

**MINUTES
BREVARD CITY COUNCIL
Regular Meeting
October 18, 2021 - 5:30 PM**

The Brevard City Council met in regular session on Monday, October 18, 2021, at 5:30 p.m. in the Council Chambers of City Hall with Mayor Harris presiding.

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

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

Press – Jeremiah Reed, Transylvania Times

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 Frankie Gordon of Bethel A Baptist Church 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. Daniel asked that a recommendation from the Downtown Master Plan Committee to remove the Clemson Plaza sign be added to the agenda as item M-6 under New Business. Ms. Dinkins asked that the Comprehensive Land Use Plan be removed from the Consent Agenda and added under New Business as item M-7. Attorney McKeller asked that a Personnel Matter be added under Closed Session. Mr. Morrow moved, seconded by Mr. Jones to approve the agenda as amended. Motion carried unanimously.

F. Approval of Minutes – Mr. Jones asked that under Resolution No. 2021-32, fix Mayor Pro Tem to say Morrow, not Harris. Mr. Jones moved, seconded by Mr. Morrow, the September 20, 2021 Regular Meeting Minutes be approved as amended. Motion carried unanimously.

G. Certificates/Awards/Recognition -

G-1. Oath of Office – Tom Jordan, Police Chief. Deputy Police Chief Tom Jordan, accompanied by his wife Erika, his son Thomas, and his parents, Charles and Janice was administered the Oath of Office to become Police Chief, by City Clerk Jill Murray.

State of North Carolina
County of Transylvania
City of Brevard

I, Charles Thomas Jordan, 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 Police Chief for the City of Brevard imposed upon me by law, so help me God.

S/Charles Thomas Jordan

Oath Administered By:
Jill Murray, CMC
City Clerk
Date: October 18, 2021

G-2. Oath of Office- Dean Luebbe, Finance Director. Dean Luebbe was administered the Oath of Office to become Finance Director, by City Clerk Jill Murray.

State of North Carolina
County of Transylvania
City of Brevard

I, Dean Michael Luebbe, 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 Finance Director for the City of Brevard imposed upon me by law, so help me God.

S/Dean Michael Luebbe

Oath Administered By:
Jill Murray, CMC
City Clerk
Date: October 18, 2021

G-3. Proclamation No. 2021-11 Fire Prevention Month. Mayor Harris read the proclamation aloud. The City Clerk will deliver the proclamation to the Fire Department.

**PROCLAMATION NO. 2021-11
FIRE PREVENTION MONTH
OCTOBER 2021**

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

WHEREAS, the **2021 Fire Prevention Month theme, “Learn the Sounds of Fire Safety.”** What is your alarm trying to tell you? Knowing the difference can save you, your home, and your family! Make sure everyone in the home understands the sounds of the smoke and carbon monoxide alarms and knows how to respond; and

WHEREAS, **Smoke Alarms:** Detect the presence of smoke in your home and alert everyone with a continued set of three loud beeps. Everyone should then get out, call **9-1-1**, and stay out; and

WHEREAS, **Maintaining Smoke Alarms:** A single “chirp” every 30 or 60 seconds means the battery must be changed. If the chirping continues, the alarm is at the end of its life must be replaced. All smoke alarms must be replaced after 10 years; and

WHEREAS, **Carbon Monoxide (CO) Alarms:** Needed in any home that has any fuel burning (non-electric) appliance or attached garage. A continuous set of four loud beeps means carbon monoxide is present in your home. Everyone should then outside, call **9-1-1** and stay out; and

WHEREAS, **Maintaining Carbon Monoxide (CO) Alarms:** A single chirp every 30 or 60 seconds means the battery must be replaced. If the chirping continues, the alarm is at the end of its life and must be replaced. Alarms will last for 5 to 10 years depending on the brand; and

THEREFORE, I, Mayor Jimmy Harris and the Brevard City Council, do hereby proclaim October 2021 as Fire Prevention Month throughout this community. We urge all citizens to know what their alarm is telling them.

ADOPTED and approved this the 18th day of October, 2021.

G-4. Proclamation No. 2021-12 Breast Cancer Awareness Month. Mayor Harris read the proclamation aloud. The City Clerk will maintain the proclamation in her records.

**PROCLAMATION NO. 2021-12
BREAST CANCER AWARENESS MONTH
October 2021**

WHEREAS, the City of Brevard joins our nation in recognizing October as Breast Cancer Awareness Month; and

WHEREAS, breast cancer is the most commonly diagnosed cancer among women in the United States, and is the second-leading cause of cancer deaths among women in North Carolina and our nation; and

WHEREAS, early detection can be an effective tool in combating breast cancer, with regular screenings preventing 15 to 30 percent of all deaths from breast cancer in women over 40; when diagnosed while still confined to the breast, the 5-year relative survival rate is more than 98 percent; and

WHEREAS, in 2021 an estimated 281,550 new cases of invasive breast cancer are expected to be diagnosed in women in the U.S.; and

WHEREAS, 1 in 8 women in the United States will be diagnosed with breast cancer in her lifetime and although rare, men get breast cancer too; and

WHEREAS, the City of Brevard encourages citizens to talk with their health care providers about regular screenings, examinations and mammograms, and to practice self-examination.

NOW, THEREFORE, I, Mayor Jimmy Harris and Brevard City Council, do hereby proclaim **October 2021**, as "**Breast Cancer Awareness Month**" in the City of Brevard, North Carolina, and call on all citizens to join us in recognizing and commend this observance to all citizens.

Adopted and approved this the 18th day of October, 2021.

G-5. The Extra Mile Award Honoring Mayor Jimmy Harris, Transylvania County SCORE. Tom Sweeny, Jeff Bannister, Richard Zollinger, Bryan O'Neill, Roy Hill (Chairman of the WNC SCORE Chapter), and Michael Dexter-Smith were all there to present the award to Mayor Harris.

The Extra Mile Award

The Transylvania County SCORE would like to recognize our local Mayor, who has gone The Extra Mile by providing strong leadership for two decades.

**James "Jimmy" Harris
Mayor of the City of Brevard**

A mayor sets a tone for what the city is about and where the city is headed. Mayor Harris is receiving our Extra Mile Award because he has always been available, always on key, and he has invariably improved whatever project he was working on. The growth of downtown Brevard and the strong economic and visitation growth that came from that growth are testaments to his leadership. Jimmy was first elected as Brevard mayor in November 1999, serving in this position longer than any mayor previously. And at age 37, he was also the youngest mayor ever elected. Harris has been a past president of the local Chamber of Commerce and the Heart of Brevard. Harris is also the owner of Harris Hardware in the center of town. During his tenure, Harris has overseen the ongoing construction of the Brevard Area Trail System building safe outdoor gathering places and connections between our neighborhoods to our schools, commercial hubs, parks, cultural centers, institutions, industrial sites and Pisgah National Forest, the renovation of both the waste treatment facility and the water treatment facility, revitalization of the Rosenwald and Railroad neighborhoods, initiated the Sylvan Sport expansion. And finally, Jimmy has been preparing and serving 400 Thanksgiving meals at Bread of Life for over 10 years.

Mayor Jimmy Harris has gone The Extra Mile in service to his community.

Signed by the SCORE Mentors of Transylvania County.

The Extra Mile Award is meant to recognize people and/or organizations in our community who have gone above and beyond their call of duty.

H. Special Presentation(s) – None.

I. Public Hearing(s) –

I-1. Proposed Amendments to UDO Chapter 9.3-Access Management Requirements to Amend Driveway and Curb Cut Separation Requirements.

Mr. Ray explained that this is a staff initiated text amendment. The most notable change being proposed is exempting residential urban infill development from minimum driveway separations on public roadways 35 MPH or less where curb and gutter exist. The proposed text would also exempt driveways off new, dead-end streets like cul-de-sacs, where the posted speed limit is 30 MPH or less, where on-street parking is not allowed. The Planning Board unanimously recommended approval of this text amendment and they submitted a statement of reasonableness to City Council.

Public Hearing Public Participation – Tore Borhaug said that no one can afford to live in Brevard unless you're retired. Restaurants are closing early or closing all together. The curb cut distance, I would like you to decrease it by ten feet because that will allow either a developer or homeowner to increase the densities and I ask for 30MPH or below neighborhoods.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 6:10 p.m.

I-2. Boys & Girls Club Development Agreement & Proposed Amendment to the Official Zoning Map of the City of Brevard.

Mr. Bland explained that on May 21, 2021, an application was submitted by Platt for a conditional rezoning and Preliminary Master Plan approval for future expansion of the Boys and Girls Club. The subject properties are owned by the Boys and Girls Club and located at 11 Gallimore Road and 340 Greenville Highway, Brevard. In this case, the applicant is seeking a change in the base zoning district, as well as, specific deviations from the standard development regulations of Institutional Campus (IC). Staff circulated the application to the Technical Review Committee for comments as to the proposed conditional rezoning's conformance to all applicable standards and requirements. Staff recommends approval of the conditional rezoning and Preliminary Master Plan with the accompanying list of proposed conditions. The Planning Board discussed this at their June meeting and unanimously recommended approval with Staff's conditions.

Public Hearing Public Participation – None

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 6:27 p.m.

J. Public Participation –

Liz Wilkinson of 345 Osborne Road, Brevard, wanted to discuss the need for sidewalks on Osborne Road. My family and I are full-time residents in Brevard and I'm here to request that the already identified need for a sidewalk on Osborne Road be immediately prioritized on the Brevard bicycle and pedestrian plan. Osborne Road is only about 8/10 of a mile in total length and acts as a major connector between Asheville Highway and Old Hendersonville Highway. Residential areas that use Osborne Road include White Oaks, Bedford Place Tree Haven Drive, and there's a new subdivision that's under construction right now. Apparently there are four school bus stops that drop off and pick up children twice a day. On the Asheville Highway side, Osborne Road begins with the community college and then Calvary Baptist Church and there's already a small area of sidewalk there. Further down the road, the new subdivision will also have a section, so the stage is set to finish the other sections. My house is exactly 1/4 of a mile from the Brevard bike path but on foot or by bike, I cannot get to it safely. A sidewalk would allow my family and surrounding families to be able to access the bike path from downtown, to the sports complex, all the way to the forest. By bike, I would be able to take my daughter to our incredible public library and my

husband could commute all the way to the clinic where he works just using the path. We have two vehicles but not everyone is that lucky. The folks walking down the street are students going to class at the college, or employees on the way to their job at Walgreens, and Rocky a/k/a the fruit guy, that runs the produce stand on Asheville Highway, travels Osborne Road twice a day in his electric wheelchair. The speed limit on Osborne is 35MPH and of course people drive much faster than that. It is a state road and I was told the only way to get the speed limit lowered or speed bumps put in, is if a fatality occurred so please let's not let a terrible accident happen before taking action. The sidewalk is desperately needed and would greatly increase quality of life, safety and accessibility for many of our community members.

Charles Garden of 69 North Lane, Brevard, wanted to discuss sidewalks and drainage. Said he is getting a lot of flooding and the curb and drain gutter is incomplete in front of his house. The drain from the City drains into his yard and no one comes out to clean it. I have to clean it daily. Since 2008, I've been waiting for them to fix that drain. The new construction across the street from me drains in front of my house. The neighbor behind me, their water drains into my backyard. I would like someone to come out and look at this and fix it.

Maurice Jones added that this is his neighbor and that the new construction was discussed last month, that is right across from him and that would be an issue. The water passes by me to get to him. He's in the valley.

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. Mayor Harris suggested that item M-4 Resolution Declaring the Intent to Permanently Close a Public Street-Woodlawn Avenue, be added to Consent. Mr. Morrow moved, seconded by Mr. Jones to accept the consent items as presented. Motion carried unanimously.

K-1a. Financial Report for month ending September, 2021.

K-1b. Quarterly Report-Police Department.

K-2. Community Development Contracts, October 2021 Reporting:

- a. Boys and Girls Club
- b. Bread of Life
- c. Chamber of Commerce
- d. Farmer's Market
- e. Heart of Brevard
- f. Rise & Shine
- g. Sharing House
- h. TCarts

K-3. Tax Settlement Report for month ending September, 2021.

K-4. Resolution No. 2021-48 Approving Property Tax Releases.

RESOLUTION 2021-48

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 September 2021 property values from the tax scroll in the amount of:

2021: \$1379.65

Adopted this the 18th day of October, 2021.

K-5. Set Date for Council Work Session-Housing-October 29, 2021.

K-6. Resolution No. 2021-49 Revision and Update of the City’s Signatory and Disbursement Resolution Approving Employees to Sign Checks and Disburse Funds.

RESOLUTION NO. 2021-49

**REVISION AND UPDATE OF THE CITY’ S SIGNATORY AND DISBURSEMENT
RESOLUTION APPROVING EMPLOYEES TO SIGN CHECKS AND DISBURSE FUNDS
(Revision to Resolution No. 2019-18)**

WHEREAS, the most recent revision and update of the City's Signatory and Disbursement Resolution was enacted by the Brevard City Council on August 19, 2019, with the adoption of Resolution No. 2019-18; and,

WHEREAS, it is now necessary, for a variety of reasons and just cause, to once again revise and update the authorizations of said resolution by designating specific City officials for the purpose of signing checks and disbursement of City funds;

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

Section 1. Resolution No. 2019-18 is hereby amended by rewriting same as set forth herein. The following named persons, whose signatures are shown, are approved for the signing of checks and the disbursement of monies from all funds of the City:

<u>NAME</u>	<u>SIGNATURE</u>
James R. Fatland, City Manager	_____
Dean Luebbe, Finance Director	_____
Jill Murray, City Clerk	_____
Kelley Craig, Human Resources Director	_____
Paul Ray, Planning Director	_____

Section 2. All checks for disbursement of City funds shall bear the signature of either the City Manager or the Finance Director plus one additional signature.

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

Adopted and approved this the 18th day of October, 2021.

K-7. Resolution No. 2021-50 Revising and Updating the Signatories of the City Officials and Employees Authorized to Use the United Community Bank Credit Cards and Setting Forth Guidelines for the Use of the Credit Cards by City Officials and Employees.

RESOLUTION NO. 2021-50

**A RESOLUTION REVISING AND UPDATING THE SIGNATORIES OF
THE CITY OFFICIALS AND EMPLOYEES AUTHORIZED TO USE THE UNITED COMMUNITY BANK
CREDIT CARDS AND
SETTING FORTH GUIDELINES FOR THE USE OF THE CREDIT CARDS
BY CITY OFFICIALS AND EMPLOYEES
(Amendment No. 9 to Resolution No. 35-2007)**

WHEREAS, upon the request of the Finance Director and, as recommended by the City Manager, the City Council of the City of Brevard authorized by Resolution No. 35-2007, dated May 21, 2007, the obtaining and use of a credit card from United Community Bank to be used for travel expenses incurred by

City Officials and City employees who are on City business, and to allow them to acquire the necessary materials to conduct business and/or deliver services in a convenient and expeditious manner;

WHEREAS, the following rules and guidelines for restricted use of the credit card were set forth as follows:

- 1) The Credit Card may not be used for:
 - a. Purchases that can be made on an account or where the City has a standing purchase order on file with the store or business.
 - b. Alcoholic beverages.
 - c. Purchase(s) that exceeds the cardholder's limit.
- 2) Only purchases directly related to budgeted items are allowed.
- 3) The Department Head shall be responsible for credit card used in their department.
- 4) A receipt(s) must be kept for all credit card purchases. Employee will be personally liable for purchases not having a receipt.
- 5) All receipts will be reviewed and approved by the department head and remitted to the Finance Department in time for payment. Departments that do not have the monthly statement and receipts to the Finance Department in time for payment will be responsible for absorbing any late fee charges; and,

WHEREAS, it is now necessary, for a variety of reasons and just cause, to revise and update the names and signatories of the City Officials and employees who have been designated to use the United Community Bank credit card.

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

Section 1. The following named persons, whose signatures are shown below, are approved for making purchases utilizing a City credit card issued by United Community Bank. Eight (8) credit card accounts were issued: Administration/Finance, City Clerk, Police Department, Planning Department, Public Works Department, Water Treatment Plant, Wastewater Treatment Plant and Fire Department.

- | | |
|---|-------|
| 1. James R. Fatland, City Manager | _____ |
| 2. Dean Luebbe, Finance Director | _____ |
| 3. Jill Murray, City Clerk | _____ |
| 4. Kelley Craig, HR Director | _____ |
| 5. Charles Thomas Jordan, Police Chief | _____ |
| 6. J. Phil Harris, Public Safety Director | _____ |
| 7. Paul Ray, Planning Director | _____ |
| 8. David Lutz, Public Works Director | _____ |
| 9. Bobby Cooper, Fire Chief | _____ |
| 10. Emory Owen, ORC Wastewater Plant | _____ |
| 11. Dennis Richardson, ORC Water Plant | _____ |

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

Adopted and approved the 18th day of October, 2021.

K-9. Housing Trust Fund Selection Committee Minutes-June 23, 2021.

K-10. Council Parks, Trails & Recreation Committee Minutes-August 18, 2021.

K-11. Council Downtown Master Plan Committee Minutes-August 19, 2021.

- K-12. Correspondence (No Action. Offered as information only.)**
- a. Transylvania County Building Permit Activity, September, 2021.
 - b. Sharing House Thank You Letter.

K-13. (M-4). Resolution No. 2021-51 Declaring the Intent to Permanently Close a Public Street-Woodlawn Avenue.

RESOLUTION NO. 2021-51

A RESOLUTION DECLARING THE INTENT OF THE BREVARD CITY COUNCIL TO CONSIDER THE CLOSING OF A PORTION OF STREET SO NAMED WOODLAWN AVENUE.

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

WHEREAS, the City has received a petition from Rence and Britnee Gunnells of 246 Lakeview Avenue, to permanently close a portion of a public "street" which in actuality is an unimproved right-of-way of approximately 0.147 acres and deeded to the City of Brevard in 1926, recorded on Plat Book 1, Page 37; and

WHEREAS, the City Council shall conduct a Public Hearing for the purpose of giving consideration to permanently closing the aforementioned street.

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

SECTION 1. That a Public Hearing will be held at 5:30 PM, or as soon thereafter as possible, on Monday, November 15, 2021, in Council Chambers located at 95 West Main Street, Brevard, North Carolina, to consider an Order to permanently close said public street.

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

SECTION 3. The City Clerk is further directed to transmit by Certified Mail, Return Receipt Requested, to each owner of property abutting on said street, a copy of this Resolution of Intent, and shall cause a notice of the Public Hearing to be prominently posted in at least two places along the street.

SECTION 4. This Resolution of Intent shall become effective upon its adoption and approval.
Adopted and approved upon first reading this the 18th day of October, 2021

L. Unfinished Business – None.

M. New Business.

M-1. Ordinance No. 2021-45 Amending the Unified Development Ordinance Chapter 9.3 Access Management. Mr. Morrow moved, seconded by Ms. Copelof to approve the resolution as presented. Motion carried unanimously.

ORDINANCE NO. 2021-45

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE CHAPTER 9

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended that Brevard City Code, Unified Development Ordinance, Chapter 9, be amended to change the regulatory standards for access management; 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 2: ECONOMIC HEALTH

POLICY 2.1.C: Prioritize transportation and utility investments within corporate limits to support infill development...

ELEMENT 4: LIVABLE COMMUNITIES

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

WHEREAS, a legislative public hearing was conducted on Monday, October 18, 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, 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. Brevard City Code, Unified Development Ordinance Chapter 9 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 upon this the 18th day of October, 2021.

~~ At 6:53 PM Mayor Harris called for a fifteen minute break. ~~

M-2. Ordinance No. 2021-46 Amending the Official Zoning Map of the City of Brevard to Establish the Boys and Girls Club Conditional Zoning District. Mr. Morrow moved, seconded by Mr. Jones to approve both ordinances as presented.

ORDINANCE NO. 2021-46

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP
OF THE CITY OF BREVARD TO ESTABLISH
THE BOYS AND GIRLS CLUB CONDITIONAL ZONING DISTRICT**

WHEREAS, the City of Brevard has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, in response to an application for rezoning filed by PLATT on behalf of the Boys and Girls Club for the property described as PINs 8585-77-6740-000 and 8585-77-9731-000 (hereafter "Subject Properties") to be rezoned to Institutional Campus Conditional Zoning District, the City of Brevard Planning Board considered REZ-21-003 on June 22, 2021 and unanimously recommended approval; and

WHEREAS, the Brevard Planning Board has determined that the application for rezoning all of these properties is consistent with the following polices and goals of the 2015 Comprehensive Plan:

- a. OBJECTIVE 1.5: Additional partnerships with Brevard's music, arts, culture, and outdoor recreation groups and organizations.
 - i. POLICY 1.5.B: Advocate for the retention of public and civic institutions within the City's corporate limits, primarily concentrated within the central business district, to maintain Brevard as the County Seat.
- b. OBJECTIVE 2.1: As the City of Brevard's primary source of financial capital, the City will take proactive measures to stabilize and grow the tax base.
 - i. POLICY 2.1.A: Modify zoning regulations to encourage and allow greater density and intensities of land use within its jurisdiction.
- c. OBJECTIVE 3.2: Reduction of the City's carbon and ecological footprint.
 - i. POLICY 3.2.C: Continue requiring landscaping in new development projects.
- d. OBJECTIVE 4.1: Increased efficiency of land uses to help stabilize and grow the City's tax base.
 - i. POLICY 4.1.A: Evaluate and amend development ordinances to facilitate infill development on vacant and under-developed parcels, as well as revitalization of developed parcels.

- e. OBJECTIVE 4.2: Develop a system of “complete neighborhoods” throughout Brevard. (This is a multi-faceted objective that will rely on objectives and policies from other elements as well.)
 - i. POLICY 4.2.A: Modify zoning to increase allowable densities and the mixing of uses in appropriate areas.
 - ii. POLICY 4.2.A: Modify zoning to increase allowable densities and the mixing of uses in appropriate areas.

and Council finds that this Ordinance is also consistent therewith; and

WHEREAS, the Brevard Planning Board has determined that the application for rezoning these properties is inconsistent with the 2002 Future Land Use Map; and Council finds that this Ordinance is also consistent therewith; and

WHEREAS, in accordance with North Carolina General Statute 160D-605 Council finds that this Ordinance is also reasonable and consistent therewith and that the proposed uses are reasonable and consistent within the context of the new zoning district and the prevalence of uses in the vicinity of the properties due to the following factors:

1. The Institutional Campus base zoning district is intended to be used for areas with existing or planned campuses that are likely to grow and develop with a focus on internal expansion.
2. Conditional zoning districts are intended to provide developers with flexibility for creative design and to allow for changes in the density and dimensional requirements that are not otherwise permitted in the base zoning district. The Boys and Girls Club is hemmed in by both development and environmental constraints that necessitate a creative design approach.
3. The Boys and Girls Club is a community asset currently located across the street from Brevard Elementary School. Creating a conditional zoning district will enable it to continue to grow in that location by allowing greater freedom in building size, access and parking management, and recreation space.
4. The proposed designs and conditions deliver exceptional quality community designs that preserve critical environmental resources by limiting new development in the floodplain and incorporate a creative layout of buildings.
5. The conditions assure compatibility with surrounding land uses and neighborhood character by extending the multi-use path around the corner of the property and maintaining the intent of the semi-opaque landscape buffer.

and

WHEREAS, a public hearing was held on October 18, 2021 in consideration of rezoning of the Subject Properties to Institutional Campus Conditional Zoning District; and

WHEREAS, the City Council, 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 to establish the Boys and Girls Club Conditional Zoning District with the Institutional Campus Base District as described in Exhibit A attached hereto.

Section 2. The District is a conditional zoning district established pursuant to the Unified Development Ordinance of the City of Brevard by means of authority granted by the North Carolina General Statutes.

Section 3. Development and use of lands within the District shall occur in accordance with the approved Preliminary Master Plan, which is attached to this ordinance and incorporated herein as Exhibit B, as well as the List of Conditions outlined below. This Ordinance and its exhibits shall run with the land and shall be binding on the Boys and Girls Club, its heirs and assigns.

Section 4. List of Conditions.

- A. Except as set forth in Section 4.B, below, development within the District shall comply with all applicable provisions of Brevard City Code, including but not limited to,
 1. City of Brevard Unified Development Ordinance, general provisions and provisions specifically applicable to properties within Institutional Campus Districts

2. Chapter 62. Streets, Sidewalks, and Other Public Ways
3. Chapter 70. Utilities

B. The following may be permitted within the District:

1. The base zoning district shall be Institutional Campus.
2. The following uses are permitted in the District: Community Service Organization, Cultural or Community Facility, Meeting Facilities, Recreation Facilities-Indoor, Recreation Facilities-Outdoor, and all other uses permitted in the Institutional Campus base zoning district.
3. The setbacks for principal and accessory structures shall be as follows:
 - a. Minimum Front Yard Setback: Edge of right-of-way
 - b. Side Yard Setback: 0 feet
 - c. Rear Yard Setback: 0 feet
4. Building walls shall be clad in clapboard, stone, stucco, cementitious fiber board, brick, marble, concrete masonry units, and metal siding.
5. Final master plans shall include a detailed stormwater management plan for that particular phase controlling for the net increase of impervious surface of that phase and demonstrating compliance with Chapter 6 of the UDO as certified by the City's consultant hydraulic engineer. The stormwater infrastructure shall be installed prior to the issuance of final zoning approval and certificate of occupancy for any development activity of the particular phase.
6. In lieu of separate stormwater plans at each phase; the Property Owner may submit a stormwater management plan controlling for the net increase of impervious surface for the entire conditional zoning district at the time of review and approval of the Phase 1 final master plan. The stormwater infrastructure located within the delineated boundaries of each phase shall in all cases be installed prior to the issuance of final zoning approval and certificate of occupancy for any development activity of the particular phase.
7. In lieu of landscape buffer requirements, an 8-foot maximum height fence that meets the intent of a semi-opaque screen shall be constructed along the West and South property lines. The fence shall comply with the fence standards in Chapter 3 of the UDO.
8. The placement and connection of new streets and driveways to the existing street system shall be based on an approved NCDOT driveway permit. Such permit shall be submitted with the final master plan of the phase in which the proposed connection is located.
9. The maximum number of parking spaces shall be 110.
10. Additional parking that exceeds 10 percent of the maximum shall be permitted in accordance with Chapter 10 of the UDO.
11. Off-street parking shall be permitted between any principal structure and both streets upon which such structure fronts.
12. The maximum area of a freestanding ground sign shall be 32 square feet. All other signage shall comply with Chapter 12 of the UDO.
13. In lieu of a sidewalk along Highway 276, the existing multi-use path along the northern property line shall be extended along the eastern property line. The path shall be built and dedicated to the City pursuant to the standards of Chapter 13 of the UDO.
14. A 20-foot-wide utility easement along the sewer mains on the property shall be accurately depicted upon all plats and plans, and shall be dedicated to the City. The portion of the covered walkway which crosses the sewer main shall be constructed, or the section of the pipe replaced, in such a way to reduce damage should maintenance work need to be conducted, as permitted by the administrator in consultation with the public works director and in conjunction with a hold harmless agreement.
15. Improvements shall be governed by the existing improvement completion process of the City. The Planning Director shall have the authority to set forth a reasonable time frame for the installation of all required improvements; however, required infrastructure within the delineated boundaries of each phase shall in all cases be installed and dedicated to the City prior to the issuance of final zoning approval and certificate of occupancy for any development activity of the particular phase.

- C. Phasing: Phasing of the Project is authorized and any such phase shall be reviewed in accordance with the Amended Preliminary Master Plan and this List of Conditions regardless of any changes to the UDO for the period of vesting provided in the Development Agreement.
- D. Modifications to the Final Master Plan shall be considered in accordance with Chapter 16 of the UDO.

Section 5. Pursuant to a development agreement authorized by N.C.G.S. 160D-1001, et seq., the Boys and Girls Club is hereby granted vested rights for a period of 20 years to complete the development in accordance with the Preliminary Master Plan and the terms and conditions of this ordinance, including without limitation, the List of Conditions above.

Section 6. The Planning Director is hereby authorized and directed to modify the City's Official Zoning Map and the Future Land Use Map consistent with this Ordinance.

Section 7. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

Section 8. All ordinances or portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. This ordinance shall be in full force and effect from and after the date of adoption.

Adopted and approved this the 18th day of October 2021.

M-2. Ordinance No. 2021-47 Approving a Development Agreement Between the City of Brevard and the Boys and Girls Club. Mr. Morrow moved, seconded by Mr. Jones to approve both ordinances as presented.

**ORDINANCE NO. 2021-47
AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF BREVARD AND THE BOYS AND GIRLS CLUB**

WHEREAS, by means of Ordinance Number 2021-46, the City of Brevard (hereafter, the "City") established a Conditional Zoning District on property known as the Boys and Girls Club, which property is owned by the Boys and Girls Club, and which is described within Ordinance Number 2021-46; and

WHEREAS, the North Carolina General Assembly has authorized development agreements between municipalities and developers as set forth in N.C. Gen. Stat. 160D-1001 *et seq.*; and

WHEREAS, the Boys and Girls Club has requested that a development agreement (Exhibit A) be made and entered into between the Boys and Girls Club and the City for the purpose of granting the Boys and Girls Club a vesting period of 20 years wherein development authorized by Ordinance Number 2021-46, would be subject to the City land development regulations which are in force at the time of execution of said development agreement; and

WHEREAS, a public hearing was held on October 18, 2021 in consideration of the development agreement; and

WHEREAS, the City Council, 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. A development agreement between the Boys and Girls Club and the City, which is identified as Exhibit A and which is incorporated by reference is hereby approved. The term of this Agreement shall commence on the date of the adoption of this Ordinance and shall terminate 20 years thereafter.

SECTION 2. The Mayor and City Clerk are hereby authorized and directed to sign and execute the aforementioned development agreement with the Boys and Girls Club. The City Clerk is further directed to file a copy of this Ordinance along with a certified copy of said agreement in the Office of the Register of the Deeds of Transylvania County.

SECTION 3. This Ordinance shall be in full force and in effect upon its adoption and approval.

Adopted and approved this the 18th day of October, 2021.

M-3. Ordinance No. 2021-48 to Amend the Code of Ordinances of the City of Brevard, North Carolina to Conform with Session Law 138. Mack McKeller explained that this is being introduced to conform the ordinances (50 or so) of Brevard because the entire law changes as of December 1st. We will approve and pass this at the next meeting in November. No action is needed at this time, we are just introducing it.

**ORDINANCE NO. 2021-48
AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF BREVARD, NORTH CAROLINA TO CONFORM WITH SESSION LAW 138**

WHEREAS, the North Carolina General Assembly passed Session Law 2021-138 on August 25, 2021 and the bill was signed into law by Governor Roy Cooper on September 2, 2021 to take effect on December 1, 2021, and,

WHEREAS, the said Session Law amends various portions of the North Carolina General Statutes including North Carolina General Statutes Section 14-4 which provides for punishment of violations of certain city ordinances to be punishable as misdemeanors or infractions subject to a means of avoiding prosecution as contained in the said statute, and,

WHEREAS, the current Code of Ordinances for the City of Brevard contains in Section 1-8 of the Brevard Code of Ordinances a general punishment ordinance referencing North Carolina General Statute Section 14-4 to which reference is made by all ordinances in the Code which are to be enforced as misdemeanors or infractions, and,

WHEREAS, North Carolina General Statute Section 14-4 as amended by Session Law 138 requires specific reference in each individual ordinance section to the method of enforcement of that ordinance section, establishes a specific means and procedures for avoiding punishment as a misdemeanor, and invalidates general punishment ordinances such as Section 1-8 of the Code of Ordinances for the City of Brevard, North Carolina

WHEREAS, the Brevard City Council derives its authority from the State of North Carolina and desires to conform its ordinances to the amended statutes of the State of North Carolina, and

WHEREAS, the Brevard City Council has the authority by ordinance to amend its ordinances as set forth in Section 1-10 of the Code of Ordinances for the City of Brevard, North Carolina.

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

SECTION 01. Brevard City Code of Ordinance is hereby amended to add an additional sentence to each noted section of the Ordinances referenced in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. Brevard City Code of Ordinances is hereby amended to delete and excise those sections and paragraphs referenced in Exhibit B, which is attached hereto and incorporated herein by reference.

SECTION 03. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 04. 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 05. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved upon first reading this the 15th day of November, 2021.

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

- a. Downtown Master Plan Committee. Ms. Copelof moved, seconded by Mr. Morrow to appoint Lee McMinn and Parker Platt to the DTMP Committee. The vote was 3-2. Gary Daniel and Geraldine Dinkins were nay.
- b. Transylvania Economic Alliance. Although Mark Tooley applied for the position, Council decided to keep the position open for another month while advertising for it. Ms. Dinkins moved, seconded by Mr. Daniel to table it until further recruitment is done. Motion carried unanimously.

M-6. Removal of Clemson Plaza Sign. Ms. Copelof explained that Clemson Plaza was designed about 6 years ago and part of the design was this sign. Since then, we have done a lot with signage downtown and modified our sign ordinance. The committee was surprised by the fact that the sign went up and feel that it doesn't fit the aesthetics of our City anymore and it would be a better idea to take it down and put it in storage until we come up with what we want to do with artistic expression on the side of the building.

Ms. Dinkins asked Mr. Fatland to get her a price of how much the sign and installation cost and asked what going into storage means and if the sign can be returned, refunded or used somewhere else.

Mr. Daniel said that we made a mistake but I don't want us to be bound by our mistakes. It was expensive unfortunately but let's keep it simple and vote to take it down. He became concerned because of the uproar on social media.

Ms. Copelof moved, seconded by Mr. Daniel to remove the Clemson Plaza sign from the side of the building and put it in storage until such time as the artwork design is approved by Council. Motion carried unanimously.

M-7. (K-8). Comprehensive Land Use Plan. Ms. Dinkins asked Mr. Ray for a brief presentation on this as it has a budgetary impact. Mr. Ray explained that the North Carolina General Statutes recognizes the importance of long-range comprehensive planning by requiring that all zoning map amendments reference the consistency of its plan. Therefore, it is important that our plan reflect the City's current vision and priorities for future development. Chapter 160D of the North Carolina General Statutes states that "a local government shall adopt and reasonably maintain a comprehensive plan". Staff recommends hiring a professional consulting firm on November 15, 2021.

N. Remarks/Future Agenda Considerations.

Mayor Harris said I have been Mayor for 22 years and November will be my last meeting as an elected Mayor. I've loved every moment and tried to give my best to the City. I'll miss sitting up here and I'll still be on the other side of this wall. I've really enjoyed being the Mayor of this town.

Ms. Copelof said that it has been an honor to serve you these past four years and I'm indebted to you for the leadership and you're irreplaceable Jimmy. I'm really looking forward to our affordable housing workshop on the 29th and I'm glad to see that moving forward. I'm glad to see that we're moving forward to get a consultant on board to help us finish our comprehensive land use plan. I'm excited with our new police chief and finance director. Chief Harris, I look forward to working with you in your new roll.

Mr. Daniel said that he would like to give his best wishes to Chief Harris. I think you're an exemplary model of what a chief should be. I wish you well.

Mr. Morrow congratulated Mayor Harris on his award tonight. Most people say "we're gonna miss Jimmy". We have a political competition going and I'm hearing good things. The City is staying grounded and staying on course. Don't listen to all of the crap and keep doing things. That's the mood I see out there so to Jim and your team, keep it up!

Ms. Dinkins said she would like an update on the hotel. She also said she would like to know about vacancies on committees and how they're handled and thinks it needs to be more public and more inclusive and that we need to advertise for positions on the committees.

Mr. Jones thanked Mayor Harris for his time and service and to Phil Harris, the same. I am excited about the progress at the Mary C. Jenkins Center. With regards to Moms Mabley, Aaron, can you give us an update on that at a future meeting?

Mayor Harris spoke again said he'd be remiss if he didn't thank Phil Harris. You were what the City needed at the time and the community benefitted from your service. I'm also pretty proud of the fact that this past July we had the highest sales tax revenue come our way, one of the highest we've ever had. We've collected 74% so far. Good things are happening in the City. By the time we meet again, we'll have a new Mayor. November 2nd is Election Day and I encourage you to get out and vote.

Mr. Fatland thanked Mr. Daniel and Mr. Jones, as we had two committee meetings this week, one of them being the Public Safety Committee and we talked about how we can maximize Phil's experience here without adding additional staff. We also had the Rosenwald Advisory Board meeting and Maurice called upon Tom and Phil to talk to the group. Based on the comments from the community, they appreciated Chief Harris' outreach. We talked about the parking lot next to the Mary C. Jenkins Community Center. We also talked about the grant and that the Community Focus Foundation got a grant for \$25,000 to be used for purchasing equipment for the center.

O. Closed Session(s) – Mayor Harris asked the City Attorney if it would be appropriate for Council to hold a closed session to discuss a matter of potential litigation. City Attorney advised pursuant to **GS § 143-318.11. (a)(3)** It would be appropriate to convene a closed session on the matter. A closed session requires a separate motion, second and vote to discuss the matter. Council will enter and exit regular session for each closed session.

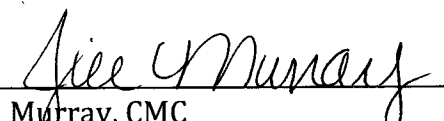
Closed Session #1 - At 8:17 p.m. Mr. Morrow moved, seconded by Ms. Copelof to enter into closed session to discuss potential litigation and clear Council Chambers. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager and City Clerk.

Closed Session #2 - At 8:50 p.m. Mr. Jones moved, seconded by Mr. Daniel to enter into closed session to discuss a personnel matter. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney was the City Manager.

Council Returned to Regular Session – at 9:13 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. Morrow moved, seconded by Mr. Jones, the meeting be adjourned. Motion carried unanimously. Meeting adjourned at 9:13 p.m.


Jimmy Harris
Mayor


Jill Murray, CMC
City Clerk

Minutes Approved: November 15, 2021