

**MINUTES
BREVARD CITY COUNCIL
Regular Meeting
November 15, 2021 – 5:30 PM**

The Brevard City Council met in regular session on Monday, November 15, 2021, at 5:30 p.m. in the Council Chambers of City Hall with Mayor Harris presiding.

Present – Mayor Jimmy Harris, 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 Jim Fatland, City Clerk Jill Murray, Finance Director Dean Luebbe, Executive Assistant to the City Manager Denise Hodsdon, Planning Director Paul Ray, Assistant Planning Director Aaron Bland, Police Chief Tom Jordan, Fire Chief Bobby Cooper, Public Safety Director Phil Harris, Human Resources Director Kelley Craig and Planner/Assistant Zoning Administrator Katherine Buzby.

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 – Reverend Elizabeth Roles, St. Philips Episcopal 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. Morrow moved to approve the agenda. Mr. Fatland ask that a Resolution Accepting Amended Loan Offer for Gallimore Road Sewer Basin Rehabilitation Project and an Ordinance Amending a Project Budget for Gallimore Road Sewer Rehab Project be added under New Business as item M-8. Attorney Mack McKeller asked that a closed session for a Personnel Matter be added to the agenda. Mr. Morrow amended his motion to approve the agenda as amended. Mr. Jones seconded and motion carried unanimously.

F. Approval of Minutes – Mr. Morrow mentioned that on page 18 in the second paragraph, last sentence, there is an extra 0. Mr. Morrow moved, seconded by Ms. Dinkins to approve October 18, 2021 Regular Meeting Minutes. Motion carried unanimously. Mr. Jones moved, seconded by Ms. Dinkins to approve the October 29, 2021 Housing Work Session Minutes.

G. Certificates/Awards/Recognition -

G-1. Oath of Office – Katherine Buzby. City Clerk Jill Murray performed the Oath of Office and Planning Director Paul Ray held the Bible for her.

State of North Carolina
County of Transylvania
City of Brevard

I, Katherine Buzby, 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 Planner/Assistant Zoning Administrator for the City of Brevard imposed upon me by law, so help me God.

S/Katherine Buzby

G-2. Proclamation No. 2021-14 I Heart BC Day. Mayor Harris presented the proclamation to David Joyce.

**PROCLAMATION NO. 2021-14
I Heart BC Day on November 30, 2021**

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

WHEREAS, Brevard College has remained an anchor institution in the community throughout the global pandemic through safely maintaining and growing educational opportunities and the arts in Transylvania County; and

WHEREAS, Brevard College strengthens our city by serving as an economic engine, employing over 200 people, hosting more than 780 students who patronize local businesses and non-profits, and generating over \$36.4 million annually*; and

WHEREAS, Brevard College also serves as a front porch to the City of Brevard and Transylvania County by providing safe, outdoor space to residents and visitors to experience the beauty and hospitality of campus; and

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

NOW, THEREFORE, I, Mayor Jimmy Harris and the Brevard City Council do hereby proclaim and recognize that Tuesday, November 30, 2021 is I Heart BC Day, and encourage all citizens in Brevard to demonstrate their appreciation of Brevard College.

Adopted and approved this the 15th day of November, 2021

H. Special Presentation(s)

H-1. Comprehensive Land Use Plan.

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. As stated in a memorandum to Council at its regularly scheduled meeting on October 18, 2021, the Planning Department initiated the process of updating and combining its 2015 Comprehensive Plan and 2022 Land Use Plan. Staff has asked Stewart, Inc. to present its proposal and scope of work to City Council.

Chad Sarey of Stewart presented a PowerPoint presentation (on file in Clerk’s office), which concentrated on long-range planning, small area plans and urban design and streetscapes. He also showed a schedule of development and adoption of the Brevard Comprehensive Land Use Plan. He said that Council would be involved the entire time, every step, every recommendation, every draft map will be on our website. They will be using social media as well and do whatever we can to get people to come out to our public workshops.

I. Public Hearing(s) –

I-1. Declaring the Intent to Permanently Close a Public Street-Woodlawn Avenue.

Paul Ray explained that the City Clerk received a petition from William Gunnells, Britnee Siemon and Rebecca M. Siemon to close approximately 0.147 acres of an unopened public street, Woodlawn Avenue. Joining the petition is Chad R. Banner and James F. Perkins. The actual street infrastructure was never built so it has remained an unimproved and unopened right-of-way at the intersection of Park Avenue and Parkview Avenue. City Council adopted a Resolution Declaring Intent to Close Woodlawn Avenue on October 18, 2021 and the City Clerk published the Resolution once a week for four successive weeks in the Transylvania Times as required by law. The City Clerk also gave notice by certified mail to each property owner abutting the alleyway by sending them the Resolution of Intent. Staff recommends approving the Order to close a right-of-way.

Public Hearing Public Participation –

Dick Dowdy, who resides at 517 Park Avenue, said his home is adjacent to the unopened section of Oak Street that runs from Park Avenue to Hilt Street, supports the Council's adoption of a remedial resolution closing a portion of unopened Woodlawn Avenue. He also hopes that City Council would look favorably upon any future petitions from other residents and that the proposed Order will set a precedent for other residents seeking closures. His letter is on file in the Clerk's office.

Jimmy Perkins, who resides at 251 Park Avenue, lives directly behind the Gunnells, who initiated the closure. He passed out a visual of what the closure would look like and some pictures that shows his relation to Mr. Gunnells property (on file in the Clerk's office). This is something that I have looked into in the past and enthusiastically agreed to get on board with. My greatest fear would have been for a true throughway from French Broad and then coming out at Park Avenue. Ash Street on the map is essentially my driveway. That was my only concern and I can't ever fathom a reason to open an alternate route from French Broad Street over to Park Avenue. I just wanted to share that with you and as far as I know, all of the neighbors are in support of this. I also wanted to take a moment to congratulate Mayor-Elect Copelof, Mac Morrow and Aaron Baker. It was a real spirited campaign and a lot of good conversation came with it and I know how hard everyone worked on it and I want to offer my sincere congratulations to all of you.

Robert Culver introduced himself as the attorney for Mr. Gunnells and Ms. Siemon. I won't repeat what everyone said but I do agree with everything. He also thanked Mr. McKeller, Mrs. Murray and Mr. Ray for helping us through this complex process and I wanted to make us available if you have any questions.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 6:35 p.m.

I-2. Proposed Amendment to the Official Zoning Map-Intersection Old Hendersonville Highway and Osborne Road.

Aaron Bland explained that on August 20, 2021, an application was submitted by Tore Borhaug of Tore's Properties requesting a map amendment (rezoning) for a property at the corner of Old Hendersonville Highway and Osborne Road. It is currently zoned general residential and the applicant is requesting to rezone the parcel to Residential mixed use. The Planning Board discussed this request at their October meeting and came to the recommendation of greatly expanding the area to be rezoned to RMX. Due to the increase in scope proposed by the Planning Board, Staff held a neighborhood compatibility meeting to which all impacted property owners were invited. The prospect of rezoning this one parcel of relatively small size to a different district than those surrounding it brings up questions of spot zoning. Staff recommended not rezoning such a large area until the new Comprehensive Land Use Plan is finished and adopted next year.

Public Hearing Public Participation –

Mr. Borhaug is out of the country and submitted a letter explaining that he only asked for his property to be rezoned, which was read into the record by Attorney McKeller (on file in Clerk's office).

Susan Miller, Treasurer of the Bedford Place HOA, submitted a letter on behalf of the HOA, which had several questions and outlined the impact this would have on them. (On file with Clerk's office).

~~ At 6:56 PM Mayor Harris called for a ten minute break. ~~

Greg Hunter, who lives at 462 Probart Street, first thanked Council for his reappointment to the Planning Board. He went on to explain what happened at the Planning Board meeting. Part of it centered on the traditional use of RMX zoning and it's more appropriate use as a transitional buffer district than other higher zoning districts such as corridor mixed use and downtown mixed use. Additional discussion was about a somewhat larger area than requested but not as large as ultimately proposed and was seen as a circumvention of North Carolina regulations regarding spot

zoning. Given the rezoning, the tract showed preferential treatment to the owner and was incompatible with existing plans. Additionally, planning staff proposed changes, whatever recommendations we made, would come before you no earlier than the January meeting. Planning staff sent out two letters, approximately 220 parcels dated November 2nd. These letters were to inform the property owners of two meetings. One being the meeting of City Council that we are currently attending. The other was for the neighborhood compatibility meeting on November 9th. In talking with some of the residents, I was told that they did not receive these in their mailbox until November 8th and November 9th. The neighborhood compatibility meeting was on November 9th at 6:00 pm.

Deborah Harville, of 227 Osborne Road, said her husband and her have been here for about 18 years and own a small business called Red Oak Integration. We're across the road from this area that you're talking about and I guess for me, I question how one person has asked about one small bit of land and the next thing is a letter that was dated the 5th and we got on the 11th and it wants to take all of this and turn it into mixed residential. What does mixed residential even mean?

Mr. Ray explained that residential mixed use is higher density residential. Instead of 8 units per acre, it's 15 units per acre and there's a very slight increase in commercial use too but its things like a dance studio or a karate studio, those types of things.

Ms. Harville continued saying that this is all residential. These are our homes, where the kids play and you're talking about taking and it making it this mixed residential. I think the zoning gentleman would be the better way to go, let him take a look and see what he thinks, maybe be a little more specific rather than take 100 parcels and say ok we've decided that maybe it would be a good idea to turn all of this into mixed residential. Maybe we could consider slowing down a little bit, wait until he gets done with what he's doing, I think that would be the better way to go. For me, it came fast and I had no time to take in or find out what was happening. I would assume that the majority of these people don't even realize what's been proposed.

Dan Wetmore of 95 Tree Haven Drive, said there's only two ways off of Tree Haven, Osborne Road or Osborne Road. Both are on hills and both have blind curves and we live at the end of Osborne Road where its least populated currently so folk's most likely speed and so for my 85 year old father and myself, that's a concern. My father has lived there for the last 36 years, retired as a professor of computer science from Brevard College. Three reasons that I request Council deny the Planning/Zoning Board request. First, we nearly double the maximum occupancy of the entire area from 8 units to 15 per acre. There are three roads that connect Asheville Highway with Old Hendersonville Highway. Ecusta Road, Osborne Road and Chestnut Street. All of those are shortcuts between those major arteries to those two cities. They are all narrow, twisty, winding and hilly with blind curves. They are all at about capacity for traffic density. Proposing to double the potential volume of traffic on those roads would pose certain challenges which have not yet been addressed. The same concerns about drops in property values which were raised in response to the Gallimore Road and Deer Lake Road locations apply here and affect many more people. Second, I believe it's premature. It hasn't been properly vetted with the people most affected. The timeline is that on the 26th of October the Board adopted their recommendation. On the 2nd, the letters went out, on the 5th the signs were posted and on the 9th, their public hearing was held. Very quick. The Planning Board is taking steps out of proper sequence. No estimates have been made regarding increased traffic density. No consideration has been given as to how to pay for upgrading and extending water and sewer services or the previously mentioned effect on property values or the added strain to the already overburdened county landfill. Long term effects that need to be considered. As was stated numerous times, the City's Comprehensive Land Use Map is nearly 20 years old. The purpose of that document is to spell out what we want the future to look like. Rezoning proposals, especially of this magnitude, are something to be made after we decide what the goal is. Third, I believe this action by the Planning and Zoning Board is out of place and that they're acting counter to their mandate. As mentioned, Mr.

Borhaug requested one four-acre parcel be rezoned. I assume the purpose of the Planning and Zoning Board is to receive requests for rezoning but in this case, they took it upon themselves to issue one on a very large scale. Zoning laws exist to protect the character and quality of the neighborhoods. Planning Boards exist in part to enforce those laws. This proposal goes 180 degrees against the Planning Boards mandate. It removed protections which were put in place for good reasons to preserve the cohesion and character of the neighborhoods. Fundamentally, this proposal shows that the Board believes that growth should be embraced because either it's inevitable and/or it's always good. Neither of which is true. For these reasons I respectfully request that Council, not defer this request, but deny it.

Fred Rosenberg of 1200 Old Hendersonville Highway. My concerns are exactly as he stated. The City sewer services on Old Hendersonville Highway where my property is, has had numerous issues with sewer backing up and overflowing on my land. This mixed use zoning that he's calling it, 15 units per acre, so that's two toilets per unit, which comes out to another 100 or so toilets, all that comes down. The County sewers are woefully inadequate, the pump station, whenever there's a heavy rain, it overflows on my land. So the more zoning, the more mixed use, the more units that are built, merely puts pressure on the system that's already outdated so for that reason, before you can even think about land use and upgrading zoning to increase density, you got to look downstream and see if your facility is able to handle it. I can tell you from my own personal experience, owning my property for six years, it's not. That sewer floods my land out completely. Three times since I've owned the property. The next time, I'll bring a couple of buckets of it in here.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 7:24 p.m.

J. Public Participation –

Pat Pettit of 17 Grove Circle, said everybody works, they come home, they're tired, they have dinner, and they shower and want to chill out for about 6 hours, go to sleep, get up the next day and do it all over again. Sometimes, it's not possible. That's during the week, but during the weekends, Saturday and Sunday, you definitely want to get together with your family and you want to spend some quality time, but our building codes do not allow that to happen. They actually let building go on during the weekends. The hammers, the compressors, the staple guns, are all going all the time and because I have been sick with bronchitis, I hear it more often now than I ever heard before. But on Sunday it just hit me, they were out there working. I was sick and I'm listening to all this racket and thinking this can't be right. I have heard two times of when people are supposed to quit construction. One is at 8:00pm and one at 10:00pm. By 10:00pm most people are in bed. I think that our building department, our construction will all that is going or wants to go on, we need to make stricter codes and have them enforced. We have codes in this City that are there but are not enforceable because there's nobody to enforce them. What good is it? My only issue is if we have a code, we need to have it enforced and let's get on top of this building thing and get these people to go home and be with their families too and to have some peace and quiet in our neighborhoods. Also, I have known this man since he was 15 years old (Jimmy Harris) and he was a great kid. He has been a great leader. He is such an asset for Brevard, it's unbelievable. I think he knows everybody's first name in this room. I've never seen anything like it especially during a parade. He has truly been a great Mayor.

Kevin Jones of 135 Maple Street, said we finished an election two weeks ago and you all know that I was not elected but my last act of my campaign is to congratulate the three people that were. So Mayor-Elect Maureen Copelof, re-elected Mac Morrow and Councilman-Elect Aaron Baker, congratulations and you have my best wishes and good luck for your endeavors.

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. Morrow suggested adding New Business items M-1 and M-5 to consent. Ms. Dinkins asked that item K-4 Set Date for City Council Organizational Meeting- Monday, December 6, 2021 be removed and added to New Business as item M-9. Mr. Morrow amended his motion to include the above items and Mr. Daniel seconded. Motion carried unanimously.

- K-1a. Financial Report for month ending October, 2021.**
- K-2. Tax Settlement Report for month ending October, 2021.**
- K-3. Resolution No. 2021-53 Approving Property Tax Releases.**

RESOLUTION 2021-53

A RESOLUTION APPROVING PROPERTY TAX RELEASES

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

BE IT NOW, THEREFORE, RESOLVED THAT:

The Tax Collector is hereby authorized to remove October 2021 property values from the tax scroll in the amount of:

2021: \$4.56

Adopted this the 15th day of November, 2021.

K-5. Ordinance No. 2021-49 Declaring a Road Closure for Light Up the Night and Christmas Parade.

ORDINANCE NO. 2021-49

AN ORDINANCE DECLARING A ROAD CLOSURE FOR LIGHT UP THE NIGHT AND CHRISTMAS PARADE

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

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

WHEREAS, Brevard City Council acknowledges this festival requires a portion of Main Street (US Highway 276) and Broad Street (US Highway 64), and Country Club Road (SR 1116) to be closed for setup, activities, and cleanup; and,

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

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

Light Up the Night

Date: Saturday, December 4, 2021
Time: 3:00PM – 9:00PM
Route Description: East Main Street (US 276) from Broad Street to Johnson Street

Christmas Parade

Date: Saturday, December 4, 2021
Time: 2:00PM – 7:30PM
Route Description: Country Club Road (SR 1116) from Brevard High School to Brevard College Drive

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

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

K-6. Council Public Safety Committee Minutes-April 20, 2021.

K-7. Mary C. Jenkins Community Center Task Force Minutes-June 1, 2021.

K-8. Council Downtown Master Plan Committee Minutes-September 15, 2021.

K-9. Council Parks, Trails & Recreation Committee Minutes-September 21, 2021.

K10. Rosenwald Community Advisory Board Minutes-October 12, 2021.

K-11. Council Downtown Master Plan Committee Minutes-October 14, 2021.

K-12. Correspondence (No Action. Offered as information only.)
a. Transylvania County Building Permit Activity, October, 2021.

K-13. (M-1). Order 2021-02 Abandoning a Portion of an Unopened Public Right-of-Way between Lakeview and Park Avenue.

ORDER NO. 2021-02

**AN ORDER ABANDONING A PORTION OF AN UNOPENED PUBLIC RIGHT-OF-WAY
"WOODLAWN AVENUE" BETWEEN LAKEVIEW AVENUE AND PARK AVENUE.**

WHEREAS, on October 18, 2021, the City Council of the City of Brevard directed the City Clerk to publish a Resolution of Intent to close an unopened public right-of-way lying between Lakeview Avenue and Park Avenue. Such Resolution, advising that a public hearing would be held at 5:30 PM, on Monday, November 15, 2021 in the Council Chambers at City Hall located at 95 W. Main Street, Brevard, North Carolina, was published in the Transylvania Times newspaper once a week for four (4) successive weeks; and,

WHEREAS, said right-of-way is represented and depicted upon the following plat:

SURVEY AND PLAT PREPARED OF CLOSURE FOR PETITIONED AREA ON WOODLAWN AVENUE, prepared for William and Britnee Gunnell and Rebecca M. Siemon and Chad and Erica Banner and George T. Perkins Heirs, by Carolina Mountain Surveying, Firm License Number #F-1205, 137 North Broad Street, Suite 2, Brevard, North Carolina 28712. Dated ____/____/____, recorded in the Transylvania County Registry on ____/____/____, in Plat File ____, Slide ____; and,

WHEREAS, the City Clerk has, in fact, sent notice to each of said abutting property owners advising them of the date, time and place of the public hearing, by copy of the City Council's Resolution of Intent, and advising said abutting property owners that the question as to the closing of said public right-of-way would be acted upon at the public hearing; and

WHEREAS, a notice of the closing and public hearing was prominently posted in at least two places along the street or alley; and

WHEREAS, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of said public right-of-way, City Council find as follows:

1. The abandonment of said public right-of-way will in no way degrade the efficiency of the provision of any City service, including but not limited to garbage, fire, police, EMS, sewer / water; and
2. The closing of the public right-of-way is not contrary to the public interest and no individual owning property either abutting the alleyway or in the vicinity of said alleyway, will as a result of said abandonment, be thereby deprived of a reasonable means of ingress and egress.

WHEREAS, it appears to the satisfaction of the City Council that the abandonment of said public right-of-way will be in the public interest.

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

Section 1. A public right-of-way lying between Lakeview Avenue and Park Avenue further depicted and denoted upon the aforementioned plat is hereby abandoned and all rights, title, and interests that may be vested in the public to said area for public purposes is hereby released to the abutting property owners in accordance with Chapter 160A-299, as amended, of the North Carolina General Statutes.

Section 2. The aforementioned plat shall serve as a plat of abandonment for the purposes of this order.

Section 3. The City Clerk is hereby authorized and directed to file in the Office of the Register of Deeds in Transylvania County a certified copy of this Order, a copy of the published Resolution of Intent and a notarized statement that all the abutting property owners were notified by certified mail.

Section 4. This Order shall become effective upon its adoption and approval.

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

K-14. (M-5). Ordinance No. 2021-48 to Amend the Code of Ordinances of the City of Brevard, North Carolina to Conform with Session Law 138.

**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.

L. Unfinished Business – None.

M. New Business.

M-2. Ordinance Amending the Official Zoning Map of the City of Brevard to Rezone Land Located in the Vicinity of Osborne Road and Old Hendersonville Highway. Ms. Copelof said that she believes Council should look at this after the comprehensive land use plan is completed and Mr. Daniel agreed. Ms. Copelof moved, seconded by Mr. Daniel to *table* the ordinance until a later date. Motion carried unanimously.

ORDINANCE NO. 2021-XX

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BREVARD TO REZONE LAND LOCATED IN THE VICINITY OF OSBORNE ROAD AND OLD HENDERSONVILLE HIGHWAY

WHEREAS, Brevard City Council requests that the Official Zoning Map of the City of Brevard be amended by rezoning land from General Residential – 8 to Residential Mixed Use; such property is identified by the Property Identification Numbers as listed in Exhibit A, which is attached hereto and incorporated by reference; and,

WHEREAS, a public hearing was conducted November 15, 2021 in consideration of this rezoning request; and,

WHEREAS, the City of Brevard Planning Board considered this proposed map amendment, identified as REZ-21-004, on October 26, 2021 and unanimously recommended approval; and,

WHEREAS, in accordance with North Carolina General Statute 160D-605, Brevard City Council finds the following:

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

2015 Comprehensive Plan

OBJECTIVE 2.1: Expanded tax base. As the City of Brevard's primary source of financial capital, the City will take proactive measures to stabilize and grow the tax base.

POLICY 2.1.B: Collaborate with partner organizations and developers to financially support the City's goals for infill development and redevelopment.

OBJECTIVE 4.2: Develop a system of "complete neighborhoods" throughout Brevard.

POLICY 4.2.A: Modify zoning to increase allowable densities and the mixing of uses in appropriate areas.

2002 Future Land Use Map

The Future Land Use Map recommends a future use of *Residential – Medium Density*.

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

and,

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

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

Section 1. The Official Zoning Map of the City of Brevard is hereby amended as depicted herein on Exhibit B which is attached hereto and incorporated by reference.

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

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-3. Resolution No. 2021-54 Approving a Contract with Stewart, Inc. a Planning Consultant Commissioned to Draft the City’s 2030 Comprehensive Land Use Plan. Mr. Morrow moved, seconded by Ms. Copelof to accept the resolution as presented. Motion carried unanimously.

RESOLUTION NO. 2021-54

A RESOLUTION APPROVING A CONTRACT WITH STEWART, INC. A PLANNING CONSULTANT COMMISSIONED TO DRAFT THE CITY’S 2030 COMPREHENSIVE LAND USE PLAN.

WHEREAS, 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; and,

WHEREAS, the Chapter 160D of the North Carolina General Statutes requires local governments to adopt and reasonably maintain a comprehensive plan; and

WHEREAS, the City of Brevard has a 2002 Land Use Plan and a 2015 Comprehensive Plan and shall update and merge these documents into the 2030 Comprehensive Land Use Plan.

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

Section 1. Stewart, Incorporated is a design, engineering, and planning firm with offices in North Carolina and is hereby selected to draft the City’s 2030 Comprehensive Land Use Plan.

Section 2. The City Manager, is authorized and directed to sign a contract with Stewart, Incorporated.

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

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

M-4. Ordinance No. 2021-50 Amending the FY2021-2022 Budget Amendment No. Three. Mr. Morrow moved, seconded by Mr. Daniel to approve the budget ordinance as presented. Motion carried unanimously.

**ORDINANCE NO. 2021-50
AN ORDINANCE AMENDING THE FY2021-2022 BUDGET
AMENDMENT NO. THREE**

WHEREAS, the City Council of the City of Brevard previously approved the Annual Budget (Ordinance No. 2021-27); Budget Ordinance Amendment No. 1 (Ordinance No. 32); Budget Ordinance Amendment No. 2 (Ordinance No. 38);

WHEREAS, it is necessary to make amendments to the budgets to reflect additional revenue and expenditures for Fiscal Year 2021-22.

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

SECTION 7) General Fund Revenue is hereby increased \$82,000 from \$10,008,900 to \$10,090,900.

Fund Balance Appropriated	82,000
TOTAL REVENUES	\$82,000

SECTION 8) General Fund Expenditures are hereby increased \$82,000 from \$10,008,900 to \$10,090,900.

Professional Services	82,000
TOTAL EXPENDITURES	\$82,000

SECTION 39) That Revenues and Expenditures Section 1 through Section 38 of the Ordinance Amendment have increased \$82,000 from \$38,233,452 to \$38,315,452 as follows:

	Budget
General Fund	\$ 10,090,900
Sanitation Fund	\$ 1,000,790
Water & Sewer Utility Fund	\$ 7,024,534
Utility Capital Projects Fund	\$ 7,940,355
Capital Reserve Fund	\$ 90,000
Fire District Fund	\$ 1,576,806
Terrell L. Scruggs Scholarship Fund	\$ 13,048
Bjerg Fund	\$ 100
Other Post-Employment Benefits Fund	\$ 30,000
Health Insurance Fund	\$ 1,594,295
Heart of Brevard MSD Fund	\$ 176,000
Housing Trust Fund	\$ 2,400
Multi-use Paths Fund	\$ 2,073,000
911 Communications Fund	\$ 77,701
Narcotics Task Force Fund	\$ 10,000
Rosenwald Revitalization Fund	\$ 2,663,713
Downtown Master Plan Fund	\$ 775,815
Parking Fund	\$ 650,000
Local Fiscal Recovery Plan	\$ 2,525,995
TOTAL BUDGET APPROPRIATIONS	\$ 38,315,452

Adopted and approved this 15th day of November, 2021.

M-6. Resolution No. 2021-55 Endorsing a Bike/Pedestrian Bridge Across the Davidson River. Mr. Daniel moved, seconded by Mr. Morrow to approve the resolution as presented. Motion carried unanimously.

RESOLUTION NO. 2021-55

**A RESOLUTION ENDORSING A BIKE/PEDESTRIAN
BRIDGE ACROSS THE DAVIDSON RIVER**

WHEREAS, the North Carolina Department of Transportation (“NCDOT”) intends to construct the Davidson River Bike/Pedestrian Bridge, also known as NCDOT Project EB- 5858, which will be a bridge connecting the Estatoe Trail to US Highway 276; and,

WHEREAS, the extension of bicycle and pedestrian infrastructure across the Davidson River into the Pisgah Forest commercial area will be an advancement of City Council’s bicycle and pedestrian connectivity goals as outlined in the Comprehensive Transportation Plan, the Comprehensive Pedestrian Plan and Comprehensive Plan; and,

WHEREAS, the scope of the project consists of the design and installation of a pedestrian bridge over the Davidson River approximately 0.1 miles north of NC 280/US 64, this bridge will connect pedestrian foot traffic from US 276 to the greenway.

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

Section 1. Brevard City Council hereby endorses and supports the construction of a bike and pedestrian bridge across the Davidson River at the location described herein, and hereby expresses its gratitude for NCDOT’s ongoing efforts to improve bicycle and pedestrian transportation in Brevard and Transylvania County.

Section 2. The estimated total project cost is \$1,400,000.

Section 3. Brevard City Council acknowledges and agrees that the City of Brevard is responsible for 20% of the cost of the bridge, which is equal to \$280,000.

Section 4. Brevard City Council hereby approves a supplemental agreement between the City of Brevard and NCDOT entitled "SUPPLEMENTAL AGREEMENT," dated October 22, 2021. The City Manager of the City of Brevard is authorized and directed to execute such agreement.

Section 5. This Resolution shall become effective upon its adoption and approval.

Adopted and approved the 15th day of November, 2021

M-7. Board and Committee Appointment(s).

- a. Transylvania Economic Alliance-Mr. Morrow moved, seconded by Ms. Dinkins to appoint Al Platt. Motion carried unanimously.
- b. Board of Adjustment. Mr. Morrow moved, seconded by Ms. Copelof to reappoint Tom Tarrt, Dr. Alan Delzell and Kevin Jones. Ms. Dinkins said there are two new people who applied and felt they should consider that. Motion carried with one nay, being Ms. Dinkins.
- c. Brevard Housing Authority. Mr. Morrow moved, seconded by Ms. Copelof to reappoint Rachel Hall. Motion carried unanimously.
- d. Personnel Board. Mr. Morrow moved, seconded by Mr. Daniel to reappoint Don Owen. Motion carried unanimously.

M-8. Resolution No. 2021-56 Accepting Amended Loan Offer for Gallimore Road Sewer Basin Rehabilitation Project. Mr. Morrow moved, seconded by Geraldine Dinkins to approve the resolution as presented. Motion carried unanimously.

RESOLUTION NO. 2021-56

**RESOLUTION ACCEPTING AMENDED LOAN OFFER FOR
GALLIMORE ROAD SEWER BASIN REHABILITATION PROJECT**

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects; and

WHEREAS, the North Carolina Division of Water Infrastructure, NCDEQ has offered a State Revolving Loan in the amended amount of \$2,241,300 for the construction of Gallimore Road Sewer Basin Rehabilitation, and

WHEREAS, the North Carolina Division of Water Infrastructure, NCDEQ has offered principal forgiveness totaling \$500,000; and

WHEREAS, the North Carolina Division of Water Infrastructure, NCDEQ has offered a State Revolving Loan Amended Amount totaling \$1,741,300 for 20-years at 0% interest rate; and

WHEREAS, the City of Brevard, North Carolina intends to construct said project in accordance with the approved plans and specifications

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

Section 1. That the City of Brevard does hereby accept the Amended State Revolving Loan Offer of \$2,241,300, which \$500,000 will be principal forgiveness and \$1,741,300 will be a 20-year loan at 0% interest rate; and

Section 2. That the estimated closing fee is \$44,826 based upon 2% of final loan cost; and

Section 3. That the City of Brevard does hereby give assurance to the North Carolina Department of Environmental Quality that all items specified in the loan offer, Section II-Assurances will be adhered to; and

Section 4. That Jim Fatland, CPFO, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application; and

Section 5. That the City of Brevard has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Approved and adopted this 15th day of November, 2021.

Ordinance No. 2021-51 Amending a Project Budget for Gallimore Road Sewer Rehab Project. Mr. Morrow moved, seconded by Ms. Copelof, to approve the ordinance as presented. Motion carried unanimously.

**ORDINANCE NO: 2021-51
AN ORDINANCE AMENDING 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 continuous and improved service to its customers; and

WHEREAS, on May 17, 2021 City Council approved Ordinance No. 2021-18 Establishing a Project Budget for Gallimore Road Sewer Rehab Project in the amount of \$2,269,545, with a grant/loan amount of \$2,234,845 towards “The Project”; and

WHEREAS, the City of Brevard’s grant/loan application has been amended to the amount of \$2,241,300 towards “The Project”; and

WHEREAS, the City of Brevard desires to accept the amended grant/loan under the conditions stipulated by NCDEQ-DWI 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, as amended, are budgeted in the Water and Sewer Utility Capital Projects Fund as follows:

<u>Revenue</u>	
NCDEQ Loan (no interest/20 years)	\$1,741,300
NCDEQ Principal Forgiveness	\$ <u>500,000</u>
Total Grant/Loan	\$2,241,300
Water & Sewer Utility Capital Project Fund	<u>\$132,066</u>
Total Revenue	\$2,373,366
<u>Expenditures</u>	
Design & Construction Expenditure - Eligible	\$2,241,300
Street Paving – Ineligible	\$87,240
Loan Closing Fee - Ineligible	<u>\$44,826</u>
Total Ineligible	\$132,066
Total Expenditures	\$2,373,366

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 15th day of November, 2021.

M-9. (K-4). Set Date for City Council Organizational Meeting-Monday, December 6, 2021. Ms. Dinkins wanted to confirm if the Mayor is who makes appointments to all of the Council boards. Ms. Copelof said that simply means that I will be making a recommendation to make appointments to the committees and not making the appointments. Attorney McKeller added that the Mayor does in fact have the authorization to make all of the committee appointments since the committees were created by Council. If Council wants to change that, they can via resolutions.

N. Remarks/Future Agenda Considerations.

Mayor Harris said that he has enjoyed being Mayor of this community and I appreciate everyone. I appreciate all of the good wishes that I have received from people and I have enjoyed serving for you. Come out to the Christmas parade, it's going to be a good time.

Ms. Copelof said that she wanted to let Council know that she received an offer to join the WNC Leadership Forum created by Duke University. This will be 30 leaders from Buncombe, Haywood, Henderson, Madison and Transylvania county and the reason I'm excited about this is that the question that this group is exploring is "how can we increase access to adequate housing in Western North Carolina." So this is another forum where we have the opportunity to look for building blocks that we can use locally and tap in at a regional level of the expertise that's out there and I will be representing Brevard. I'm meeting with each Council member one on one to talk about your goals and interests and see where you can make the biggest difference on the committees and spread the responsibility between Council members because we have quite a number of committees that do a lot of different work so if you haven't gotten with me to schedule a time, please respond to my email because I'd like to have this set so when we walk in on December 6th, we really have a team effort and collaborative agreement going forward with the committees. I'm working right now on our 2022 meeting schedule and I want to give a heads up to Council that we are going to be increasing the number of meetings that we hold. I will be presenting a proposed meeting schedule to Council at one of the December meetings. On December 6th, we will have our organizational meeting and we will be having additional meetings in December for items that are time sensitive and cannot be put off until January. I'm also working on a strategic planning conference in February and my goal is to use this full day to look organizationally at changes that we might want to make, as well as, priorities that we can fund in the budget and if we can do it in February, that leads right into the budget process. I encourage council members, if you have items, please share them with me. It's really an honor to be the Mayor-Elect and an honor to follow someone like Mayor Harris. I don't think anyone can fill those shoes after 22 years. This is going to be the first mayoral transition in a generation so when you think about it like that and think about how many years Jimmy has dedicated to the people of this town, that is absolutely amazing. I wanna say thank you from the bottom of my heart for everything that you have done for this community and I will do my very best to try to live up and fill those footsteps but its going to be very very challenging. To the staff, I know transitions are always difficult and always stressful. It is my goal to make it as seamless and as less stressfull for all of you as possible. I will be doing everything in my power to support staff. It has been an absolute pleasure working with staff and our city manager for the last four years as a council member and I am thrilled to be able to continue this in a new role and I will be there to support you as your Mayor and do absolutely everthing I can to help you be successful because that's how I'm successful. I'm looking forward to being part of this team going forward and anything that I can do to help make this transition easier for you, just let me know. Thank you all.

Mr. Daniel said that he is really quite excited about the Summit Group that's going to be working on our comprehensive plan and I think it will make Brevard a better place. Twenty Two years is quite a remarkable achievement and I'd like to offer my appreciation. I wish you the best.

Mr. Morrow said I would like to express my appreciation to the voters for extending my term one more time and I appreciate your trust and confidence. Jimmy, I love a lot of things you often say. You would often say if you brush your teeth, say your prayers and take your vitamins, you too could live in Brevard. He brought the house down. In some way, Maureen, you're gonna have to figure all of that out because I'm telling you, that's gonna be a hard act to follow. We'll get a chance to talk more about Jimmy on December 15th and we'll get a chance to roast Jimmy hopefully at the Brevard Music Center from 4-6pm.

Ms. Dinkins said I'm going to be the party pooper again. I have a question for staff on the bike path. I was under the impression that we would be on Main Street in November and I'm not seeing much going on. What is going on with the bike path? Mr. Fatland said that the contract has been awarded and they're purchasing the storm pipe

but like everyone else, they've been struggling to get material. It's a priority but these contractors are struggling and everything is slowed down by what's going on in our country. At the next Parks Committee meeting, we'll have the engineer give an update.

Ms. Dinkins said my second question again to staff is what's the status on the Brownfields Agreement for the Tannery property? Mr. Ray said we are still waiting for it to come in the mail. We've done everything we need to do to get it and it's in Raleigh right now being signed by everyone. Mr. Fatland said, once we get it, we'll bring it to Council for final approval.

Mr. Jones said congratulations to everyone who won seats on Council. I look forward to working with you all. Jimmy always said that we stand on the shoulders of those before us, you're gonna need someone really tall to be able to fill Jimmy's shoes. I had an opportunity this past week to go out to Brevard High School and help judge on some students projects, a few sophomores, some juniors and seniors, and I just want to tell you, our youth, so talented. We have some talented, smart, amazing kids. Its sad to see them leave and not come back here and contribute to the area that they came from. Lastly, I want to let Council know that I'm throwing my hat in the ring for Mayor Pro Tem.

Mr. Fatland said 6 1/2 years ago, Mayor Harris called me up late at night and asked me to serve as interim manager and I said I would accept it if we could go to work and move the City forward. The Council three weeks later formed all these committees and all of you have served on these committees and results started happening and moving at a much faster pace. I promised the Mayor that I would stay on as long as he stayed Mayor and what I'm about to say is that I've decided to retire. My wife Linda has been retired for 5 years. I missed a lot of experiences with my granddaughters. One of my granddaughters in Tennessee competed in Indianapolis over the weekend and her highschool came in first in their division, best band in the country and I missed that opportunity and I want to make more of those so my retirement date will be the end of December. When I used to walk downtown with the Mayor, what normally would take 5 minutes, would take us 45 minutes because he stops and visits with everyone. I went over to see the Mayor last Friday, forgetting you were out of town, so I come out of the hardware store and see someone sitting in one of those chairs out front and I said you're not from around here are you. No I'm from Little Rock. I said you know the Mayor really brags about this City and he said well we love this City. Mayor you've definitely had an impact on my life and several people in this community. I turn 71 in two weeks so I think I need to move on and God has a plan for me and I'm ready to spend time with my family. I want to thank Council for their support and the employees of this City are fantastic. They really step up to the plate and what I've learned from them is that when you show support and thank them for all the stuff they do, they'll work even harder for you.

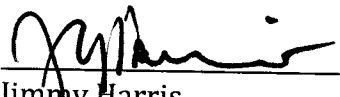
Mayor Harris said I get to go twice because I'm the Mayor. Whether it's the World Series or the Superbowl, if I'm the coach, I'm taking you guys, City workers, with me to win the game because you guys are the real champions.

O. Closed Session(s) – Mayor Harris asked the City Attorney if it would be appropriate for Council to hold a closed session to discuss a personnel matter. City Attorney advised pursuant to **GS § 143-318.11. (a)(3)(5)(6)** 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 8:15 p.m. Mr. Daniel moved, seconded by Mr. Morrow to enter into closed session to discuss a personnel matter 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.

Council Returned to Regular Session – at 9:05 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the Minutes of the closed session are authorized to be sealed.

P. Adjourn – There being no further business, Mr. Jones moved, seconded by Ms. Dinkins, the meeting be adjourned. Motion carried unanimously. Meeting adjourned at 9:05 p.m.



Jimmy Harris
Mayor



Jill Murray, CMC
City Clerk

Minutes Approved: December 20, 2021