West 183.72 feet to the northeast edge of the pavement of Ecusta Road, within its right of way; thence with the northeast edge of Ecusta Road, North 35 degrees 56 minutes 24 seconds West 72.08 feet; thence North 54 degrees 33 minutes 08 seconds East 18.82 feet to the point of Beginning.

As surveyed and platted by Carolina Mountain Land Surveying, said plat being entitled, "Annexation Plat of Lot 4 prepared for Felipe Flores Duenez," dated February 13, 2019, and recorded in Plat File _____, Slide _____ of the Transylvania County Registry.

"Duenez" is sometimes spelled "Duenes" or "Duene" on documents related to this real estate.

Section 2. Upon and after the 16th day of September, 2019, 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 3. 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 4. Notice of adoption of this Ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the City of Brevard.

Adopted and approved the 16th day of September, 2019.

K-13. (M-3) Resolution No. 2019-22 Waterline Project King Street.

RESOLUTION NO. 2019-22

RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS, the Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of (state whether a wastewater treatment works, wastewater collection system, stream restoration, stormwater treatment, drinking water treatment works, and/or drinking water distribution system or other "green" project), and

WHEREAS, the City of Brevard has need for and intends to construct a drinking water distribution system project described as Replace 5,800LF of 4" waterline with 6" waterline, and

WHEREAS, the City of Brevard intends to request state loan assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE City Council OF THE City of Brevard:

That City of Brevard, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Brevard to make scheduled repayment of the loan, to withhold from the City of Brevard any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That James Fatland, City Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a (loan or grant) to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Approved and adopted this the 16th day of September, 2019.

K-14. (M-4) Board and Committee Appointment(s).

Planning Board - Council unanimously reappointed Molly Jenkins to the Planning Board.

L. Unfinished Business – None

M. New Business –

M-2. Review Street Naming Policy.

Per the current policy letter limit, Charlie Landreth asked that we update the 15 letter limit for street signs and said he doesn't think this document will help us if we're renaming a serious street, like Main or Broad.

Maureen Copelof added that Council needs to make a decision on this small unnamed street and if we ever go into a massive renaming then we need to look at different criteria.

Charlie Landreth moved, seconded by Maurice Jones, that we name the street off of Asheville Highway between Zaxby's restaurant and the former Mr. Pete's gas station as Jack Hudson Way. Motion carried unanimously.

N. Remarks / Future Agenda Considerations

Mayor Harris said he attended a meeting and he showed off a trophy that the City of Brevard received for becoming the 50th Blue Zone Community. Secondly, this year, the City of Brevard started collecting its own taxes and so far 3.2 million dollars has been collected thus far.

Maureen Copelof said that she would like to reiterate what the Mayor said and that she attended the community workshops dealing with health issues and that fits me with the Blue Zone coming here. Also, I want to mention it was so nice that our staff took on a new function of collecting the taxes. That's always difficult and they've done a fantastic job.

Charlie Landreth said that back during the budget work session, he asked about City staff analyzing our rate of compensation for the Council and Mayor and was wondering if we have that information yet. Mr. Fatland said that it's going to be on the next Finance Committee agenda and then it will go before Council.

Charlie also mentioned that we still have dead trees standing on our block here. We need to get on the way to removing these trees. Hunter Marks is working on our new trees. He's a landscape architect from Hendersonville.

Mac Morrow said that the City was on the front of the Asheville newspaper. There's a segment in there written by John Boyle about small towns thriving.

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 matter of potential litigation. City Attorney advised pursuant to **GS § 143-318.11. (a)(3)** It would be appropriate to convene a closed session on the matter. A closed session requires 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 8:01 p.m. Mr. Landreth moved, seconded by Mr. Jones to enter into closed session to discuss a matter of potential litigation and clear Council Chambers. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager, City Clerk Jill Murray and Planner Aaron Bland, Interim Planning Director Paul Ray, Public Works Director David Lutz and Harlow Brown. (A five minute break was taken to allow Council Chambers to be cleared.)

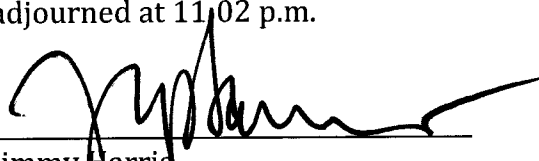
Closed Session #2 - At 9:32 p.m. Mr. Landreth moved, seconded by Mr. Daniel to enter into closed session to discuss a matter of potential litigation. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager and City Clerk Jill Murray.

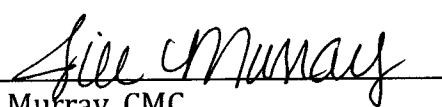
Closed Session #3 - At 10:10 p.m. Mr. Landreth moved, seconded by Mr. Jones, Council go into closed session to discuss a personnel matter. Motion carried

unanimously. Authorized to remain for closed session was Council and the City Attorney. Mr. Fatland and Mrs. Murray were dismissed.

Council Returned to Regular Session – At 11:02 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.

P. Adjourn – There being no further business, Mr. Jones moved, seconded by Mr. Landreth, the meeting be adjourned. Motion carried unanimously. Meeting adjourned at 11:02 p.m.



Jimmy Harris
Mayor

Jill Murray, CMC
City Clerk

Minutes Approved: October 21, 2019