

**MINUTES
BREVARD CITY COUNCIL
Regular Meeting
December 20, 2021 – 5:30 PM**

The Brevard City Council met in regular session on Monday, December 20, 2021, at 5:30 p.m. in the Council Chambers of City Hall with Mayor Copelof presiding.

Present – Mayor Maureen Copelof, Mayor Pro Tem Gary Daniel and Council Members Mac Morrow, Maurice Jones, and Geraldine Dinkins. Council Member Aaron Baker appeared via Zoom as he was unable to attend due to Covid.

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

Press – Jeremiah Reed, Transylvania Times

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

B. Invocation – Emory Owen offered an invocation.

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

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

E. Approval of Agenda – Mayor Copelof asked that item K-3 Co-Ed Theater Lease be pulled from the agenda as it is not ready and move it to the January agenda. Mr. Fatland asked that an Assignment of Contract for Mosaic Studio be added to the agenda as item K-10. Mr. Daniel moved, seconded by Mr. Jones to approve the agenda as amended. Motion carried unanimously.

F. Approval of Minutes – Mr. Jones moved, seconded by Mr. Morrow to approve the November 15th minutes as presented. Motion carried unanimously. Mayor Copelof asked that the Chair of Land of Sky RPO show Mr. Morrow as Chair and herself as the alternate. Mr. Jones moved, seconded by Mr. Morrow to approve the December 6, 2021 Organizational Minutes as amended. Motion carried unanimously.

G. Certificates/Awards/Recognition -

G-1. Criminal Justice Officer's Advanced Certificate-Ronnie Bickford. Chief Tom Jordan presented the certificate to Officer Ronnie Bickford. His wife Monica, and daughters, Deanna and Natalie were there as well.

H. Special Presentation(s)

H-1. Annual Review of the Brevard Police Department 2021- Tom Jordan.

Chief Jordan gave an annual review for the police department in 2021. His PowerPoint was in the agenda packet. He included crime reporting, calls for service, arrests, and traffic citations. He also explained his plan for the coming year and the changes and improvements that he plans to make in the police department, including a proposed organization restructure.

Mr. Baker said he appreciated the “reimagining” slide and that it included mental health. He asked if code enforcement is typically a police function. Chief Jordan said traditionally that is a planning function, however, since the ordinance change, it puts a lot of it on the police now and we’re embracing it wholeheartedly. It’s going to be a chance for us to be more active with code enforcement in the City. I am looking to put

together a hybrid unit of sworn and civilian personnel that's going to focus on education and trying to get voluntary compliance with code enforcement issues and we really want to keep the enforcement part to the end. We don't want to start with that. We don't want to start with a hammer. So I'm looking for more of a "Municipal Compliance Unit" versus municipal enforcement because I think what we're really trying to do is get voluntary compliance and that may include working with mental health professionals because a lot of times there's a mental health component that goes into some of these code enforcement issues and gets lost.

Mr. Daniel said thank you for building on the good work that has been done thus far. I want to reinforce the citations. Obviously the infractions have not decreased by half although citations almost have and that is a concern. It sounds like you're on it and you're aware that there's some discrepancy here and I actually did see something that I don't see often and that's that a Brevard policeman had someone pulled over for a traffic violation so I appreciate that.

Ms. Dinkins said she won't go into it because it has been mentioned, but the citations jumped out at her as well. She asked about the early warning system. You say it's in place. There was a lot of negative feedback surrounding the bomb threat last fall so is there something stouter in place now or was that just an incident that didn't go according to plan? Chief Jordan said the actual policy I've renamed, it's an early identification system and it's a part of police reform. It's actually a system of structure that if we see certain patterns of conduct behavior with the officer it pops a red flag for us to review that versus the communications type but that's an excellent point because that's something that we're working on too. I've spoken with the Mayor about a communications plan that I'm still drawing up and we're going to work on that. That was a vulnerability for us and we are going to close that gap.

Ms. Dinkins said that she is very happy that individuals with intellectual and developmental disabilities are making in onto your radar. That is as much a challenge to police and law enforcement as police and law enforcement is a challenge to them. As a mother with a son on the autism spectrum, I receive that with much relief and I'm glad to see that law enforcement as a whole is moving in that direction with more understanding.

She added that she is not loving the new proposed black car. It looks stealth. You mentioned a cost savings? Chief Jordan explained that he would phase out the cars and get new ones as the old ones phase out. The cost savings comes because we order the cars in all black and then we send them out to have their doors painted white. They remove the doors, paint them and that adds cost, so that's where the savings comes in. Ms. Dinkins added that the really nitpicky part is that I would like to see the word Brevard above the word Police. Chief Jordan said that they've actually been talking about that already.

H-2. City of Brevard Annual Independent Audit for Year Ending June 30, 2021.

Mr. Dan Mullinix, CPA, Gould Killian CPA Group, P.A., presented a brief power-point and shared information contained within the Audit Wrap Up for year ending June 30, 2021 (on file). He extended his appreciation to the Finance Director Dean Luebbe and City Manager Jim Fatland for their excellent work and for the assistance they provided to him throughout the audit. He added that the City's budget is balanced and is in compliance with accounting rules and procedures, and the NC State requirements have been met.

Mayor Copelof and Council thanked Mr. Mullinix for his reporting and presentation and accepted the report as presented.

~~ At 6:41 PM Mayor Copelof called for a ten minute break. ~~

H-3. Water/Sewer/Stormwater Project(s) Grants.

Mr. Fatland explained that there is a significant amount of money coming to communities throughout the country and he wanted to share an opportunity that we have. I prepared a capital project of pooling over \$70 million dollars of which this city has completed about \$26 million dollars to date. Primarily addressing sewer system overflows and that nature. We've been fortunate enough to get no interest loans and low interest loans and some grant money. During the Covid year in our state revolving loan fund projects, we submitted two projects, the Burrell Mountain water tank and King Street Water Line Upgrade which was \$4 million dollars in projects and we got back \$3 million dollars in grants and \$1 million in a 20 year no interest loan. We've got two projects that are pending right now in Raleigh. One is \$4.9 million dollars' worth of improvements at the Water Treatment Plant including a generator and new pumps. We got notification back in August that this is going to be a \$500,000 grant and \$4.4 million in a 20 year no-interest loan which is traditionally a good offer. My gut feel was, let's resubmit it so I resubmitted it back to Raleigh. We may find out in January or February that this may be 100% grant. Also, in September, we turned in an application for \$2 million dollars for the Azalea/Rhododendron neighborhood sewer extension and we hoped to get a CDBG grant but that money dried up but we may get 100% funding in January or February as the state is looking at that. We also received notification this past year that we're going to get \$2.525 million in American Rescue Plan money and we've identified those prospects. That will be 100% grant. In July, State House Member Jake Johnson called me and he wanted to know if we had some projects we could submit for the State budget and I asked how much was available and he said around \$400,000. I gave him \$700,000 worth of storm water projects and he called back on November 23rd with a State budget option and \$700,000 was given to the City as 100% grant. The reason I'm here before you tonight is the Federal Government and the State Government have several million dollars in water, sewer and stormwater to give out to communities and these are going to be 100% grants but unless you ask, you shall not receive. I'm asking Council tonight to approve the funding applications (not to say you're approving the design), but to hire an engineer to apply for these grants. The Public Works Committee met last week and we interviewed 5 engineering firms and the deadline is May 2, 2022. The recommendation from the Public Works and Utilities Committee is we would like to apply for these grants that total about \$30 million dollars. I'm asking for Council to approve a funding application to hire an engineer to apply for these grants. McGill and Associates for the French Broad River intake at a cost not to exceed \$17,500. CDM Smith to expand our wastewater plant and also looking at our water distribution finish water tank additions for the Walmart locations, Strauss Park, Deer Lake and Burrell Mountain, as well as, two large sewer pump stations, Pisgah Fish Camp and Wilson Road to expand those and also looking at a water treatment plant expansion to 3.9MGD. The amount not to exceed \$39,000. The third grant is through Brown Consultants to do an application for Kings Creek Stormwater Improvements, cost not to exceed \$8,500. The total cost of these applications is \$65,000 but could generate \$30 million in free money. If we do this now, the engineers will be ready to go after the New Year and we can come back to you with resolutions to consider to move forward hopefully in April of 2022.

Mr. Baker added that he thinks we should work with the County and Rosman to work together and start dialogue and not step on each other's toes.

I. Public Hearing(s) -

I-1. Proposed Amendment to the Official Zoning Map of the City of Brevard-Asheville Highway and Lambs Creek Road.

Mr. Bland explained on October 26, 2021, an application was submitted by Shawn Hamilton of Native Spirits LLC, requesting a map amendment (rezoning) for multiple properties at the intersection of Asheville Highway and Lambs Creek Road. The six parcels are currently zoned General Residential 4 and the applicant is requesting to rezone all parcels to Neighborhood Mixed Use to match one parcel that fronts Asheville Highway. All seven of the parcels are being sold as a group and total

approximately 15 acres in size. The Planning Board considered this request at their November meeting and came to the conclusion that not all of the properties would need to be rezoned to meet the applicant's development goals. The Board recommended only three of the parcels be rezoned to NMX in order to maintain the GR4 zoning on the rear parcels to act as a buffer from the NMX properties by Asheville Highway and the residential properties of Lamb's Creek Road and Tanglewood Heights.

Mr. Hamilton spoke and said the vision for the project is on the southern two parcels which is really the only realistic area. We're going to have approximately an 8,000 square foot structure and a parking lot area for a whiskey distillery, retail, tasting room and bar area and the northern part is going to be for outdoor recreation and greenspace and it was discussed during the planning board meeting that perhaps eventually it could tie into the trail system. After talking to the Planning Board, those western parcels, it would be too costly to build there anyway, so by leaving it, it would make it a natural buffer, and so that's the vision for it.

Public Hearing Public Participation -

Jennifer DiLemme of 406 N. Country Club Road, spoke and said she is here to request that the back parcel remain residential as a buffer. It would be nice to have a buffer for sound, music etc., and to give some consideration on the entrance to Lambs Creek and how traffic would flow.

Paul Phillips of Lot 9, Straus Park, said that he owns one of the lots in Straus Park at the bottom of the cul-de-sac. His concern is also having a buffer, which was just addressed. I'm happy that we'll have something other than billboards. Also, I didn't get any notice of this and I'm not sure why.

Elizabeth Sivore of 630 Lambs Creek Road, said she was born and raised on Lambs Creek, and the development kind of worries me. A major concern, is getting in and out of there because we already have issues there. I'm not against it becoming something, I'm just worried how it will affect the entrance to that community. There are several breweries here already.

The attorney asked Mr. Bland how this hearing was noticed. Mr. Bland said that there were two physical postings on the properties and any property within 100 feet including on the other side of right-of-ways, so on the other side of Tanglewood Heights, all adjoining properties would have gotten a letter sent to the address listed in the tax office via regular mail. We use the tax office addresses and we've gotten a lot of letters back. We follow the statute in our ordinance as best as we can but cannot control the U.S.P.S.

Mr. Hamilton spoke again and said that he'd like to address the entrance to the property. There's an existing driveway that goes up to that dilapidated house about 125 feet up but I even feel like that's too far to get into where our parking lot would be. The furthest south part of the property is ideally where I would want the parking to be, so I would say realistically the traffic created from this would at max be 75-100 feet up the road and then would turn into a parking lot but I also realize that there's going to have to be some improvement made so a portion of that, you may get paved for you.

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

I-2. Proposed Amendment to the Official Zoning Map of the City of Brevard-Jennings Industrial Park.

Mr. Bland explained that October 25, 2021, an application was submitted by Aaron Baker of Oskar Blues on behalf of all of the property owners within the Mountain Industrial Drive Planned Development District, requesting a map amendment (rezoning) for all of the properties within the PDD to the General Industrial base district. The group of seven parcels that make up the PDD is approximately 35.58 acres

in size and is known as the Jennings Industrial Park. The proposed rezoning would essentially dissolve the PDD and revert the parcels to General Industrial which means that any future development or expansion to existing buildings would be subject to General Industrial development standards of the City's UDO. The Planning Board discussed this request at their November meeting and unanimously recommended approval as submitted.

Public Hearing Public Participation -

Public Hearing Closed - There being no further questions or comments, Mayor Copelof closed the hearing at 7:29 p.m.

J. Public Participation -

Harvey Federman of 71 King Street, spoke regarding replacing the water line on King Street saying that construction is expected to result in significant disturbances to a street that is already in disrepair. We are giving feedback as requested, from business owners and property owners regarding how to maximize improvements associated with this construction while minimizing disturbances. He distributed a questionnaire from several business and property owners (on File in Clerk's Office).

K. Consent and Information - Consent Agenda items are considered routine and are enacted by one motion. Mayor Copelof 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. Jones moved, seconded by Mr. Daniel to approve the Consent Agenda. Motion carried unanimously.

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

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

K-3. Co-Ed Theater Lease - REMOVED

K-4. Council Public Works & Utilities Committee Minutes-May 27, 2021.

K-5. Housing Trust Fund Selection Committee Minutes-September 2, 2021.

K-6. Council Parks, Trails & Recreation Committee Minutes-October 20, 2021.

K-7. Council Downtown Master Plan Committee Minutes-October 21, 2021.

K-8. Council Downtown Master Plan Committee Minutes-November 18, 2021.

K-9. Correspondence (No Action. Offered as information only.)

a. Transylvania County Building Permit Activity, November, 2021.

K-10. Assignment of Contracts with Mosaic Civic Studios. Mr. Bland explained that City Council previously approved contracts with Mosaic Civic Studios, PLLC for designing improvements "betterments" to NCDOT projects along Asheville Highway. This design firm has recently merged with another, Traffic Planning & Design, Inc., which will assume both contracts without change. Staff recommends that City Council authorize the City Manager to sign the Assignment of Contracts allowing this.

L. Unfinished Business - Approval of City Council 2022 Meeting Schedule.

The Meeting Schedule has changed showing two meetings per month beginning in February. Mr. Daniel pointed out that if they approve this calendar, City Council can always amend it down the road if we do not need to have a meeting. Mr. Jones moved,

seconded by Mr. Daniel to approve the schedule as presented. Motion carried unanimously.

**Brevard City Council
2022 Meeting Schedule**

Day / Date	Time	Type	Location
Tuesday, January 18, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, February 7, 2022	5:30 PM	Regular Meeting	Council Chambers
Wednesday, February 23, 2022	8:30 AM	Strategic Planning Session	Transylvania County Library Rogow Room
Monday, March 7, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, March 21, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, April 4, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, April 18, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, May 2, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, May 16, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, June 6, 2022	5:30 PM	Budget Work Session #1	Council Chambers
Monday, June 13, 2022 (If Needed)	5:30 PM	Budget Work Session #2	Council Chambers
Monday, June 20, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, July 18, 2022 (If Needed)	5:30 PM	Regular Meeting	Council Chambers
Monday, August 1, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, August 15, 2022	5:30 PM	Regular Meeting	Council Chambers
Tuesday, September 6, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, September 19, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, October 3, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, October 17, 2022	5:30PM	Regular Meeting	Council Chambers
Monday, November 7, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, November 21, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, December 5, 2022	5:30 PM	Regular Meeting	Council Chambers
Monday, December 19, 2022 (If Needed)	5:30 PM	Regular Meeting	Council Chambers

Adopted: December 20, 2022
Distribution: December 20, 2022
J Murray, City Clerk

M. New Business.

M-1. Ordinance No. 2021-52 Proposed Amendment to the Official Zoning Map of the City of Brevard-Asheville Highway and Lambs Creek Road. Mr. Morrow moved, seconded by Aaron Baker to approve the ordinance as presented and following the Planning Board’s recommendation. Motion carried unanimously.

ORDINANCE NO. 2021-52

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP
OF THE CITY OF BREVARD TO REZONE MULTIPLE PROPERTIES
IN THE VICITINY OF ASHEVILLE HIGHWAY AND LAMBS CREEK ROAD**

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 Shawn Hamilton on behalf of Native Spirits LLC for properties described as PINs 8597-01-8529-000, 8597-01-6950-000, 8597-12-0348-000, 8597-02-9059-000, 8597-11-1969-000, and 8597-11-0886-000 (hereafter “Subject Properties”) to be rezoned to Neighborhood Mixed Use, the City of Brevard Planning Board considered

REZ-21-005 on November 23, 2021 and unanimously recommended approval for only the following properties: 8597-01-8529-000, 8597-11-0886-000, and 8597-11-1969-000 (hereafter "Recommended Properties"); and

WHEREAS, the Brevard Planning Board has determined that the application for rezoning all of these Recommended Properties is consistent with the following policies and goals of the 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.

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

WHEREAS, the Brevard Planning Board has determined that the application for rezoning these Recommended 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 rezoning will allow higher density residential and more commercial uses along the high-traffic corridor of Asheville Highway.
2. The rezoning will create a logical stepping-down of land use intensity from Asheville Highway to the existing residential properties interior to Lambs Creek Road.

and

WHEREAS, a public hearing was held on December 20, 2021, in consideration of rezoning of the Subject Properties to Neighborhood Mixed Use; and

WHEREAS, the City Council, after hearing all persons wishing to comment on this request, desires to approve the Recommended Properties.

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

Section 1. The Official Zoning Map of the City of Brevard is hereby amended as described in Exhibit A attached hereto and incorporated by reference.

Section 2. 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 3. 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 4. All ordinances or portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. This ordinance shall be in full force and effect from and after the date of adoption.

Adopted and approved this the 20th day of December 2021.

M-2. Ordinance No. 2021-53 Proposed Amendment to the Official Zoning Map of the City of Brevard-Jennings Industrial Park. Mr. Baker asked to be recused from voting on this ordinance since he has personal interest in it, in that he works for Oskar Blues. Ms. Dinkins moved, seconded by Mr. Morrow to accept Mr. Baker's recusal. Motion carried unanimously. Mr. Daniel moved, seconded by Mr. Morrow to accept the ordinance as presented. Motion carried unanimously 4-0, minus Mr. Baker's vote.

ORDINANCE NO. 2021-53

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP
OF THE CITY OF BREVARD TO REZONE JENNINGS INDUSTRIAL PARK

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 Aaron Baker of Oskar Blues, on behalf of all property owners within the Jennings Industrial Park and Mountain Industrial Drive Planned Development District, for all such properties contained therein, described by PINs 8596-28-5074-000, 8596-37-5808-000, 8596-27-3768-000, 8596-37-7910-000, 8596-48-3055-000, 8596-47-5642-000 & 8596-47-1344-000 (hereafter "Subject Properties") to be rezoned from Mountain Industrial Drive Planned Development District to General Industrial, the City of Brevard Planning Board considered REZ-21-006 on November 23, 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:

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.A: Modify zoning regulations to encourage and allow greater density and intensities of land use within its jurisdiction.

OBJECTIVE 2.2: Increased collaboration and advocacy to encourage and increase investments in both the public and private sectors.

OBJECTIVE 2.3: Retention and expansion of institutions, programs, and services that expand the knowledge, skills, and abilities of our citizens.

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 consistent 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 rezoning will allow easier and more predictable permitting of additions/alterations to the area's existing industrial uses.
2. The rezoning will make the process of new development within the area clearer and more predictable to prospective new developers.
3. The rezoning will eliminate a confusing conditional zoning district that relies on a base district for all development regulations with the exception of signage.

and

WHEREAS, a public hearing was held on December 20, 2021, in consideration of rezoning of the Subject Properties to General Industrial; 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 remove the Mountain Industrial Drive Planned Development District and replace it with the General Industrial base district as described in Exhibit A attached hereto and incorporated by reference.

Section 2. 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 3. 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 4. All ordinances or portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. This ordinance shall be in full force and effect from and after the date of adoption.

Adopted and approved this the 20th day of December 2021.

M-3. Authorization for Staff to Request Proposals to Apply for Grants for Water/Sewer Stormwater Project(s). Mr. Daniel moved, seconded by Mr. Jones to approve authorization to request funding proposals from the following companies:

McGill to prepare funding application for the French Broad River Intake and necessary infrastructure to connect to the Cathey's Creek WTP;

CDM Smith to prepare funding applications for the following projects:

- WWTP Activated Sludge Plant Improvements
- Water Distribution Finished Water Tank Additions for Walmart, Strauss Park, Deerlake and Burrell Mountain
- Sewer Pump Station Upgrades for Pisgah Fish Camp and Wilson Road
- WTP Expansion to 3.9 MGD

Brown Consultants to prepare funding application for King Street Stormwater Improvements.

Motion carried unanimously.

M-4. Resolution No. 2021-61 to Encourage City-Wide Community Gardens and Accept Blue Zones Project-Brevard Funding to Support the Construction of New Community Gardens.

Mark Burrows spoke and said that they are trying to improve lives in the community and he has been working with a food nutrition committee and something that was identified was a need for community gardens. I presented staff with a draft resolution and it's essentially to encourage community gardening. It is not an ordinance or a regulation. It's simply to encourage gardening and Blue Zones can provide \$7,500 to support this.

Mr. Daniel said that he thinks it's important to say that if the City needs the property for something else, that garden could go away.

Ms. Dinkins said that she would like to table this until we complete the path and then revisit it. Mayor Copelof explained that this money from Blue Zones will go away at the end of this year.

There was no second to Ms. Dinkins's motion so the motion died.

Mr. Morrow moved, seconded by Mr. Jones to approve the resolution as presented. Motion carried 3-2. Ms. Dinkins and Mr. Baker were nays.

RESOLUTION 2021-61

RESOLUTION TO ENCOURAGE CITY-WIDE COMMUNITY GARDENS AND ACCEPT BLUE ZONES PROJECT – BREVARD FUNDING TO SUPPORT THE CONSTRUCTION OF NEW COMMUNITY GARDENS

STATEMENT OF PURPOSE: The purpose of this resolution is to adopt a community gardens policy for the City of Brevard (City) and to accept \$7,500 from Blue Zones Project – Brevard. The resolution calls on the City to develop such a policy within a reasonable time frame and help establish a new community garden in the Spring of 2022. The resolution reflects the City's support for community gardens as a valuable resource and the City's commitment to collaborate with the communities, Blue Zones Project – Brevard, the NC Cooperative Extension Office, non-profit organizations, and other stakeholders to encourage and preserve community gardens on public and private land.

WHEREAS, community gardens are any piece of private or public land where plants are grown and maintained by a group of individuals in the community. Community gardens often produce food for individual consumption, but may produce food for sale, be designed for beautification of the community, or be used for educational purposes; and

WHEREAS, community gardens make a significant contribution to the civic and cultural life of communities and create gathering places that bring people together across boundaries of age and ethnicity; and

WHEREAS, community gardens provide access to healthy, culturally specific food for people of all economic backgrounds, allowing residents to improve nutrition and lower food costs; and

WHEREAS, community gardens serve as a tool to fight obesity by positively contributing to the physical activity of participants, increasing access to nutritional foods, and serving as an important environmental and health educational tool; and

WHEREAS, community gardens provide positive attributes as urban green spaces: they beautify areas, build a sense of community, help abate criminal activity, and prevent trash accumulation, dumping, and littering; and

WHEREAS, community gardens contribute to the preservation, access to, and use of open space, vacant lots, and public parks; and

WHEREAS, community gardens empower residents to become more active in their communities, cultivating cross-cultural and intergenerational volunteers and leaders who come together to preserve open space and create gardens for the benefit of present and future generations.

WHEREAS, Blue Zones Project – Brevard desires to promote healthy food policy and the creation of new community gardens will provide \$7,500 to help support the development of new gardens;

NOW, THEREFORE, BE IT RESOLVED, that the City of Brevard establish a Community Garden Policy that provides as follows:

1. The City supports community gardens as a valuable resource and commits to encouraging and preserving community gardens on public and private land.
2. To encourage and protect community gardens on private and public lands, the City Council directs the City of Brevard Parks, Trails and Recreation Committee along with other selected staff, and community volunteers to develop a City of Brevard Community Garden Policy.
3. The City will work with the NC Cooperative Extension Office, Blue Zones Project – Brevard, non-profit organizations, local gardeners, and other groups to identify public and private land suitable for community gardens.
4. The City will allow the use of public property, where appropriate, for new community garden sites, such as undeveloped parcels, marginal park land, and adjacent greenways such as the Estatoe Trail and other multi-use trails and will include community gardens as a desired use of public property.
5. The City will create an application process to establish community gardens on public property and provide information on who to contact and what to consider for starting a community garden on public property.
6. The City, working with other groups like the NC Cooperative Extension Office, will provide guidance for community gardens on private property, including information on who to contact, best practices, available parcels, and what issues to consider when starting a community garden.
7. The City will maintain an inventory of community gardens and their condition on public property with permission from private property owners and community garden groups.
8. The City will incorporate the Community Garden Policy into the City's future Comprehensive Plan to encourage and preserve community gardens.
9. The City Community Garden Policy will provide an assessment of the City's zoning and land use ordinances in order to encourage and provide ease of entry for community gardening, including but not limited to;
 - a. Taking appropriate measures to encourage community gardens on private and public land through re-zoning by identifying land not appropriate for gardens and ensuring that community gardens are permitted uses in all appropriate areas.
 - b. Updating zoning codes to ensure land set aside for urban agriculture and community gardens count toward existing green-space set-aside and green building regulations.
 - c. Ensuring shared access to community resources, such as water, compost, parking, electricity, and soil testing for both nutrients and contaminants, for public and private community gardens.
10. The City will publish the Community Garden Policy, a comprehensive inventory of public community gardens, application procedure, and community garden map on the City's website.
11. The City will promote cooperation and consistency in the implementation of the Community Garden Policy through communication and collaboration among City departments and agencies, including Planning, Public Works, and the City of Brevard Parks, Trails and Recreation Committee to maintain, create, and enhance opportunities for community gardening on public and private land;
12. The City recognizes the economic, environmental, and social value of community gardens and will attempt to provide budgetary support for the coordination of a community garden program.
13. The City will review all future policies to assess their impact on community gardens and ensure that these policies promote community gardens and do not create unnecessary obstacles or burdens on community gardens.
14. The City directs the City of Brevard Parks, Trails and Recreation Committee and planning staff to evaluate the implementation of the Community Garden Policy on an annual basis and present the evaluation to City Council one year from adoption of this resolution and every three years thereafter.

BE IT FURTHER RESOLVED that this Policy shall become effective as of this 20th day of December, 2021.

Adopted and approved this the 20th day of December, 2021.

M-5. Resolution No. 2021-60 Supporting a Grant Application to Federal Land Access Program (FLAP).

Mr. Fatland explained that Mr. Ray came across this opportunity to apply for a grant for the Ecusta Trail. This would be 100% grant if we get it, for design. It could open the door to other grants from Dogwood Trust or others. There is no cost to us and no risk.

Mr. Morrow moved, seconded by Ms. Dinkins to approve the resolution as presented. Motion carried unanimously.

RESOLUTION NO. 2021-60

A RESOLUTION SUPPORTING A GRANT APPLICATION FOR A FEDERAL LANDS ACCESS PROGRAM FROM THE EASTERN FEDERAL LANDS HIGHWAY DIVISION OF THE FEDERAL HIGHWAY ADMINISTRATION

WHEREAS, the City of Brevard, in Transylvania County, has long valued the generous funding opportunities from partners in State and Federal Government to help provide a rich mix of cultural and recreational resources, economic drivers and improved transportation facilities for the local and visiting public; and

WHEREAS, the Brevard Area Trail System is comprised of two interconnecting trails consisting of the Estatoe Trail extending into the Pisgah National Forest and the future Ecusta Trail along US 64; and

WHEREAS, the Brevard Area Trail System (BATS) is adjacent to and through two federal highways serving Brevard, which are US 64 and US 276.

WHEREAS, the future Ecusta Trail shall connect visitors from neighboring Henderson County to Transylvania County and the Estatoe Trail into the Pisgah National Forest; and

WHEREAS, the City's 2015 Comprehensive Plan seeks, "opportunities to create additional connections to Pisgah National Forest;" and

WHEREAS, the Pisgah National Forest and the Brevard Area Trail System promote tourism, which is a significant economic driver for the City of Brevard and Transylvania County; and

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

SECTION 1. The City Planning Department is hereby authorized to submit a grant application for the Federal Lands Access Program (FLAP) of the Federal Highway Administrations - Federal Lands Highway Divisions; Federal Fiscal Years (FY) 2023 through FY 2026.

SECTION 2. The City Manager is hereby authorized to sign for the City and accept a 100% funded grant up to one-million dollars to be used for Ecusta Trail in accordance with the grant program.

SECTION 3. This is a Title 23 Federal Aid Highway Reimbursable Program and not a lump-sum grant program.

SECTION 4. This Resolution shall become effective upon its adoption and approval.

Adopted and approved upon first reading this the 20th day of December, 2021.

M-6. Resolution to Approve Property Exchange with NCDOT.

Mr. Bland explained that the North Carolina Department of Transportation (NCDOT) has submitted an offer to purchase a small portion of a City-owned parcel adjacent to the Asheville Highway/Ecusta Road intersection. The parcel is 0.172 acres and is the site of a sewer lift station. NCDOT desires to purchase 0.088 acres as right of way needed for planned improvements to the intersection as a part of STIP project R-5799. NCDOT also desires a temporary construction easement of approximately 0.048 acres. The offer is for \$24,700 and staff recommends this offer to City Council be approved.

Mr. Morrow moved, seconded by Mr. Daniel to approve the offer as presented. Motion carried unanimously. (After consideration by the City Attorney, a resolution did not need to be prepared. A vote by Council was sufficient.)

M-7. Request Authorization for HR/Finance Committee to Review RFP for Executive Search for new City Manager.

Kelley Craig explained that a Request for Proposal (RFP) for an executive search firm for the position of City Manager was issued on December 7, 2021 with the deadline for responses of Wednesday, December 22, 2021 at 3:00pm. The RFP's will be submitted to the Human Resources Director. Staff recommends that Council assign the Finance/HR Committee the responsibility of reviewing the RFP's submitted, interviewing the top firms, and then granting the Committee authority to award and sign the contract for the selected firm for the purpose of City Manager search within the limits of fiscal impacts.

Ms. Dinkins moved, seconded by Mr. Daniel to approve that Council assign the Finance/HR Committee the responsibility of reviewing the RFP's submitted, interviewing the top firms, then granting the Committee authority to award and sign the contract for the selected firm for the purpose of City Manager search with the fiscal amount not to exceed the amount of \$30,000. Motion carried unanimously.

M-8. Resolution No. 2021-62 Approving and Ratifying the Designation of an Interim City Manager for the City of Brevard. City Attorney McKeller explained that the City is required to have a City Manager and City Council has decided to offer the position to Steve Harrell, on an interim basis, who was recommended by the League of Municipalities. He is recently retired and he assists cities for a short period of time under an interim contract. He will be with us up to 6 months, longer if needed. Ms. Dinkins moved, seconded by Mr. Daniel to approve the resolution as presented. Motion carried unanimously.

RESOLUTION NO. 2021-62

A RESOLUTION APPROVING AND RATIFYING THE DESIGNATION OF AN INTERIM CITY MANAGER FOR THE CITY OF BREVARD

NOW COMES THE CITY COUNCIL for the City of Brevard and says:

WHEREAS, City Council notes with regret that the City Manager, Jim Fatland, has announced his retirement effective December 31, 2021; and

WHEREAS, it is appropriate for the City Council to designate an Interim City Manager to serve until a permanent City Manager appointment is made; and

WHEREAS, the City Council has determined that Steven Harrell be designated as Interim City Manager; and

WHEREAS, City Council affirms that Steven Harrell is an appropriate and qualified individual to serve that capacity; and

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

Section 1. The appointment or designation of Steven Harrell as Interim City Manager is hereby ratified and approved, and he is hereby so appointed.

Section 2. This appointment shall be effective as of January 3, 2022, and he shall serve until a permanent City Manager is appointed, or until June 1, 2022, unless extended by further resolution.

Section 3. The Interim City Manager shall report to and be supervised by the City Council.

Section 4. The attached contract is hereby approved and the Mayor is hereby authorized to execute it on behalf of the City Council.

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

Adopted and approved the 20th day of December, 2021.

N. Remarks/Future Agenda Considerations.

Mr. Daniel said that he would just like to wish everyone the happiest of holidays and enjoy their time.

Ms. Dinkins gave an update on the Short Term Rental Task Force and said that thanks to one member, we have received a \$27,000 grant, as well as, a \$3,000 contribution from the Land of Sky Association of Realtors to do an economic impact study for Transylvania County. It will take about 6 months to put it together and gives us a great place to start and I just wanted to express my gratitude for this.

Mr. Baker thanked the voters and candidates. He asked if the folks on the Housing Task Force will be having any small items to discuss in the next couple of months. Mr. Daniel said probably not. We have a good group but it will be a while until we have actionable items.

Mr. Baker continued and said that the reason he is remote tonight is because he tested positive for Covid last week and in the interest of the public and everyone, I am staying home. I am vaccinated and had the booster and wear masks and I still got it. I'm really thankful my symptoms are mild and I can't imagine not having the help of the vaccine and booster to help fight this. If you're not yet vaccinated, please do so and if you haven't gotten your booster, please do so.

Mr. Morrow said I would like to say to Jim, what an impact you've made on moving our City forward with the creation of committees and moreover 7 or 8 hours discussing the interviews with the engineers and their skill level. You could have walked out the door but you stayed and set this up, so thank you.

Mr. Jones said thank you to Jim for everything you've done for the City. Happy Holidays to all of the staff members and City Council.

Mack McKeller said Merry Christmas and rest up.

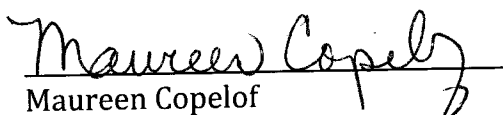
City Clerk Jill Murray wished a Merry Christmas to staff and City Council.

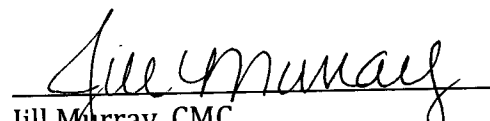
Mayor Copelof said to Jim, thank you from the bottom of my heart and for how much you care about this town. Happy Holidays to everyone and to the staff, I am sorry that we cancelled our holiday lunch that was scheduled for tomorrow but we had no choice with the Covid numbers going up.

Mr. Fatland thanked Council for giving him the opportunity and said working in North Carolina has been a privilege for him.

O. Closed Session(s) - None.

P. Adjourn – There being no further business, Mr. Jones moved, seconded by Ms. Dinkins, the meeting be adjourned. Motion carried unanimously. Meeting adjourned at 8:46 p.m.


Maureen Copelof
Mayor


Jill Murray, CMC
City Clerk

Minutes Approved: January 18, 2022

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