

**MINUTES
BREVARD CITY COUNCIL
Regular Meeting
May 17, 2021 – 5:30 PM**

The Brevard City Council met in regular session on Monday, May 17, 2021, at 5:30 p.m. in the Multipurpose Chambers-County Administration Building with Mayor Jimmy Harris presiding. The meeting was held at the County as they have the technical equipment for us to stream our meeting live on their website, the City's website and Facebook. Due to COVID19 restrictions, we kept the amount of people at the meeting according to the Governor's orders.

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

Staff Present – City Attorney Mack McKeller, Finance Director and City Manager Jim Fatland, City Clerk Jill Murray, Assistant Finance Director Tom Whitlock, Planning Director Paul Ray, Assistant Planning Director Aaron Bland, Public Works Director David Lutz, Police Chief Phil Harris and Deputy Police Chief Tom Jordan.

Others: Alvin Fuller

Press – None

A. Welcome and Call to Order – Mayor Harris called the meeting to order, welcomed those present and introduced Council members, Attorney and City Clerk.

B. Invocation – Pastor Jeff Maynard of First Baptist Church of Brevard offered an invocation.

C. Pledge of Allegiance - Mayor Harris led the pledge of allegiance.

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

E. Approval of Agenda – Mr. Jones moved, seconded by Mr. Morrow to approve the agenda as presented. Motion carried unanimously.

F. Approval of Minutes – Ms. Copelof moved, seconded by Mr. Morrow, the May 17, 2021 Regular Meeting Minutes be approved as presented. Motion carried unanimously.

G. Certificates/Awards/Recognition -

G-1. Proclamation No. 2021-07 National Bike Month. Mayor Harris read this proclamation and presented it to Planning Director Paul Ray.

**PROCLAMATION NO. 2021-07
NATIONAL BIKE MONTH**

WHEREAS, the bicycle is an economical, healthy, convenient, viable, and environmentally sound form of transportation and an excellent form of recreation and enjoyment of Brevard and Transylvania County's scenic beauty; and

WHEREAS, millions of North Carolinians will experience the joys of bicycling during the month of May through educational programs, races, commuting events, trail work days, helmet promotion, charity events, or going for a recreational ride; and

WHEREAS, Brevard and Transylvania County trails and roads attract bicyclists each year from across the country and the world; and

WHEREAS, Brevard hosts several major cycling races and events, including the Assault on the Carolinas, the WNC Flyer, and the Pisgah Stage Race; and

WHEREAS, these bicycling activities and attractions have great potential to have a positive impact on Brevard's economy and tourism industry, as well as to stimulate economic development by making the city attractive to businesses and citizens who enjoy the out of doors and healthy lifestyles; and

WHEREAS, creating bicycle-friendly communities has been shown to improve citizens' health, well-being, and quality of life, to boost community spirit, to improve traffic safety, and to reduce pollution and congestion; and

WHEREAS, May has been declared National Bike Month since 1956 and is so again in 2021; and

WHEREAS, the League of American Bicyclists, bicycle clubs, schools, parks and recreation departments, police departments, hospitals, companies, and civic groups throughout North Carolina will be promoting bicycling as a leisure activity as well as an environmentally-friendly alternative to the automobile during the month of May 2021; and

WHEREAS, the education of bicyclists and motorists as to the proper and safe operation of bicycles is important to ensure the safety and comfort of all users; and

WHEREAS, the City of Brevard Comprehensive Plan includes several objectives and policies aimed at improving cycling as both a form of recreation and transportation.

NOW, THEREFORE, I, Mayor Jimmy Harris and the Brevard City Council do hereby proclaim and recognize the month of May 2021 as National Bike Month and Bicycle Safety Month.
Adopted and approved this the 17th day of May, 2021.

H. Public Hearing(s) –

H-1. Proposed Amendments to Unified Development Ordinance, Chapter 6-Environmental Protection.

Aaron Bland explained that Chapter 6 of the Unified Development Ordinance provides development standards related to environmental protections which include those related to surface water, steep slopes, erosion control and others. He explained that the proposed amendments provide a specific formula which can be applied to any property as to calculate the average existing grade for the purposes of delineating the protected 25% slope areas. The Planning Board met to consider steep slope amendments on February 20, 2018, October 16, 2018 and December 18, 2018. After discussion, the Board unanimously recommended approval of the amendments as presented here. Staff recommends Council increase the trigger elevation from 2,250 feet to 2,300 feet. Staff also suggests that Council carefully consider the table of allowed land disturbance for potential changes to the allowed disturbance percentages.

Ms. Copelof confirmed that there are a few things that are changing. The way we calculate (the formula) and right now 25% is the cutoff, and now it's 50%, and I am concerned that we're basically doubling before the prohibition goes into effect.

Mr. Daniel said he understands the issue and needing a calculation, but I would like to think about it more.

Public Hearing Participation – None

Public Hearing Recessed – There being no further questions or comments, Mayor Harris recessed the public hearing at 6:21 p.m. for 24 hours to allow for public comment.

I. Public Participation –

Aaron Baker spoke about the multi-use path and said he recently attended a Parks, Trails & Recreation meeting and thanked the City Manager for recognizing using stimulus money for the multi-use path. First, June 30, 2021 was the date set by this Council for the entire path to be complete. We aren't going to meet that goal but it was a great goal to set. It is a proven amenity for all. The million dollars should be a huge step forward but I would like to have Council set another goal, a new date, and work towards it. Secondly, find some ongoing local funding in your budget. Grants are great but not reliable. Let's get some substantial funding on an annual basis. Third, make constant progress. Not everything can happen at once but there are easy ones out there. Gallimore Road section is still used by many. These new sections show the City making progress. Let's build momentum and Jim, I am excited of the day when our kids can ride safely to school.

Larry Chapman spoke on behalf of the Veteran's History Museum and said they are having a celebration on May 29th at 10:00am at the courthouse on Memorial Weekend. He said they will not be pursuing closing down the road but the Fire Chief

will try to help us out. I am leaving an agenda with your Clerk for her to share with you all. The county honor guard will be there and Colonel Rodriguez. I think it'll be a good day.

J. Special Presentation(s) –

J-1. C.A.R.E. Coalition of Transylvania County, Kristen Gentry.

Kristen Gentry, Jim Hardy, Anna Windham and Teresa Radford each spoke about the work that the C.A.R.E. Coalition is doing to improve the lives of everyone in Transylvania County with regards to Substance Abuse Disorder (SUD). C.A.R.E. is a coalition of community members tackling substance misuse through a collaborative and multi-faceted approach from prevention through recovery. C.A.R.E. consists of 3 staff, 50 coalition members and 20 community partners supported by Transylvania Public Health. Council was impressed with all that C.A.R.E. has accomplished and intends to accomplish.

J-2. Gallimore Road Rehab Project-Sewer System Overflows.

Mr. Fatland explained that over 10 years ago, the City of Brevard began the planning process to address sewer system overflows (SSO's). The study provided data and recommendations to upgrade basin infrastructure which was presented at a City Council retreat. Brevard receives more rainfall than any other county in North Carolina. That, coupled with aging infrastructure, required a significant public investment to address the sewer system overflows. When a sewer system overflow event occurs, the City notifies the NCDEQ and documentation of the SSOs has enabled the City of Brevard to obtain grants, no interest and low interest loans from the State Revolving Loan Program. The Gallimore Road Sewer Rehab Project is awaiting NCDEQ approval to proceed with construction advertising. A Resolution for Special Order of Consent is presented to City Council for consideration which will authorize the City Manager to submit an application to NCDEQ to not impose fines for SSOs during the construction of the Gallimore Road Sewer Rehab Project. The Gallimore Road Sewer Rehab Project will be funded in the Utilities Capital Projects Fund. NCDEQ provided a \$500,000 grant and a no interest loan for \$1,734,845 or \$86,742 per year. Loan repayment would commence in the fiscal year following completion of the project. Mr. Jones moved, seconded by Mr. Morrow to authorize advertisement for construction bids for Gallimore Road Sewer Rehab Project subject to approval from NCDEQ, approve Gallimore Road Sewer Rehab Project Budget Ordinance and approve the Resolution for Special Order of Consent. Motion carried unanimously.

**ORDINANCE NO: 2021-18
AN ORDINANCE ESTABLISHING A PROJECT BUDGET
FOR GALLIMORE ROAD SEWER REHAB PROJECT**

WHEREAS, in accordance with the applicable provisions of the North Carolina Local Government Budget and Control Act NCGS 159-13.2; and

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

WHEREAS, the City of Brevard's grant/loan application has been approved in the amount of \$2,234,845 towards "The Project"; and

WHEREAS, the City of Brevard desires to accept the grant/loan under the conditions stipulated by NCDEQ and complete the project, including providing local funds required meeting the overall project cost.

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

Section 1. Projected Expenditures for this project are budgeted in the Water and Sewer Utility Capital Projects Fund as follows:

Revenue	
NCDEQ Loan (no interest/20 years)	\$1,734,845

NCDEQ Grant	\$500,000
Local Cost	<u>\$34,700</u>
Total Revenue	\$2,269,545

Expenditures

Design & Construction Expenditure	\$2,234,845
Loan Origination Fee	<u>\$34,700</u>
Total Expenditures	\$2,269,545

Section 2. The City Manager is hereby authorized to engage and enter into contractual agreements with the NCDEQ for the execution of the grant/loan.

Section 3. The City Manager is hereby authorized to engage and enter into contractual agreements as necessary, and in accordance with the laws of North Carolina for the execution of the project.

Section 4. This Project Budget Ordinance shall become effective upon its adoption and approval.

Approved and adopted this 17th day of May, 2021.

RESOLUTION NO. 2021-20

RESOLUTION FOR A SPECIAL ORDER BY CONSENT (SOC)

WHEREAS, the City of Brevard has a permit to discharge treated wastewater to French Broad River, classified B waters of this State in the French Broad River Basin; and

WHEREAS, this discharge is allowed under NPDES Permit Number NC0060534 effective May 1, 2017, and scheduled to expire on September 30, 2021 and

WHEREAS, the City of Brevard intends to complete the collection system rehabilitation project called “Gallimore Road Sewer Basin Rehabilitation” which consist of the rehabilitation and/or replacement of approximately 10,500 linear feet of 8” and 12” gravity sewer mains and 50 manholes in an effort to reduce inflow/infiltration into the collection system; and

WHEREAS, the City of Brevard agrees to maintain and operate the wastewater treatment system at its maximum level of efficiency during the interim period of the Special Order by Consent and thereafter; and

WHEREAS, the City of Brevard has secured funding for necessary collection system plant improvements through CWSRF and other cash reserves; and

WHEREAS, the City of Brevard hereby authorizes Jim Fatland, City Manager, to have the authority to **sign** and **execute** the Special Order by Consent on behalf of the City of Brevard; and

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT the City of Brevard hereby requests a Special Order by Consent from the Environmental Management Commission, and further authorizes Jim Fatland, City Manager, to **sign** and **execute** this document on behalf of the City of Brevard.

This Resolution shall become effective upon its adoption and approval.
Adopted and approved this 17th day of May, 2021

J-3. City Manager’s FY2021-2022 Budget Message and Presentation.

Mr. Fatland said the cover of our budget says it all, the white squirrel with a mask on. It’s symbolic of all of the first responders and hospital workers and all the things they had to deal with this past year. Last year we adopted a lean budget, but despite the setback, our committees still met and a lot of things did move forward. We opened two skate parks, both the Tannery and Brevard Skate Park, we broke ground on a dog park which is getting close to being complete, Silversteen Playground, the basketball court, and we extended the Estatoe Trail. Also we rolled the dice, so to speak, on two projects. One was the Burrell Mountain finish water tank and the other was the Kings Creek waterline upgrade. The total project cost was four million dollars and we submitted it to Raleigh and we got three million dollars back in grants (75%) and 25% in no interest loans. We are required to submit the budget to you on or before June 1st and we will get to discuss the budget in full at our June 7th work session and on the 14th, if necessary, and then we will have a public hearing on June 21st.

Mr. Fatland added that each of the Council Committees continued to meet during COVID and many projects still got done.

Public Safety Committee: There will be a general fund appropriation for the fire department, a one cent tax increase. They will replace the 1997 service truck at an estimated cost of \$675,000 with a ten year loan; replace 2000 brush truck at an estimated cost of \$120,000, paying cash and in the FY23 budget, replace the 1995 engine.

Parks, Trails & Recreation Committee: \$1,000,000 to the Estatoe Trail (Depot to the MCJCC and Silversteen Park); \$1,000,000 to Railroad Avenue Vehicle Bridge Construction; \$10,000 to Community Garden at Tannery Park.

Downtown Master Plan Committee: \$191,000 to Design and Construction-UDOT Streetscape Application (RAISE); Streetscape Improvements; Beautification/Maintenance Priorities; \$350,000 to Clemson Plaza.

Public Works & Utilities Committee: Establish Sanitation Department Enterprise Fund. Proposed FY22 Budget- \$1,000,790; Garbage, Recycling & Brush Pick-\$300 per month increase in garbage rates for residential & commercial customers.

Finance & Human Resources Committee: Establish special revenue fund for American Rescue Plan Funds; Employee Wellness Plan-Up to \$30 per month for fitness/gym membership; Salary Adjustments-2.5% COLA; 1.5% merit pay; Up to 1% employer match for 401K Retirement Plan.

Mr. Whitlock said that the 2021-2022 proposed annual budget is \$35,265.362. That budget breaks down to \$26 million in revenue, \$6 million transferred from other funds and \$1.8 million in fund balance appropriations. On the expenditure side of the budget, the money is the same \$35,265,362. General Fund Revenue is \$9,887,900 and General Fund Expenditures is \$9,887,900 The General Fund Tax Rate for FY21 was \$0.5100 and the proposed FY22 is \$0.4500. The Heart of Brevard Tax Rate for FY21 was \$0.2250 and the proposed FY22 is \$0.213. In the sanitation fund a proposed \$3.00 monthly increase for residents and commercial garbage and the proposed rate increase on the utility fund is 4.0%.

Mr. Fatland thanked the department heads and especially Tom Whitlock for all of his work on the budget.

K. Consent 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 any other items for discussion or add items to the consent agenda. Mr. Daniels asked that item K-7 be removed for discussion, seconded by Mr. Jones to accept the consent items as amended.

K-1. Financial Report for month ending April, 2021.

K-2. Tax Settlement Report for month ending April, 2021.

K-3. Audit Contract for Year Ending June 30, 2021.

K-4. Ordinance No. 2021-19 Amending the FY2020-2021 Budget Amendment No. Six.

**ORDINANCE NO. 2021-19
AN ORDINANCE AMENDING THE FY2020-2021 BUDGET
AMENDMENT NO. SIX**

WHEREAS, the City Council of the City of Brevard previously approved the Annual Budget (Ordinance No. 2020-09); Budget Ordinance Amendment No. 1 (Ordinance No.2020-14); Budget Ordinance Amendment No. 2 (Ordinance No. 2020-19); Budget Ordinance Amendment No. 3 (Ordinance No. 2020-28); Budget Ordinance Amendment No. 4 (Ordinance No. 2020-30); Budget Ordinance Amendment No. 5 (Ordinance No. 2021-12); and

WHEREAS, it is necessary to make amendments to the budgets to reflect additional revenue and expenditures for Fiscal Year 2020-21.

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

SECTION 1) General Fund Revenue is hereby increased \$1,408,458 from \$10,320,229 to \$11,728,687 as shown as follows.

Additional Property Tax Revenue	\$40,000
Additional Sales Tax Revenue	\$100,000
Sale of Fixed Assets	\$1,190,958
Fund Balance Appropriated	\$77,500
TOTAL REVENUES	\$1,408,458

SECTION 2) General Fund Expenditures are hereby increased \$1,408,458 from \$10,320,229 to \$11,728,687 as shown as follows.

Finance Department	\$30,000
Legal Department	\$15,000
Planning Department	\$50,000
Building & Grounds	\$26,000
Public Works Administration	\$6,500
Public Works Sanitation	\$62,500
Public Works Recreation	\$27,500
Transfer to Parking Fund	\$613,458
Increase in Fund Balance	\$577,500
TOTAL EXPENDITURES	\$1,408,458

SECTION 5) Utility Capital Projects Fund Revenue is hereby increased \$6,179,813 from \$685,000 to \$6,864,813 as shown as follows.

Grant / Loan: Gallimore Road Sewer Basin	\$2,234,845
Grant / Loan: Burrell Mtn. Water Tank	\$2,858,050
Grant / Loan: King Street Water Line	\$1,086,918
TOTAL REVENUES	\$6,179,813

SECTION 6) Utility Capital Projects Fund Expenditures are hereby increased \$6,179,813 from \$685,000 to \$6,864,813 as shown as follows.

Gallimore Road Sewer Basin Project	\$2,234,845
Burrell Mtn. Water Tank Project	\$2,858,050
King Street Water Line Project	\$1,086,918
TOTAL EXPENDITURES	\$6,179,813

SECTION 9) Fire District Fund Revenue is hereby increased \$24,000 from \$1,499,021 to \$1,523,021 as shown as follows.

Fund Balance Appropriated	\$24,000
TOTAL REVENUES	\$24,000

SECTION 10) Fire District Fund Expenditures are hereby increased \$24,000 from \$1,499,021 to \$1,523,021 as shown as follows.

Maintenance & Repair Buildings	\$24,000
TOTAL EXPENDITURES	\$24,000

SECTION 11) Terrell Scruggs Scholarship Fund Revenue is hereby remains unchanged.

Donations	-\$20,275
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Fund Balance Appropriated	\$20,275
TOTAL REVENUES	\$ -

SECTION 12) Terrell Scruggs Scholarship Fund Expenditures are hereby remains unchanged.

Expenditures	\$ -
TOTAL EXPENDITURES	\$ -

SECTION 23) Multi-Use Path Fund Revenue is hereby increased \$2,310 from \$634,475 to \$636,785 as shown as follows.

Dog Park Donations	\$2,310
TOTAL REVENUES	\$2,310

SECTION 24) Multi-Use Path Fund Expenditures are hereby increased \$2,310 from \$634,475 to \$636,785 as shown as follows.

Dog Park Project	\$2,310
TOTAL EXPENDITURES	\$2,310

SECTION 29) Rosenwald Revitalization Fund Revenue is hereby increased \$10,017 from \$432,978 to \$442,995 as shown as follows.

Silversteen Playground Donations	\$6,282
Mary C. Jenkins Donations	\$3,735
TOTAL REVENUES	\$10,017

SECTION 30) Rosenwald Revitalization Fund Expenditures are hereby increased \$10,017 from \$432,978 to \$442,995 as shown as follows.

Silversteen Memorial Playground	\$6,282
Mary C. Jenkins Community Center	\$3,735
TOTAL EXPENDITURES	\$10,017

SECTION 31) Downtown Master Plan Fund Revenue is hereby increased \$9,000 from \$2,632,583 to \$2,641,583 as shown as follows.

Grant Funding (TDA)	\$9,000
TOTAL REVENUE	\$9,000

SECTION 32) Downtown Master Plan Fund Expenditures are hereby increased \$9,000 from \$2,632,583 to \$2,641,583 as shown as follows.

Design & Construction	\$9,000
TOTAL EXPENDITURES	\$9,000

SECTION 31 A.) Parking Fund Revenue is herby increased \$613,458 from \$161,824 to 775,282 as shown as follows.

Transfer From General Fund	\$613,458
TOTAL REVENUE	\$613,458

SECTION 31 B.) Parking Fund Expenditures are hereby increased \$613,458 from 161,824 to \$775,282 as shown as follows.

Expenditures	\$613,458
TOTAL EXPENDITURES	\$613,458

SECTION 33) That Revenues and Expenditures Section 1 through Section 32 of the Ordinance Amendment have increased \$8,247,056 from \$24,221,376 to \$32,468,432 as follows:

	Budget
General Fund	\$ 11,728,687
Water & Sewer Utility Fund	\$ 5,826,307
Utility Capital Projects Fund	\$ 6,864,813
Capital Reserve Fund	\$ 205,000
Fire District Fund	\$ 1,523,021
Terrell L. Scruggs Scholarship Fund	\$ 22,000
Bjerg Fund	\$ 100
Other Post-Employment Benefits Fund	\$ -
Health Insurance Fund	\$ 1,573,850
Heart of Brevard MSD Fund	\$ 158,499
Housing Trust Fund	\$ 2,610
Multi-use Paths Fund	\$ 636,785
911 Communications Fund	\$ 56,900
Narcotics Task Force Fund	\$ 10,000
Rosenwald Revitalization Fund	\$ 442,995
Downtown Master Plan Fund	\$ 2,641,583
Parking Fund	\$ 775,282
TOTAL BUDGET APPROPRIATIONS	\$ 32,468,432

Adopted and approved this 17th day of May 2021.

K-5. Resolution No. 2021-17 Directing the City Clerk to Investigate the Sufficiency of a Petition for Annexation-Ronald White.

RESOLUTION NO. 2021-17

A RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE THE SUFFICIENCY OF A PETITION FOR AN ANNEXATION PURSUANT TO NCGS 160A-31, AS AMENDED

WHEREAS, a petition was received on April 16, 2021, requesting the annexation of a contiguous area described in said Petition as the Ronald White property located in Brevard, NC 28712, the street address of which has not yet been assigned, consisting of 0.337 of an acre, be annexed into the City of Brevard. (Tax Property Identification Number: 8586-65-2129);

Metes and Bounds Property Description:

Any and all of that certain piece, parcel or lot of land, together with any and all improvements located thereon, lying and being situate in the State of North Carolina, County of Transylvania, being all of Lot 1 of the subdivision of the S.F. Allison Tract as shown and described on a plat thereof prepared by Carolina Mountain Surveying, Firm License Number #F-1205, dated July 31, 2020 and recorded in Plat Book 20, Page 254, records of the Register of Deeds Office for Transylvania County, North Carolina, reference to which plat is hereby invited for a more complete and accurate description of the subject real property.

This is the identical property conveyed unto Jim M. Burgess and Sherri L. Burgess by Deed of Wesley Community Development Corporation recorded December 4th, 2015 in Document Book 748 at Page 479 records of the Register of Deeds Office for Transylvania County, North Carolina.

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

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

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

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

Section 1. The City Clerk is hereby directed to investigate the sufficiency of the above

described Petition and to certify as soon as possible to the City Council the result of her investigation.

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

and approved this the 17th day of May, 2021.

K-6. Resolution No. 2021-XX – Directing the City Clerk to Investigate the Sufficiency of a Petition for an Annexation-Joshua Guara. This Resolution passed but after further investigation, it was determined that this is a non-contiguous annexation and we need to redo this resolution which will be on the June 21st agenda.

**A RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE
THE SUFFICIENCY OF A PETITION FOR AN ANNEXATION PURSUANT TO NCGS
160A-31, AS AMENDED**

WHEREAS, a petition was received on May 6, 2021, requesting the annexation of a contiguous area described in said Petition as the Joshua Guara, 367 Hendersonville Highway, property located in Pisgah Forest, NC 28768, consisting of .849 acres, more or less, be annexed into the City of Brevard. (Tax Property Identification Number: 8597-64-5558);

Metes and Bounds Property Description:

Being all of that tract and described as containing .849 acres, more or less, as shown on plat of survey prepared by Kevin D. Goldsmith, PLS, dated November 12, 2020, as recorded in Plat File 21, Page 2, Transylvania County Register of Deeds to which plat reference is made for a complete description of the subject real property.

Conveyed herewith is the right to use water from the spring located on Crane property near the intersection of Highway 64 and Deavor Road, subject to the obligation to pay a proportionate share of operation, maintenance, and repair expenses.

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

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

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

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

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

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

and approved this the 17th day of May, 2021.

K-8. Ordinance No. 2021-21 Amending the Unified Development Ordinance Final Master Plan.

**ORDINANCE NO. 2021-21
AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE,
FINAL MASTER PLAN**

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended that the Unified Development Ordinance be amended to comply with N.C.G.S. Chapter 160D; 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

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

POLICY 4.1.1: 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, a legislative public hearing was conducted on Monday, May 15, 2021, by Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that the Code of Ordinances and Unified Development Ordinance be amended as outlined below.

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

SECTION 01. The Unified Development Ordinance is hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 03. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 04. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.
Adopted and approved this the 17th day of May, 2021.

- K-9. Council Public Safety Committee Minutes-October 8, 2020.**
- K-10. Council Public Works & Utilities Committee Minutes-October 13, 2020.**
- K-11. Mary C. Jenkins Community Center Task Force Minutes-November 17, 2020.**
- K-12. Council Finance and Human Resources Committee Minutes-December 14, 2020.**
- K-13. Council Parks, Trails and Recreation Committee Minutes-March 17, 2021.**
- K-14. Council Downtown Master Plan Committee Minutes-April 1, 2021.**
- K-15. Council Downtown Master Plan Committee Minutes-April 15, 2021.**
- K-16. Correspondence (No Action. Offered as information only.)**
 - a. Transylvania County Building Permit Activity, April, 2021.
- L. Unfinished Business -**
- M. New Business –**
- M-1. Ordinance No. 2021-22 Amending the Unified Development Ordinance Chapter 6 Environmental Protection. This item stayed open for 24 hours for public comment and then Council will make their decision on it during their June 7, 2021 Council Budget Work Session.**

ORDINANCE NO. 2021-22

**AN ORDINANCE AMENDING THE
UNIFIED DEVELOPMENT ORDINANCE
CHAPTER 6: ENVIRONMENTAL PROTECTION**

WHEREAS, a public hearing was conducted on May 17, 2021, to amend Unified Development Ordinance Chapter 6 Environmental Protection; and

WHEREAS, the amendment was considered by the Brevard Planning Board during its February 20, 2018, October 16, 2018 and December 18, 2018 meetings 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 3: ENVIRONMENTAL HEALTH

GOALS

Through appropriate conservation and preservation measures that protect the health and sustainability of the environment and our abundant natural resources, Brevard will:

- *Successfully preserve our woods and water for future generations*
- *Promote our world-class natural resources as an asset*
- *Prevent development in environmentally sensitive and critical areas*
- *Preserve farmland*

OBJECTIVE 3.1: *Preservation of surrounding natural assets of mountains, farmlands, woods, and water for future generations.*

POLICY 3.1.A: *Continue using land development regulations and incentives to steer future development away from environmentally sensitive areas such as steep slopes and floodplains.*

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 160D-601, as amended and Brevard City Code, the Unified Development Ordinance is hereby amended as described in 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 this the 7th day of June, 2021.

M-2. Resolution No. 2021-18 Establishing the “Local Fiscal Recovery Fund” and Authorizing the Director of Finance to Accept All Funds Received Under the American Rescue Plan and Deposit Them In Said Fund. Mr. Daniel moved, seconded by Ms. Copelof to approve the resolution as presented. Motion carried unanimously.

RESOLUTION NO. 2021-18

RESOLUTION ESTABLISHING THE “LOCAL FISCAL RECOVERY FUND” AND AUTHORIZING THE DIRECTOR OF FINANCE TO ACCEPT ALL FUNDS RECEIVED UNDER THE AMERICAN RESCUE PLAN AND DEPOSIT THEM IN SAID FUND

WHEREAS, the American Rescue Plan Act (Public Law No. 117-2) was signed into law by the President of the United States on March 11, 2021; and

WHEREAS, it is estimated that the City of Brevard will receive \$2,319,450.27 in American Rescue Plan Act funding; and

WHEREAS, it is in the interest of the public health, safety, morals, and general welfare of the citizens of the City of Brevard that the City be prepared to accept American Rescue Plan Act funding.

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

Section 1. That the “Local Fiscal Recovery Fund” shall be and is hereby established.

Section 2. That the Director of Finance be authorized to accept all funds received under the American Rescue Plan Act and to deposit them in the Local Fiscal Recovery Fund.

Section 3. That the City of Brevard affirm that said funds received under the American Rescue Plan Act will be expended only in the manner prescribed by and consistent with said Act and any applicable guidelines.

Section 4. That this Resolution shall become effective upon its adoption and approval.

Approved and adopted this 17th day of May, 2021.

M-3. Resolution No. 2021-19 Authorizing an Exchange of City Owned Property for Stormwater Infrastructure and Easement on Colwell Drive. Mr. Morrow moved, seconded by Mr. Daniel to approve the resolution as presented. Motion carried unanimously.

RESOLUTION NO. 2021-19

A RESOLUTION AUTHORIZING AN EXCHANGE OF CITY OWNED PROPERTY FOR STORMWATER INFRASTRUCTURE AND EASEMENT ON COLWELL DRIVE

WHEREAS, the City of Brevard has long valued nurturing relationships with public, private, and nonprofit organizations to work effectively in partnership to achieve the City's goals for protecting the natural environment and sensitive natural areas; and

WHEREAS, the City's 2015 Comprehensive Land Use Plan identifies seeking out and developing innovative solutions to protect water quality while reducing the cost of stormwater management to private developers; and

WHEREAS, the City Council has recognized an urgent need to improve and increase stormwater infrastructure on a public street within its corporate limits; and the optimal way of achieving this objective on Colwell Drive is to accept the dedication of privately owned infrastructure and easement in exchange for land owned by the City; and

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

SECTION 1. As per North Carolina General Statutes 160A-271, this matter has been properly advertised by the City Clerk for ten days and herein lies full and fair consideration for the exchange of City owned property.

SECTION 2. The City owned property is approximately .07-acre of vacant land located on Colwell Drive, identified as Parcel Identification Number 8585-38-5547-000, recorded in Book 242, Page 158 and has a tax value of \$30,000.

SECTION 3. The Stormwater Infrastructure and Easement is approximately 1,400 square feet, is located at 60 Colwell Drive between Colwell Drive and Aiken Street, identified as Parcel Identification Number 8585-38-5621-000, recorded in Book 100, Page 180, has similar intrinsic value and shall be dedicated to the City.

SECTION 4. The City Manager, or his designee, is hereby authorized to negotiate the exchange of said property for stormwater infrastructure and easement.

Adopted and approved upon first reading this the 17th day of May, 2021.

M-4. Contract Award for Mary C. Jenkins Community Center. Mr. Jones moved, seconded by Ms. Dinkins to approve the contract, budget ordinance and authorize staff to obtain financing. Motion carried unanimously.

M-5. Board and Committee Appointment(s). Mr. Daniel moved, seconded by Ms. Copelof to approve the reappointment of Matt Christian the appointment of Tim Robinson to the Council Parks, Trails and Recreation Committee. Motion carried unanimously.

M-6. (K-7) Ordinance No. 2021-20 Amending the Code of Ordinance Chapter 77. Mr. Daniel said he couldn't find how you went about getting the permit and who give it to you. Mr. Ray explained that the Planning Department would issue the permit and it would go under special event temporary use. Mr.

**Daniel moved, Mr. Jones seconded, to approve the ordinance as presented.
Motion carried unanimously.**

ORDINANCE NO. 2021-20

**AN ORDINANCE AMENDING THE CODE OF ORDINANCE
CHAPTER 77**

WHEREAS, the Planning Department Staff has recommended that Brevard City Code of Ordinance, Chapter 77, Article I, Bracken Preserve Management Rules be amended to clarify requirements for permits; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is generally consistent with the City of Brevard Comprehensive Plan; and,

WHEREAS, a legislative public hearing was conducted on Monday, March 15, 2021, by Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Brevard City Code of Ordinance be amended as outlined below.

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

SECTION 01. Brevard City Code of Ordinance, Chapter 77, is hereby amended to amend Article I, as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 03. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 04. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved this the 17th day of May, 2021.

N. Remarks/Future Agenda Considerations –

Mayor Harris thanked all of the county commissioners and Jaime Laughter for use of their facility.

Mr. Morrow said in my role as chair of the Parks, Trails and Recreation Committee I'd like to bring you up to date with what is going on with ALTA. ALTA did a three year study with North Carolina State and North Carolina DOT a few years ago looking at the economics of three trails in North Carolina and our Estatoe Trail was one of them. We are fortunate that Heather Seagle is on that group and we received a grant for ALTA to redo and look at our pedestrian and bike plan. So we had our first steering committee meeting last week and there were 15 people there and on the Zoom meeting and I don't think that I ever realized how many people it takes to really do a plan. Not only do you have consultants, our own staff but we have our own committee and we had the best and brightest from DOT. So there were 15 people on this two hour meeting. It covered everything you can think of when you think about how we make our pathways better for safety, for accessibility and for connectivity. They took the 2018 map and it's got stickers all over it to talk about issues that came up so I'd like to give you a little bit of background of what we did. We envision using the infrastructure to tell the story about why people come here and how it all works. The industry really began when Toxaway was built in 1902. The National Forest came in 1916 and we had summer camps coming by 1919, so in the early part of the century, we were already on the map. Then we got the industries for paper products and silicone processing, industries that are no longer here. Forty years ago, we were recognized as the best place in the country to retire by Forbes magazine. What followed was Toxaway, Sapphire, Connetsee retirement destinations. The City didn't really get going on its bike infrastructure until 2003 but we already had the Art Loeb Trail, we had the biggest bear

sanctuary in eastern America and we had the best trout streams in eastern America. We inherited this but we didn't get downtown to the Pisgah National Forest until 2006. We inherited 100 of miles of trails that thanks to Louis Carr, Carr Lumber Co. Railroads were left perfect in the forest for biking. We discovered then what our sense of place was and it became so important, we wanted to make sure we preserved it. We adopted our woods and water, our complete streets, how we redo our landscape and comprehensive plan. All of the sudden we were discovered and we knew this is the best place to come and the best place to raise an outdoor child. Now you see porches and bike racks everywhere. We also thankfully have Bracken, Pisgah and DuPont. Now we have a project like the Ecusta Trail. So, with this background, you can imagine what we were talking about. Bikability and walkability is absolutely at the top. Aaron Bland is our lead guy on staff and he kept us straight. Some of the projects that we identified were both for on-road and off-road and road merch projects. We identified opportunities to connect and addressed safety. The challenges for us are, we talked about how to cross 64, how to complete easements that are out there, where is the money coming from, how we connect to the river etc. These were strategic outcomes that we really wanted to collectively come up with a solution for. It's a total relook at the 2018 pedestrian bike plan. We'd like to complete the Bracken Master Plan and we'd like to further develop the single track project. We'd like to develop Kings Creek Corridor from Deer Track to Neely Road. We are still concerned about P5800, pedestrian and bike amenities. We also know that Wilson Road Pedestrian and Bike Amenities are coming, both funded by NCDOT and we're so excited about the Ecusta Trail. So there's a lot going on and by the end of the meeting, that map was covered in sticky notes. There is a lot going on with bike conversations. This is a year process and there will be two public hearings, so we are moving forward. I hope that Aaron Baker will read about this and attend public meetings or input meetings or stay tuned about what's going on with this steering committee.

Mr. Jones said he is thankful that, we as a municipality, what we were able to accomplish and I am happy with everything that is going on in the Rosenwald Community, especially considering COVID. I'm hoping that Council would be willing to approve a resolution recognizing Juneteenth (the combination of June and 19th) known as African American Emancipation Day. Mr. Fatland said that we can consider it at our June 7th Council Budget Work Session.

Ms. Dinkins said that she would like to talk about the bike path and where it is. The news that I have is that there is a citizen steering committee that is forming as we speak that will work off of the 2018 plan, and has the question of what happened to the plan. The plan is a good plan and it should have gotten done and is not done and now we will work on exerting pressure, and if needed, public outreach to keep this on the forefront. What I'm hearing is that we have money and we're going to study the plan again that everybody that looks at it and says it's a good plan. I ran it this morning, it's a perfect trail we just need to get it done. I'm excited about all of the things it can do. If we have places for youth to move throughout our City, it may help with substance abuse. It's a clear priority and I am challenging this Council to not consider any new projects. I don't think we need to consider the community garden in the upcoming budget. We have a dog park in last year's budget that needs to be finished and we should once and for all focus on the bike trail. Phasing has worked for a little while but we have always been losing the momentum and my kid will never be going to school on the bike path at this rate even though we said we would connect the schools. I would like for us to get in high gear. I would like it completed by 2024 when my term is up, not phases of it, but the entire thing completed. I would like us to find a sustainable funding source for it as well. I would urge our staff to use the steering committee that I'm talking about because I'm getting some reports of ham-fistedness going on with easements and would like to make sure that we don't try to move the path along at the pace that takes lawsuits and threats to happen and to get volleyed back and forth. I think it can be done as a win-win and I think that we know that as soon as we finish the section around Keir, the whole Depot made a whole lot more sense than it did before.

Mr. Daniel said he'd like to repeat how happy he is to see the Mary C. Jenkins Community Center coming about and I look forward to that moment when it is

complete. When I drove by Aldi, I was surprised to see the parking lot in front of the building. I asked Paul and he said City Council changed that. I'm curious as to why we changed that. Jimmy said that science shows that people don't feel safe parking in the back of a building. Mr. Daniel moved, seconded by Mr. Copelof, to suggest changing that ordinance back to what it was originally and see that on the agenda. I would request to revisit that. Motion carried unanimously. Mr. Ray said that it will have to go before the Planning Board first, so it will probably be September before it gets before Council again.

Ms. Copelof gave an update on HCA and said we have heard back from the Attorney General's Office and said they are closely monitoring the concerns and they set up a meeting with me and the Assistant Attorney General and we had a good discussion. We talked about the construct in rural North Carolina and lack of metrics we have available and how important it's going to be to work with Transylvania Regional Hospital in terms of quality of care and accessibility to care. I was pleased to hear from Ms. Walters that she was very interested in the discussion of metrics because it was something they were already looking at and which would be most helpful in communities and I urged the Attorney General's Office to please get those metrics. I think they will have much more luck in getting the metrics. He encourages our residents to email his office if they have experiences to share with him at ncdoj.gov to reach him. It's still a live issue. I am trying to find a way that we can continue to have alcohol sales on sidewalks. We've got the brick entrance way to the dog park done. The pictures of the bricks are all over Facebook and I want to point out that you can still buy bricks. Public Works did an incredible job on the entrance way. We are hoping that we can open the park at the end of July or early August and we have to asphalt the entrance from the bike path to the entrance to the park but it's moving along incredibly well and we are also selling memorial trees. We're going to be planting a number of young trees and you can sponsor a memorial tree and you can go to the dog park website. I have seven trees remaining if you want one. The community group has done a great job on the Tannery landscaping project. We having our final workday this Saturday at 9:30 at no cost to the City. We will be weeding and planting. We had our first meeting of our Community Garden team. There is a lot of community interest in this and we're trying to define how we want this to work and we'll be doing a survey. Anyone interested is welcome to join this community city task force. We're hoping in the fall we'll be able to get this going. We had a great brainstorming session. We are really concentrating on sprucing up downtown and I want to say thank you to our Finance Department and City Manager for the budget presentation.

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 pending 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.

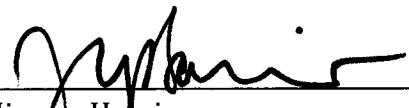
Closed Session #1 - At 9:06 p.m. Mr. Jones moved, seconded by Mr. Morrow to enter into closed session to discuss pending litigation and clear Council Chambers. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager and City Clerk.

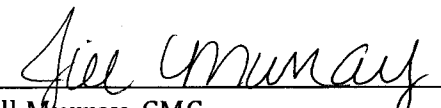
Closed Session #2 - At 9:16 p.m. Mr. Daniel moved, seconded by Mr. Jones to enter into closed session to discuss pending litigation. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager and City Clerk Jill Murray.

Closed Session #3 - At 9:20 p.m. Mr. Morrow moved, seconded by Mr. Daniel to enter into closed session to discuss property acquisition. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager and City Clerk Jill Murray.

Council Returned to Regular Session – at 9:35 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, Ms. Dinkins moved, seconded by Mr. Jones, the meeting be adjourned. Motion carried unanimously. Meeting adjourned at 9:35 p.m.



Jimmy Harris
Mayor

Jill Murray, CMC
City Clerk

Minutes Approved: June 21, 2021