MINUTES
BREVARD CITY COUNCIL
Regular Meeting
November 18, 2019 – 7:00 PM

The Brevard City Council met in regular session on Monday, November 18, 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, Maurice Jones, Maureen Copelof, and Gary Daniel.

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, Planning Director Paul Ray, Planner Aaron Bland, Police Officer Will Creasman, 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 – Pastor Richard Jelley of Brevard Wesleyan 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 – Michael Pratt asked that a deed of correction for property that is being given to the City be added to Consent and Information and two property acquisitions and one personnel matter be added to Closed Session. The Mayor also added Board and Committee Appointments to the agenda. Mr. Landreth moved, seconded by Mr. Jones, the agenda be approved as amended. Motion carried unanimously.

F. Approval of Minutes – Mr. Morrow moved, seconded by Mr. Daniel, the October 21, 2019 minutes and the November 6, 2019 Fall Retreat minutes be approved as presented. Motion carried unanimously.

G. Certificates / Awards / Recognition –

G-1. Proclamation 2019-17. I Heart BC Day. Mayor Harris read the proclamation aloud and presented it to President David Joyce and Director of Development Jeff Joyce.

PROCLAMATION NO. 2019-17
I Heart BC Day on December 3, 2019

WHEREAS, the Tuesday following Thanksgiving is being celebrated as I Heart BC Day, a day to celebrate the vital role that Brevard College plays in the artistic and educational culture that makes the city of Brevard unique; and

WHEREAS, Brevard College strengthens our city by serving as an economic engine, employing over 200 people, hosting more than 700 students who patronize local businesses and non-profits, and generating over $36.4 million annually*; and

WHEREAS, Brevard College also serves as a front porch to the City of Brevard and Transylvania County by welcoming residents and visitors to experience the beauty and hospitality of the campus and partnering with many local organizations to bring outstanding speakers and arts events to our city throughout the year; and

WHEREAS, The City of Brevard promotes and supports education for its citizens and Brevard College, the "School of Opportunity in the Mountains," is committed to educating a future generation of students who will continue to serve Western North Carolina;

NOW, THEREFORE, I, Mayor Jimmy Harris and the Brevard City Council do hereby proclaim and recognize that Tuesday, December 3, 2019 is I Heart BC Day, and encourage all citizens in Brevard to demonstrate their appreciation of Brevard College.

Adopted and approved this the 18th day of November, 2019.

H. Public Hearing(s) -

H-1. Proposed Amendments to UDO Chapter 15-Boards and Commissions & Chapter 16-Administration.

Mr. Ray explained that following the Board's retreat meeting in February, Planning Board Chair Jimmy Perkins submitted a letter to the Mayor and City Council advocating for the reinstatement of the Technical Review Committee (TRC) and the Community Appearance Committee (CAC). In 2014, the TRC was abolished by Ordinance 2014-25 after complaints from the development community that the Committee was slowing down the permit review process. Staff believes that overall the additional time reviewing major projects is time well spent. Furthermore, the lack of this committee places undue burden upon Planning Staff by forcing them to make decisions that others are more qualified to address. Reinstating the TRC with the proposed modifications will increase accountability for Staff and from every committee member.

Public Hearing Public Participation – None.

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

H-2. Official Zoning Map Amendment-Finkl.

Mr. Bland explained that on May 16, 2019, an application was submitted by Connie Chase on behalf of Lillian Finkl to request a map amendment (rezoning) for two parcels of land in the ETJ on Deavor Road in Pisgah Forest. The request is to eliminate the split zoning and make all of both parcels CMX. Staff believes the current zoning, despite the split-zoning, is rational given the very different natures of Hendersonville Highway and Deavor Road. The Planning Board heard this request and tabled the request for further consideration.

Mayor Harris said this property is not in the City limits and to make the land usable, it would require to bring sewer and water there which automatically triggers an annexation. Normally, they ask for voluntary annexation and I think that's a smoother track for you and your client.

Public Hearing Public Participation – None.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 7:53 PM.

H-3. Official Zoning Map Amendment-Tannery & Silversteen Parks.

Mr. Bland explained that City staff has initiated a map amendment (rezoning) for multiple parcels of land that make up SIlversteen Park and the future Tannery Park, located on Cashier Valley Road, Silversteen Drive and Hillview Street from General Residential and Neighborhood Mixed Use to Intuitional Campus. The rezoning of this facility to IC would allow more recreational uses, such as indoor and outdoor recreation facilities, meeting facilities and a live performance theater. Staff recommends approval of the rezoning as submitted and the Planning Board unanimously recommended approval as well.

Public Hearing Public Participation – Ken Adamson of 159 Burrell Mountain Road, said we just had the skate park turned down for insurance issues. Are there any insurance issues here? I think that should be the number one concern before permits

are issued. Did someone check? Mr. Fatland explained that all City properties have insurance. If we own or lease a property, we have insurance. We're just changing the zoning district.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 7:58 PM.

H-4. Proposed Moratorium on Electronic Display Signs.

Mr. Ray explained that the City's ordinance prohibits moving content on "electric display signs" including scrolling, flashing or other distractions to motorists. Staff has found that electric display signs, have become a popular advertising platform. Once permitted, enforcement of the minimum 5 second display interval becomes extremely difficult and that scrolling messages and animated graphics are distracting. Staff recommends City Council adopt an ordinance enacting a six month moratorium on electric display signs and instructing staff to work with the Planning Board on a recommendation to City Council within that period of time.

Public Hearing Public Participation – None.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 8:06 PM.

I. Public Participation –

Kevin Jones of 135 Maple Street said that he is simply here to congratulate those that were reelected, as well as, Ms. Dinkins who is newly elected. Thank you.

Susan Sunflower of 102 College Station spoke on climate change. Ms. Sunflower felt the City could work many areas but that mitigation and adaptation are new avenues which she encouraged the Council to focus on and she wondered where the City stood on her proposal. She felt that the City should form a committee that includes youth representation, adult representation and using our community center to gather county-wide involvement. She would like to hear a response from City Council, as well as, the County and Rosman.

Ken Adamson of 159 Burrell Mountain Road spoke on paid parking downtown. He asked if people come to pay a water bill or do something quick like getting popcorn, will there be something set aside for those people? In other words can you entertain the thought of having spaces for 15 minutes to do something like that?

Charles Johnson of College Drive spoke on climate change. He said that he is a second year student at Brevard College and majoring in criminal justice. I came to this college because of the mountains, the scenery, everything you have in this town is just so unique. The climate started to get abnormal this year and it made me feel unsure about what's going to happen next year. It was 90 degrees in October which is not right. There's trash flowing down the French Broad, there' s trash in the creek where I go to my classes every day and every time I go for a hike, I see trash on the hiking paths. I can't love it if it's thrown with trash.

Gavin Ray Morgan is from Haysville, NC and is an environmental science major at Brevard College. I'm really passionate about raising awareness of the effects of climate changes especially here at a local level. One thing I've noticed here is the effects that climate change is having on our local farmers. I have seen these effects at a firsthand level. Climate change has created an abnormal amount of flooding on the coast but also here in our own town and these floods are extremely difficult on the farmers because it destroys fields, it can kill livestock and ruin farmers equipment. This extreme amount of precipitation has also wreaked havoc on our community causing local roads to be flooded and making travel inefficient for the community. You can see an example of this by the flooding we have seen last year in the DuPont area where bridges and roads were closed and I just want to let you guys know that there's people

out there who really care about these sort of issues and the people that it's affecting. My last point is if climate change is a hoax, wouldn't you still like to have a cleaner option than coal and oil and help the community.

J. Special Presentation(s) – Oath of Office of Planning Director Paul Ray.

City Clerk Jill Murray presented the Oath of Office to Paul Ray.

State of North Carolina
County of Transylvania
City of Brevard

I, Paul C. Ray, do solemnly swear that I will be faithful and bear true allegiance to the State of North Carolina and to the Constitutional powers and authorities which are or may be established for the Government thereof; and that I will endeavor to support, maintain and defend the Constitution of the United States, to the best of my knowledge and ability and that I will faithfully and impartially discharge the duties of the Planning Director for the City of Brevard imposed upon me by law, so help me God.

/Paul C. Ray
Paul C. Ray

Oath Administered by:

/Jill Murray
Jill Murray, CMC
City Clerk

Date: November 18, 2019

~~At 8:28 P.M. Mayor Harris called for a ten minute break. ~~

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. Charlie Landreth motioned, seconded by Mr. Morrow, to add New Business items M1, M6 and M8 to Consent and be approved as amended. Motion carried unanimously.

K-1. Staff Reports:

a. Financial Report for month ending October 2019.
b. Public Works Monthly Report, September, 2019.

K-2. Ordinance No. 2019-29 Twilight Tour & Christmas Parade Street Closure.

ORDINANCE NO. 2019-29

AN ORDINANCE DECLARING A ROAD CLOSURE FOR TWILIGHT TOUR FESTIVAL AND CHRISTMAS PARADE

WHEREAS, Brevard City Council acknowledges a tradition of providing an annual Twilight Tour Festival and Christmas Parade 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), and Country Club Road (SR 1116) 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 01. Pursuant to authority granted by G.S. 20-169, the City of Brevard herby 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 7, 2019
Time: 12:00PM – 7:30PM

Route Description:	Main Street (US 276) from Caldwell Street to Johnson Street, and Broad Street (US 64) from Probart Street to Morgan Street.
Christmas Parade	
Date:	Saturday, December 7, 2019
Time:	2:00PM – 7:30PM
Route Description:	Country Club Road (SR 1116) from the Brevard High School entrance 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 18th day of November, 2019.

K-3. Ordinance No. 2019-30 Fixing Compensation and Terms of Employment for City Manager.

ORDINANCE NO. 2019-30

AN ORDINANCE FIXING COMPENSATION AND THE OTHER TERMS OF 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 HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA:

Section 1. RATIFICATION OF APPOINTMENT. Mr. Jim Fatland (herein after referred to as the "City Manager") was duly appointed to the Office and position of City Manager of the City of Brevard, effective as interim City Manager on April 1, 2015, and has served since that date, becoming permanent City Manager effective August 17, 2015.

Section 2. SALARY AND BONUS. The City Manager's base annual salary is hereby set at $131,004.00, which includes a raise in the amount of $5,000.000, retroactive to July 1, 2019. In addition, the Manager shall receive a one-time bonus in the amount of $5,000.00, upon enactment of this Ordinance. This Ordinance will be effective until July 1, 2020 (but shall remain in effect after that date, month to month, until it is replaced by a new Ordinance or unless earlier terminated by Council).

Section 3. EQUIPMENT USE AND ALLOWANCES.

(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 monthly the 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 2020. 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 will 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;

- 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 times, 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 most 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) month 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 July 1, 2019.

Adopted and approved this the 18th day of November, 2019.

K-4. Amend 2019 City Council Meeting Schedule to Remove the December 16, 2019 City Council Meeting.

K-5. Adopt 2020 City Council Meeting Schedule.

Brevard City Council
2020 Meeting Schedule

Day / Date	Time	Type	Location
Tuesday, January 21, 2020	7:00 PM	Regular Meeting	Council Chambers
Monday, February 17, 2020	7:00 PM	Regular Meeting	Council Chambers
Monday, March 16, 2020	7:00 PM	Regular Meeting	Council Chambers
Monday, April 20, 2020	7:00 PM	Regular Meeting	Council Chambers
Monday, May 18, 2020	7:00 PM	Regular Meeting	Council Chambers
Monday, June 1, 2020	5:30 PM	Budget Work Session #1	Council Chambers
Monday, June 8, 2020 *(If Needed)*	5:30 PM	Budget Work Session #2	Council Chambers
Monday, June 15, 2020	7:00 PM	Regular Meeting	Council Chambers
No Meetings Are Scheduled For July			
Monday, August 17, 2020	7:00 PM	Regular Meeting	Council Chambers
Monday, September 21, 2020	7:00 PM	Regular Meeting	Council Chambers
Monday, October 19, 2020	7:00 PM	Regular Meeting	Council Chambers
Monday, November 16, 2020	7:00 PM	Regular Meeting	Council Chambers
Monday, December 21, 2020 *(If Needed)*	7:00 PM	Regular Meeting	Council Chambers

Adopted: November 18, 2019
Distribution: November 19, 2019
J Murray, City Clerk

K-6. Ordinance No. 2019-31 FY19-20 Budget Amendment No. Two.

ORDINANCE NO. 2019-31
AN ORDINANCE AMENDING THE FY2019-2020 BUDGET
AMENDMENT NO. TWO

WHEREAS, the City Council of the City of Brevard previously approved the Annual Budget (Ordinance No. 2019-14); Budget Ordinance No. 1 (Ordinance No. 2019-XX) and

WHEREAS, it is necessary to make amendments to the budgets to reflect additional revenue, appropriation of fund balance, and expenditures for Fiscal Year 2019-2020.

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

SECTION 01) General Fund Revenue is hereby increased $136,032 from $10,993,425 to $11,129,457 as shown as follows:

Increased Sales Tax	$ 130,532
Transfer from Bjerg Trust Fund	$ 5,500
TOTAL REVENUES	$ 136,032

SECTION 02) General Fund Expenditures are hereby increased $136,032 from $10,993,425 to $11,129,457 as shown as follows:

Transfer to Pedestrian Path Fund	$ 130,532
Recreation: French Broad Community Center	$ 5,500
TOTAL EXPENDITURES	$ 136,032

SECTION 13) Bjerg Fund Revenues are hereby increased $5,500 from $1,000 to $6,500 as shown as follows:

Appropriation of Fund Balance	$ 5,500
TOTAL REVENUES	$ 5,500

SECTION 14) Bjerg Fund Expenditures are hereby increased $5,500 from $1,000 to $6,500 as shown as follows:

Transfer to General Fund	$ 5,500
TOTAL EXPENDITURES	$ 5,500

SECTION 23) Multi-Use Path Fund Revenues are hereby increased $130,532 from $887,702 to $1,018,234 as shown as follows:

Transfer from General Fund	$ 130,532
TOTAL REVENUES	$ 130,532

SECTION 24) Multi-Use Path Fund Expenditures are hereby increased $130,532 from $887,702 to $1,018,234 as shown as follows:

Railroad Avenue Project	$ 130,532
TOTAL EXPENDITURES	$ 130,532

SECTION 33) That Revenues and Expenditures Section 1 through Section 32 of the Ordinance Amendment have increased $272,064 from $24,720,505 to $24,992,569 as follows:

	Budget
General Fund	$ 11,129,457
Water & Sewer Utility Fund	$ 6,415,167
Utility Capital Projects Fund	$ 1,460,120
Capital Reserve Fund	$ 80,000
Fire District Fund	$ 1,471,468
Terrell L. Scruggs Scholarship Fund	$ 22,000
Bjerg Fund	$ 6,500
Other Post-Employment Benefits Fund	$ 30,000
Health Insurance Fund	$ 1,520,300
Heart of Brevard MSD Fund	$ 157,000
Housing Trust Fund	$ 2,820
Multi-use Paths Fund	$ 1,018,234
Wayfinding Project Fund	$ 7,702
911 Communications Fund	$ 56,972
Narcotics Task Force Fund	$ 59,100
Rosenwald Revitalization Fund	$ 800,000
Downtown Master Plan Fund	$ 755,729
TOTAL BUDGET APPROPRIATIONS	$ 24,992,569

Adopted and approved this 18th day of November 2019.

K-7. Parking Fees In Lieu.

K-8. Mary C. Jenkins Community Task Force Minutes-August 20, 2019.

K-9. Parks, Trails & Recreation Committee Minutes-August 21, 2019.

K-10. Council Finance & Human Resources Committee Minutes-September 12, 2019.

K-11. Mary C. Jenkins Community Task Force Minutes-September 17, 2019.

K-12. Tax Settlement Report for Month Ending October, 2019.

K-13. Resolution No. 2019-29 Approving Property Tax Releases October, 2019.

RESOLUTION 2019-29
A RESOLUTION APPROVING PROPERTY TAX RELEASES

WHEREAS, The City of Brevard has previously determined to collect property taxes for the City of Brevard and the Heart of Brevard and it is necessary to release the below shown amount from the city tax records.

BE IT NOW, THEREFORE, RESOLVED THAT: The Tax Collector is hereby authorized to remove October releases for property values from the tax scroll of the City of Brevard in the amount of:

$ 116.03

Adopted this the 18th day of November 2019.

K-14. Correspondence (No Action. Offered as information only.)

a. TCarts Gallery Walk-October, 2019.
b. October 2019 City-County Building Permit Activity Report.
c. City Council Organizational Meeting-Monday, December 2, 2019.

K-15. Deed of Correction-Lenze Real Estate and City of Brevard.

K-16 (M-1) Ordinance No. 2019-27 Proposed Amendments to UDO Chapter 15-Boards and Committees and Chapter 16-Administration.

ORDINANCE NO. 2019-27

AN ORDINANCE REINSTATING THE TECHNICAL REVIEW COMMITTEE (TRC)
UNIFIED DEVELOPMENT ORDINANCE
CHAPTER 15 BOARDS AND COMMISSIONS
CHAPTER 16 ADMINISTRATION

WHEREAS, a public hearing was conducted on November 18, 2019, to amend Unified Development Ordinance Chapter 15, Boards and Commissions, and Chapter 16, Administration; and

WHEREAS, the amendment was considered by the Brevard Planning Board at their October 21, 2019 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 sections:

ELEMENT 4: LIVABLE COMMUNITIES

POLICY 4.1.I: Evaluate the City of Brevard's current design review process to streamline procedures; clarify roles, responsibilities, and authorities of the various review boards; and improve the overall quality of new development.

and

WHEREAS, the City Council of the City of Brevard, after hearing all persons wishing to comment on the amendments, 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, the Unified Development Ordinance is hereby amended as described on the attached Exhibit A.

SECTION 2. 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. This Ordinance shall become effective upon its adoption and approval.

Adopted and approved upon first reading this the 18th day of November, 2019.

K-17. (M-3) Ordinance No. 2019-26 Official Zoning Map Amendment- Tannery & Silversteen Park.

ORDINANCE NO. 2019-26
AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP
OF THE CITY OF BREVARD TO REZONE SEVERAL PROPERTIES
IN THE VICINITY OF CARVER STREET AND CASHIERS VALLEY ROAD

WHEREAS, Brevard City Council requests that the Official Zoning Map of the City of Brevard be amended by rezoning certain real properties, from General Residential and Neighborhood Mixed Use to Institutional Campus, such properties are identified by the Property Identification Numbers 8585-39-1604-000; 8586-20-6574-000; 8585-38-1389-000; 8586-21-4208-000; 8586-21-5192-000, and which are hereafter referred to as the "Subject Properties" and,

WHEREAS, a public hearing was conducted November 18, 2019 in consideration of this rezoning request; and,

WHEREAS, the City of Brevard Planning Board considered REZ-19-007 on October 15, 2019 and unanimously recommended approval; and,

WHEREAS, in accordance with North Carolina General Statute 160A-382(b), Brevard City Council finds the following:

1) The proposed zoning map amendment is consistent with the following polices The Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is **consistent** with the following elements of the City's adopted plans and policies:

   2015 Comprehensive Plan, Livable Communities Element:
   OBJECTIVE 4.3: Creation of new opportunities for citizens and visitors to experience recreation and nature.

   POLICY 4.3.E: Develop Rosenwald Community Park on the old Transylvania Tannery property.

   POLICY 4.3.G: Create small parks within neighborhoods that provide all citizens opportunities to connect with and experience the natural world.

   The 2002 City of Brevard Land Use Plan, Future Land Use Map recommends use of two of these properties for Public/Semi-Public/Institutional.

2) The proposed zoning map amendment is **inconsistent** with the following elements of the City's 2002 Land Use Plan:

   The 2002 City of Brevard Land Use Plan, Future Land Use Map recommends use of three of these properties for Residential – Medium Density and Mixed Use – Neighborhood.

3) That the size of the tracts and the proposed uses are reasonable and appropriate within the context of the existing zoning districts and the prevalence of uses in the vicinity of the Subject Properties;

   and,

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

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

Section 1. The Official Zoning Map of the City of Brevard is hereby amended as described herein (Exhibit A).

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

Adopted and approved this the 18th day of November, 2019.

K-18 (M-4) Ordinance No. 2019-28 Proposed Moratorium on Electronic Sign Display.

ORDINANCE 2019-28

AN ORDINANCE ENACTING A MORATORIUM PROHIBITING APPROVAL OF APPLICATIONS FOR ELECTRONIC DISPLAY SIGNS FOR A PERIOD OF NOT MORE THAN SIX MONTHS

WHEREAS, City Council called for a public hearing to be held on November 18, 2019 to consider the enactment of a moratorium to prohibit approval of applications for electronic display signs, including LED flashing or moving signs, and signs with moving or changing text, for a period of not more than six months, to allow time for the Brevard Planning Board to review, study and recommend any changes to the existing Unified Development Ordinance regarding such signs, including but not limited to changes to Section 12.9.D of the Unified Development Ordinance, entitled, "Electronic Display Signs."

WHEREAS, the City's Planning Staff, responsible for the enforcement of Chapter 12 of the Unified Development Ordinance, has encountered repeated violations of this chapter which, in part, attempts to regulate electronic display signs but instead demonstrates an inadequacy of the ordinance at preventing moving graphics and images with changes alternating less than five-second intervals, and where the brightness of electronic display signs is also problematic and distracting to motorists, necessitating this moratorium. The alternative to a moratorium is to continue permitting new signs while preparing any necessary amendments, but given the potentially detrimental impact that any one sign could have upon the safety of motorists and the character of the community, Council has deemed this alternative to be unacceptable.

WHEREAS, this moratorium shall only include electronic display signs, as described in Sections 12.6.E and 12.9.D and those which are capable of displaying graphical images and scrolling or changing messages with various degrees of intensity to allow time for the Brevard Planning Board to review, study and recommend any changes to the existing Unified Development Ordinance with the expectation that City Council will enact an amendment to the Unified Development Ordinance appropriate for addressing electronic display signage in the City of Brevard by the expiration of this moratorium.

WHEREAS, the City has complied with the requirements of General Statutes Section 160A-364 regarding notice and hearing requirements.

WHEREAS, moving and flashing signs can create safety concerns by distracting drivers. Such signs have dramatically grown in numbers as a result of Fourth Circuit Court of Appeals decisions holding that there are First Amendment restrictions on the regulation of such signs because all such regulation must be "content neutral," and that regulating moving and flashing signs could almost never be "content neutral" if it is the moving or flashing that is being regulated. More recent Fourth Circuit decisions and a decision from the United States Supreme Court now make it appropriate for City Council to review this matter again, as these recent decisions have re-examined the meaning of "content neutral," and potentially allow City Council more leeway in regulating such moving and flashing signs from a standpoint designed to enhance the health, safety and general well-being of the public and to take appropriate actions with regard to safety concerns occurring as such signs distract drivers.

WHEREAS, alternative actions, such as undertaking a lengthy study of this matter which is necessary to appropriately examine alternatives and make legislative changes which must go through the Planning Director's office, the Planning Board, Public Hearing and then to Council for action, would allow the number of potentially unsafe signs to continue to expand and multiply, to the detriment of the public, without a moratorium on applications for such signs.

WHEREAS, from evidence at the public hearing, the City Council hereby finds that it is in the best interest of the City of Brevard and its residents that:

1. City Council hereby imposes a moratorium upon the permitting of any electronic display sign, which are described in the City of Brevard Unified Development Ordinance.

2. This moratorium shall prohibit approval of applications for electronic display signs as described in the City of Brevard Unified Development Ordinance, Chapter 12, Sections 12.6(E) and 12.9(D), and shall begin upon **November 18, 2019** and end upon **May 18, 2020**.

3. The moratorium ending **May 18, 2020**, is reasonably necessary so that Chapter 12 of the Unified Development Ordinance can be adequately and appropriately addressed by the Planning Board and by City Council.

4. During the period of the moratorium, the City Council instructs the City Manager and City Planning Director to assist the Planning Board in making a thorough but expeditious review of Chapter 12 of the Unified Development Ordinance and provide recommendations to City Council for further action by City Council.

NOW, THEREFORE, based upon the foregoing findings of fact, be it hereby ordained:

Section 1. A moratorium is hereby implemented, effective **November 18, 2019**, and continuing through **May 18, 2020**, during which moratorium period no new applications for electronic display signs as described in the City of Brevard Unified Development Ordinance, Chapter 12, Sections 12.6(E) and 12.9(D), shall be accepted for filing.

Section 2. During the moratorium period, the Planning Board and City Council shall expeditiously review Chapter 12 of the Unified Development Ordinance, with the expectation that City Council will have enacted an amendment to the Unified Development Ordinance for electronic display signage in the City of Brevard by the expiration of this moratorium.

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

Adopted and approved this the 18th day of November, 2019.

K-19 (M-5) Board and Committee Appointments. City Council reappointed Tad Fogel to the Board of Adjustment, term ending November, 2022, we well as reappointing Eric Edwards to the Brevard Housing Authority, term ending November, 2024.

L. Unfinished Business – None

M. New Business –

M-2. Ordinance-Official Zoning Map Amendment-Finkl.

Mayor Harris said he thought that it needs to happen by becoming part of the City through annexation to get sewer service. Mr. Morrow motioned, seconded by Mr. Daniel, City Council supports the motion and denies the request, which was the same recommendation by the Planning Board. Motion carried unanimously.

N. Remarks / Future Agenda Considerations

Mayor Harris thanked Charlie Landreth for being who he is.

Maureen Copelof said that it was an honor to host our local Girl Scout troop and thanked staff and the Mayor for coming. Those young women looked so good sitting in these seats and some day we might actually get that. I think it is important to make outreach to get input from younger people. Also, this past weekend, I made a trip to Athens, Tennessee because they have a program called Civic Saturday that increases civic involvement across their community. I have some ideas to look at how we can get our community involved in civic matters.

Gary Daniel thanked Charlie Landreth for his service and for the help he offered him.

Mac Morrow said to Charlie Landreth that it's been wonderful sitting next to you. I would also like to announce that the reality is when you look at our sales tax, when our September is equal to June that says something. It's wonderful.

Maurice Jones said to Charlie Landreth that it has been a privilege sitting next to you. You are a bright and intelligent individual. Thank you and I appreciate everything you've done and I wish you the best of luck.

Charlie Landreth said that since he was introduced as leaving during the October meeting, he doesn't have much left to say except that there are a lot of good things happening in this community. Thank you for this opportunity and I may try this again someday.

Attorney Michael Pratt said to Charlie Landreth that it has been a real pleasure and honor to serve with you on City Council.

Jim Fatland extended his thanks to Charlie and wished him the best and told him to feel free to give us a call with any questions or ideas that he may have.

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 property acquisition. City Attorney advised pursuant to **GS § 143-318.11. (a)(3)(5)** 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 9:04 p.m. Mr. Landreth moved, seconded by Mr. Morrow to enter into closed session to discuss a matter of property acquisition and clear Council

Chambers. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager Jim Fatland, City Clerk Jill Murray Public Works Director David Lutz, Planning Director Paul Ray and Planner Aaron Bland. (A two minute break was taken to allow Council Chambers to be cleared.)

Council Returned to Regular Session – At 9:44 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.

Closed Session #2 – At 9:45 p.m. Mr. Landreth moved, seconded by Mr. Jones, to enter into closed session to discuss a matter of property acquisition. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager Jim Fatland, City Clerk Jill Murray Public Works Director David Lutz, Planning Director Paul Ray and Planner Aaron Bland the City Manager.

Council Returned to Regular Session – At 9:47 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.

Closed Session #3 – At 9:47 p.m. Mr. Landreth moved, seconded by Mr. Jones, to enter into closed session to discuss a matter of property acquisition. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager Jim Fatland, City Clerk Jill Murray Public Works Director David Lutz, Planning Director Paul Ray and Planner Aaron Bland the City Manager.

Council Returned to Regular Session – At 9:53 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.

Closed Session #4 – At 9:53 p.m. Mr. Landreth moved, seconded by Mr. Jones, 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 Jim Fatland, City Clerk Jill Murray Public Works Director David Lutz, Planning Director Paul Ray and Planner Aaron Bland the City Manager.

Council Returned to Regular Session – At 10:00 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. Landreth moved, seconded by Mr. Daniel, the meeting be adjourned. Motion carried unanimously. Meeting adjourned at 10:00 p.m.

Jimmy Harris
Mayor

Jill Murray, CMC
City Clerk

Minutes Approved: January 21, 2020