MINUTES BREVARD CITY COUNCIL Regular Meeting May 16, 2022 – 5:30 PM

The Brevard City Council met in regular session on Monday, May 16, 2022, 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, Aaron Baker, Maurice Jones and Geraldine Dinkins.

Staff Present – City Attorney Mack McKeller, Interim City Manager Steve Harrell, City Clerk Jill Murray, Executive Assistant to the City Manager Denise Hodsdon, Finance Director Dean Luebbe, Accounting Clerk Michael Owens, Tax Collector Tina Tanner, Planning Director Paul Ray, Assistant Planning Director Aaron Bland, Police Chief Tom Jordan, Fire Chief Bobby Cooper, Public Works Director David Lutz, Human Resources Director Kelley Craig, Public Safety Director Phil Harris, ORC Wastewater Treatment Plant Emory Owen and ORC Water Plant Dennis Richardson.

Press – Jon Rich, Transylvania Times

A. Welcome and Call to Order – Mayor Copelof called the meeting to order and welcomed those present.

B. Invocation – City of Brevard ORC of the Wastewater Treatment Plant 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 – Mr. Harrell asked to move the project ordinance for Silversteen to Unfinished Business so as to be a part of the budget discussion, as well as removing the TYSA item as they would like to come back to us with it. Attorney McKeller asked that we add a closed session for a personnel matter to the agenda. Mr. Morrow 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 accept the minutes from the May 2, 2022 meeting. Motion carried unanimously. Mr. Jones moved, seconded by Mr. Morrow to accept the minutes from the May 9, 2022 meeting. Motion carried unanimously.

G. Public Comment –

Chief Dale Whitlock spoke on behalf of the Transylvania County Rescue Squad. We would like to thank you for taking the time hear us. This is in reference to a budget request this year. The current proposal is to move first response and public service away from our department and to the fire department. The squad has provided these services to citizens for over 60 years and a number of our members would like to keep doing so. The topic originated due to both departments, us and the fire department, requesting additional employees. To be clear, the Rescue Squad is not against the Fire Department getting their employees, the squad currently has four full time employees and we cover 24/7 coverage but we still see the need for additional personnel for first shift, especially at night. One employee is not significant enough, especially for crucial calls requiring for both EMS paramedics to be in the back of the ambulance and a driver be provided by either us or the fire department. Thank you for hearing our concerns and please note that we are here and you are always welcome to stop by our station to talk to us and see what equipment we have and how we serve the citizens of Transylvania County. Again, our department does not want the first response and

public service calls to be removed from our department. I would be happy to answer any questions you may have or you can email me at chief@tcrs3.org.

H. Certificates/Awards/Recognition –

H-1. Proclamation No. 2022-11 National Bike Month. Mayor Copelof read the proclamation aloud and presented it to Assistant Planning Director Aaron Bland.

PROCLAMATION NO. 2022-11
NATIONAL BIKE MONTH

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

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

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

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

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

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

WHEREAS, May has been declared National Bike Month since 1956 and is so again in 2022; and

WHEREAS, the League of American Bicyclists, bicycle clubs, schools, parks and recreation departments, police departments, hospitals, companies, and civic groups throughout North Carolina will be promoting bicycling as a leisure activity as well as an environmentally-friendly alternative to the automobile during the month of May 2022; and

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

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

NOW, THEREFORE, I, Mayor Maureen Copelof and the Brevard City Council do hereby proclaim and recognize the month of May 2022 as National Bike Month and Bicycle Safety Month.
Adopted and approved this the 16th day of May, 2022.

I. Special Presentation(s) - None

J. Public Hearing(s) –

J-1. Ordinance No. 2022-24 to Extend the Corporate Limits of the City of Brevard-Request for Voluntary Contiguous Annexation-EJ & Megan Scalf. Mr. Bland explained that Ezra and Megan Scalf submitted a request for voluntary annexation of their property located at 328 Forest Hill Road, PIN # 8585-25-8542-000. The property is within the ETJ and in close proximity to parcels already receiving full City services, therefore the financial and service delivery impacts are estimated to be manageable.

Public Hearing Public Participation – None

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the public hearing at 5:43 p.m.

Mr. Morrow moved, seconded by Mr. Baker to approve the annexation and ordinance as presented. Motion carried unanimously.

ORDINANCE NO. 2022-24
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF BREVARD, NORTH CAROLINA

WHEREAS, the Brevard City Council has been petitioned under G.S. 160A-31, as amended, to annex the contiguous area described herein, and,

WHEREAS, the City Council has by Resolution No. 2022-06 directed the City Clerk to investigate the sufficiency of said petition; and,

WHEREAS, the Brevard Planning Board reviewed the Petition at their meeting held on April 26, 2022 and recommend approval of the voluntary contiguous annexation; and,

WHEREAS, the City Clerk has certified the sufficiency of said petition (relying on the opinion of the City Attorney) and the City Council adopted Resolution No. 2022-12 fixing a date of public hearing. By authority granted by G.S. 160A-31, a public hearing on the question of this annexation was held at the City Council Chambers at 5:30 P.M. on the 16th day of May, 2022, after due notice by publication on the 5th day of May, 2022 and

WHEREAS, the City Council does hereby find as a fact that the petition meets the requirements of G.S. 160A-31, as amended.

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

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, all of that property lying in Transylvania County, owned by EJ & Megan Scalf, as shown and being a part of that property described in the deed recorded in Document Book 859, Pages 358-359, in the Transylvania County Register of Deeds and that certain plat provided by the Petitioners to be duly recorded upon annexation is hereby annexed and made a part of the City of Brevard as of the 16th day of May, 2022.

Said property is more fully described as follows:

Being all of Lot 13 of Block 4 of the Lakeview Section of Lawrence Land Company as originally shown on a plat thereof recorded in Plat Book 1, Page 5 records of Plats for Transylvania County and resurveyed and shown on a new plat thereof recorded in Plat File 16, Slide 933 Records of Plats for Transylvania County.

Subject to restrictions, easements and rights of way affecting the subject property as will appear by reference to the public records and any amendments thereto in the Henderson County, North Carolina Register of Deeds Office.

Being the same property conveyed in a Deed from Jeffrey Albert Ellwood to Richard E. Libby, married recorded November 18, 2016 in Book 785, Page 15-17 in the Transylvania County, North Carolina Register of Deeds Office.

Section 2. Upon and after the 16th day of May, 2022, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Brevard and shall be entitled to the same privileges and benefits as other parts of the City of Brevard. Said territory shall be subject to the municipal taxes according to G.S. 160A-31.

Also being all of that property described in a plat prepared by Kevin D. Goldsmith P.L.S. for Ezra J & Megan W. Scalf dated November 3, 2016 and recorded in Plat File 22, Slide 176, of the Transylvania County Registry.

Section 3. Pursuant to 160A-29 it shall be the duty of the Mayor of the City of Brevard to cause an accurate map of the annexed territory as described in Section 1 hereof, together with a duly certified copy of this Ordinance, to be recorded in the office of the Register of Deeds of Transylvania County, North Carolina, and in the office of the Secretary of State at Raleigh, North Carolina. Such a map shall also be delivered to the Transylvania County Board of Elections as required by G.S. 163.288.1.

Section 4. Notice of adoption of this Ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the City of Brevard.

Adopted and approved the 16th day of May, 2022.

J-2. Ordinance No. 2022-25 Amending the Unified Development Ordinance Chapter 13-Infrastructure Improvement Requirements and Chapter 19-Definitions-Tap Fee Waivers. Mr. Ray explained that on September 20, 2021 staff brought City Council an Affordable Housing Project Agreement with Sunnyside Properties LLC to waive water and sewer tap fees in exchange for building two affordable housing units on a small lot off North Lane, intersecting Brown Lane and City Council unanimously approved the agreement. City Council also charged the Planning Department with codifying an ordinance to allow the City Manager to waive tap fees for qualifying projects to help facilitate additional affordable housing units in Brevard by providing this financial incentive. The Planning Department is proposing a text amendment to the UDO that allows the City to issue tap fee waivers for affordable housing and workforce housing projects. Staff recommends approval of the

amendments as presented. The Planning Board discussed these amendments at their March 22, 2022 meeting and unanimously recommended approval.

Public Hearing Public Participation – None

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the public hearing at 5:51 p.m.

Mr. Morrow moved, seconded by Ms. Dinkins to approve the text amendments and ordinance as presented. Motion carried unanimously.

ORDINANCE NO. 2022-25

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE CHAPTER 13 – INFRASTRUCTURE IMPROVEMENT REQUIREMENTS AND CHAPTER 19 – DEFINTIONS

WHEREAS, the City of Brevard Planning Board has recommended that Brevard City Code, Unified Development Ordinance, Chapter 13 – Infrastructure Improvement Requirements and Chapter 19 – Definitions be amended; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following adopted plans and policies of the City of Brevard:

2015 Comprehensive Plan:

POLICY 2.2.H: Provide financial incentives to encourage additional affordable and workforce housing development.
OBJECTIVE 4.2: Develop a system of "complete neighborhoods" throughout Brevard.
POLICY 4.2.E: Collaborate with partners to increase the amount of available affordable and workforce housing, and to combat homelessness.

2002 Land Use Plan:

Goal 6.1: Provide adequate and appropriate rental housing for the various socio-economic groups.
Goal 6.2: Provide safe, adequate, and affordable housing for families within the City limits.

Focus 2020 Community Report:

Housing & Neighborhoods Rental Goal: To provide adequate and appropriate rental housing for the various socio-economic groups.
Housing & Neighborhoods Homeownership Goal: To provide safe, adequate, and affordable housing for families within the City limits.

and,

WHEREAS, a legislative public hearing was conducted on Monday, May 16, 2022, by Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that the Code of Ordinances and Unified Development Ordinance be amended as outlined below.

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

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

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

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

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

Adopted and approved upon first reading this the 16th day of May 2022.

J-3 Proposed Amendment to the Official Zoning Map of the City of Brevard- Asheville Highway & Lambs Creek Road. Mr. Bland explained that the Planning Department received an application submitted by TR Hospitality, LLC., for a conditional

rezoning and Preliminary Master Plan approval for a hotel development within the vicinity of the intersection of Asheville Highway and Lambs Creek Road. There are seven properties and they are currently zoned Neighborhood Mixed Use and General Residential 4. The proposed project is described as an upscale lodging facility with rental cottages and cabins, as well as, other related uses such as potentially a restaurant, small event venue for weddings and gatherings, lodge and appropriate outdoor amenities such as walking trails. The Planning Board also submitted a statement analyzing the consistency of this proposal with regards to existing policies or plans of the City of Brevard and why the action is reasonable and in the public interest.

Public Hearing Public Participation –

Bryce Bay of TR Hospitality said we're focused on serving a rapidly growing travel market. The travelers that we're seeking as customers want to be more active and closer to nature and we view our product as nature and trying to get people closer to it. Our travelers, as we view them, want to use our resources more sustainably and connect to their communities more deeply. Out target customer's desire upscale accommodations, lots more greenspace, locally sourced items and custom experiences that are authentic to the area they are visiting. We are seeking to create what we think of is an oasis of all of these things for our guests in Brevard, NC. The proposed use is a destination site to be named The Staytion Brevard that may include rental cottages, cabins, treehouses, event venues, restaurants and other appropriate uses. The site benefits its proximity to Pisgah National Forest and quick access to the Town of Brevard and also has a Class C trout stream of which we are also hoping to improve that habitat. We've been in contact with the State of North Carolina trying to understand the parameters of how to improve that and I think there's a lot of opportunity to do that. Your approval is requested for the conditional rezoning of the seven parcels along Highway 64 and Lambs Creek Road and I am here to answer any questions.

Tom Lewis said I live on Lambs Creek Road which is a one lane gravel road with a speed limit of 15 mph. In order to get on Lambs Creek, most people come down and make a U-turn and then turn onto Lambs Creek. I'm concerned about the density of the building and the traffic congestion on Lambs Creek Road because there is just not any place to go in order to get on this property.

Jack Schneider said we have gone through and approved zoning and the rezoning is a reversal of that if I understand it correctly. Apparently in the rezoning, there are conditions such as 25 units per acre and a 50 foot height restriction. All of that sounds like it doesn't reduce the impact and I think was the original intent of rezoning and I think that should be considered. I think we're dealing with five acres, and I've heard about restaurants, entertainment, tree houses, a stream and some of that property I think would be considered not buildable. It seems like we're trying to put an awful lot into a small area. If we're looking for a reduction of impact on the neighboring properties it seems to me that is increasing the impact.

Jennifer DiLemme said I'm a little focused on the 4.7 acres which lies to the left of Lambs Creek because my 15 acres border it. When looking over the proposal of the project, I noticed three things that I felt should be reviewed and I had some concern. They're asking for the requested zoning of the neighborhood mixed use. This does allow for 25 units, cabins, and treehouses on one acre. So for the 4.79 acres that border four residential properties that would be 112 possible cabins. Now maybe someone wants to say it's going to be low impact or they don't plan for that but the zoning allows for that. Across the way you have 6 acres and these are the acres that don't border the highway. These are the ones that sit back and were not rezoned last December. Those 6 acres could add another 150 units so that would be a total of 262 cabins or tree houses or whatever you wanted to put on that acreage which is certainly not low impact. I would ask the Council to consider a different type of zoning there. I'm not opposed to progress or a really cool venue that offers an event center or restaurant or even the cabins or tree houses. I'm opposed to the high impact and what that would do for that area and the road and what it might look like. Maybe consider something more like GR8 that would allow for 8 units per acre, then we're only talking about 84 cabins or treehouses. I'm also concerned that the project asked to waive steep slope requirement. That is in our UDO for a purpose and I believe that we have to be very mindful of that and we cannot waive that. It's there for the protections of flooding, landslides, sediment pollution, environmental protections, and our wildlife. We have Lambs Creek that runs right there and that's a flood zone right along that creek area anyway, so the 4.7 acres to the left of the road is very steep so if we're cutting into that and running stuff down to a one lane gravel road on into Lambs Creek and into a flood area, we know how much rain we get here, I do not believe that we can afford to waive the steep

slope requirements. It's not good for our environment, it's not good for the Lambs Creek area, and it's not good for our town. The height of the building of 50 feet, that is equal to the French Broad Place condominiums so you can get an idea of how tall that's going to be right there, I don't know if that's going to fit well there, I'm not sure if they need that for the event space, maybe it can be made to look very beautiful. My concern however, is that you have it as neighborhood mixed use, its 35 feet, so they're asking for a waiver up to 50 feet. If we keep changing buildings to the 50 foot height, it's harder and harder to deny each project as we go on and I just ask for some consideration as to where is the planning? Where are we going with that? How many 50 foot buildings do we want in Brevard? If it fits and you all find that you think it will look good and it serves a purpose and should be waived for that 50 foot then I'm going to have to concede to better experts than myself but I do ask you to consider that we may be setting a precedent for each time that we waive that. We do have to consider the traffic as well.

Dawn Johnson said as I understand this development, it is for hotels and cabins up to three stories and up to 25 per acre. I read somewhere that they really only wanted the three stories for the tree houses but that's not how it's written so that would be 36 on the north side of the road, each of those up to three stories if I read that correctly. All for short term rentals, a restaurant, a lodge and event venue and also they're asking for a distillery and a brewery which doesn't seem congruous with the other uses and I haven't heard anyone else mention that. It also says other uses permitted in commercial mixed use which seems to be fairly broad and I'm wondering if that couldn't be limited somewhat. They do exclude some specific uses but then they make the statement that any additional standards and regulations would be worked out between the developer and Planning Department. But then I would like you to consider, when would the neighborhood be involved in any of this or would it be a done deal at that point and we would no longer be able to have access. They are also asking for deviations for setbacks, as well as, distances for cuts and driveways. Again, I would suggest that we would think before we're going to be giving deviations. I don't know, it might be needed for here.

Peter Johnson said most of my questions have been answered. We're going through a proposed zoning change again but if the deal doesn't go through, and we change the zoning, it seems like we lose our protection where we had zoning before. If every time a deal falls through and we don't revert back to where we were in the beginning, we lose protection.

JoAnne Houston said my questions have been answered.

Barbara McKay said my concerns have been addressed and I'm listening and learning, thank you.

Ms. Dinkins moved, seconded by Mr. Daniel to table this and send it back to Planning and the developer to address three main things. Steep slope. Personally, I would like to see your topography work and have it expressed as to why they need to be adjusted and where the height is needed for your project and where you'd be able to give. Also, the traffic pattern and bring us back a more specific project to look at. I believe everything you say about it being wonderful for people to experience, but we need to think past you in case it falls through. You also have neighbors that Pilot Cove does not. Motion carried unanimously to table this item until a future date.

Mr. Morrow asked about the Planning Board and/or staff's recommendation regarding the entrance and regarding steep slopes. Mr. Bland said we don't necessarily have any recommendations on the entrance or where it would be. I don't know how much we can restrict someone's ability to access their property off of a public road. As for the steep slopes that was in their application. Again, this is a starting point for negotiations, between you and the developer. If you want to talk about that, that's what tonight is for. I also want to mention the density. Density is a dwelling unit, that's residential, that's not what the proposal is. Applying the density numbers per acre is not how you would arrive at how many cottages or whatever they can build. This part of a preliminary master plan which shows that they want 24 of the tree houses and 36 units of lodging on what they call Parcel A which is a southern piece and then the northern piece on the other side of Lambs creek Road, they're showing 12 of the tree houses and 36 units of lodging so that comes out to 108 lodging units, so again density and dwelling units is not really the right way to think about this because it's not a residential project.

Bryce Bay said from our perspective, Lambs Creek is a state road and we certainly want to abide by any of the limitations of that road and we're looking at having the ingress and egress at the first 100 yards of Asheville Highway so we're not accessing or planning to access any of

the parcels farther down. There's already driveways going to both sides and we'll have to improve those obviously but we're anticipating that they'll be similar in terms of location to where they are now. As for steep slopes, we have to figure out if we have these 24 cabins for example, on that left side, the challenge is how do we get people in and out of there and I don't think we have to go past any existing steep slope ordinances that are there, we requested that we try to but from our standpoint, the only reason that we would want to change that is if we can save more trees and create a more interesting experience for our guests. We are not wanting to make a big parking lot on the top of that hill, we're not wanting a huge amount of density. I think our density request is very manageable in terms of the size. It's a 16 acre property which is very sizeable. I know there are concerns on setbacks and we've actually offered larger setbacks than are required for that property. We realize there's other neighbors and we're certainly trying to be proactive with the neighbors in the community and understanding what would work and not work and what people want and change is hard for everyone. Before we put a shovel in the ground, we have more layers of approval on your side of the table, not ours, so this approval doesn't mean we build a skyscraper. As for height of the buildings, we asked for 50 feet, not necessarily that we need to go to 50 feet, and this is a challenge from a visual standpoint and topography and we just wanted some leeway. What we anticipate is the main level of that building, the three story building, would be probably 18-20 foot ceilings, big expansive, cool, possibly post and beam or some version of that type of construction and then we'd have two levels above that to get to our density. If we're required to stay in 35 feet, it makes it a really cramped and potentially dark and not interesting space on the first floor so that makes it tough, but there's some topography there that depends on how it's measured so we just wanted to make sure that we have some flexibility in what we bring to you once we get to the design phase.

Mr. Daniel said we have great need and we're being asked to zone for short term rentals and we're trying to get rid of them, that's one of my concerns. We're also being asked to overturn our steep slope ordinance for these short term rentals. I understand a lot of the good that this project has but I'm getting held up on, if we were to approve this, this would apply to anyone who bought this or if he sold this and we did way with the steep slopes, they would just go in there and start developing steep slopes? How specific is this ordinance is my question. Mr. Bland said this would apply to whoever owns it. Mr. Daniel said he would want it to be specific to say if you're going to disturb steep slopes for a treehouse, I want it to say you're going to disturb 5% of the square footage of that building, that sort of thing. As far as the height, if it's for the tree house then I want it to say it's for the tree house not cart blanc.

Ms. Dinkins said has anyone asked about tree houses in general? That's kind of a new thing to our town and do we have standard for that Aaron? What's a tree house? Mr. Bland said it's a rental cottage as far as we're concerned. It's a lodging unit and it would have to comply with North Carolina state building code. Ms. Dinkins, so do we need the height in the back towards the residential neighbors? Mr. Bay said no. As for the tree house, the design we are currently working on is roughly a 24 x 28 foot print and essentially a little cottage built on stilts which is one of the beauties of the slope is that you can build these without impacting the ground. You basically pour a little footer, build a little column and you can create these tree houses in the forest canopy without having to take out lots of trees and the slope becomes the beauty of the spot, a lot like the Pilot Cove project around the corner. We're not going to be actually building onto trees like the shows on HGTV. They are cottages on stilts. Ms. Dinkins asked would they park under them too. Mr. Bay said we haven't done a detailed analysis of the topography but we'd anticipate that most of them, the low point would be the side that has the porch and the view, the back side, the higher side, is probably where people are parking as opposed to underneath. We're just not there yet in terms of our planning. Ms. Dinkins said I think there's a lot of broad language in here and I want planning to note that too that's a concern of mine. Ideally, I'm ok with the height towards the highway, I don't think it will impact us in a negative way. I'm a fan of a canyon like way in but the height all over is a concern. The starting point to me is work that is done by the Planning Department as well so I'm directing it towards both of you in that regard. I would not agree to any steep slope amendments unless you mentioned the topography report and unless you could show us more of what you're going to do. As far as the setbacks, what are you going to be doing for the neighborhood that you're impacting that will benefit the neighbors? Mr. Bay said we were required 6 feet and we suggested 25. The buffer requirement I believe was doubled, the fence that the Planning Board put on there and some of the things that staff suggested adding was working with a land trust like Conserving Carolina to replace the unbuildable sites, the buffer yards, all that stuff in the conservation easement and the remediation effort, there's an existing house that's got an underground tank, the rehabilitation of that and working with the Corps of Engineers and DEQ to bring that back up to a more natural state and removing all of the billboards which I've been told is a good idea. We think from just a general good neighborly

thing, it's going to be a beautiful site. We want it to be a cornerstone, something that Brevard is proud of and partially hopefully known for. From a community standpoint, everything we're doing is related to partnering with the community. We met with a construction company today, a local group, Wheelhouse, that's done a lot of work here and very well connected with local craftsmen and I believe has a pretty strong reputation and those are the things that are important. We're not in the business of building a box that somebody comes and sleeps in. We will have local restaurants, we don't want big chains, and we don't want our own restaurant. To us it's a whole lot more interesting to have local restauranteurs providing food and beverages and providing the local flare, furniture that's locally sourced if we can find that, just all that stuff, makes the experience more interesting. Our goal is to highlight the best of Brevard, Transylvania County and Pisgah National Forest and get people very nice accommodations with great access to nature and I think it will be great for Brevard. Ms. Dinkins asked if this is open to the public, to people who are not staying on the property. Mr. Bay said yes. Ms. Dinkins said the traffic pattern as it is right now means that there's people in cars that will be crossing over a two lane highway without the benefit of a traffic light to enter this facility. Mr. Bay said yes and his understanding is there will never be a light there because it's too close to Tanglewood which has a light.

Mr. Baker said he seems to remember the Falling Waters affordable housing project that was a PDD correct? Mr. Bland said yes. No building permits were pulled for about two years. The state statutes allow the City to issue a rezoning to undue essentially, a PDD. That's what we did in that case. Mr. Baker asked if that two years a minimum is. Mr. Bland said yes. Mr. Baker asked so we would have to wait two years and Mr. Bland said yes. Mr. Baker said on the map they provided where it lists the numbers of tree houses and cottages, are they required to hold to that? Mr. Bland said that would be a maximum. So they couldn't build more than 24 cottages? Not without doing a modification process and requesting to modify the plan. They could request to modify the plan. Can we split it up and have the height restriction only on the front three parcels? I don't see why not. I feel like we have to have this because if we waive the steep slope and the height requirement is for the entire parcel and if some random person comes in and they discover this piece of property where these restrictions are taken away then, there's not much stopping them from building a 50 foot building on the side of that hill which would be insane but technically allowable. I feel like we need to make that into what we're passing today. What's your plan for accessing land across Lambs Creek? Mr. Bay said there's an existing bridge so if were to do anything over there, the only way to get to it is across this bridge, we're anticipating that bridge would have to be improved. We haven't done a study on it. It sort of looks like a homemade concrete bridge and they channeled this creek to go around this house. We've been in touch with the North Carolina Department of Equality and there's all sorts of regulations on a Class C trout stream and we're not looking to violate any of those. We're more interested in how do we not disturb soil and still create something and expose some of that area because we think it's really pretty and should be visible. We anticipate that whatever level of improvement we need is what we would want.

Ms. Dinkins motioned, seconded by Mr. Daniel to table this and send it back to Planning and the developer to address three main themes. Steep Slope, personally I would like to see your topo work and have it expressed in the narrowest and most specific way of why slopes need to be adjusted either way. The height of the buildings, where the height is really needed for your project versus where you would be able to give on that and then the traffic pattern and bring us back a more specific project to look at. Motion carried unanimously.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 6:57 p.m.

~~ At 6:57 PM Mayor Copelof called for a ten minute break ~~

J-4. Proposed FY2022-2023 Budget and Ordinance. Mr. Harrell presented his PowerPoint presentation (Attached).

Public Hearing Public Participation – None

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 7:17 p.m. Council will discuss under Unfinished Business.

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 for a motion to approve the consent agenda. Mr. Morrow moved, seconded by Mr. Jones to approve the consent agenda as presented. Motion carried unanimously.

K-1. Forgive Sylvan Valley Center Promissory Note.

K-2. Tax Settlement Report for month ending April, 2022.

K-3. Resolution No. 2022-15 and Resolution No. 2022-16 for Discount for City of Brevard and Heart of Brevard Property Taxes Paid Early.

RESOLUTION NO. 2022-15
RESOLUTION TO OFFER DISCOUNT OF (2%) TWO PERCENT FOR CITY OF BREVARD AND HEART OF BREVARD PROPERTY TAX PAYERS

Section 1: The City of Brevard collects taxes for the City of Brevard and the Heart of Brevard Municipal Service District.

Section 2: Beginning in fiscal year 19-20, the City has offered a (2%) two percent discount to taxpayers, if their tax bill is paid on or before August 31, of the fiscal year.

Section 3: Now, therefore, be it resolved that the City of Brevard desires to offer a (2%) two percent discount to City of Brevard and Heart of Brevard Municipal Service District taxpayers for the 2021-2022 property tax bills if paid on or before August 31, 2021.

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 16th day of May, 2022.

RESOLUTION NO. 2022-16
RESOLUTION TO OFFER DISCOUNT OF (2%) TWO PERCENT FOR CITY OF BREVARD AND HEART OF BREVARD PROPERTY TAX PAYERS

Section 1: The City of Brevard collects taxes for the City of Brevard and the Heart of Brevard Municipal Service District.

Section 2: Beginning in fiscal year 19-20, the City has offered a (2%) two percent discount to taxpayers, if their tax bill is paid on or before August 31, of the fiscal year.

Section 3: Now, therefore, be it resolved that the City of Brevard desires to offer a (2%) two percent discount to City of Brevard and Heart of Brevard Municipal Service District taxpayers for the 2022-2023 property tax bills if paid on or before August 31, 2022.

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 16th day of May, 2022.

K-4. Project Ordinance-Mary C. Jenkins Community Center $2,530,000.

ORDINANCE NO. 2022-27
CAPITAL PROJECT ORDINANCE TO AMEND ORDINANCE NO. 2021-23 MARY C. JENKINS COMMUNITY CENTER

BE IT ORDAINED by the City Council of the City of Brevard, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1: The City of Brevard approved Project Ordinance 2021-23 on May 15th of 2021 for the construction of the Mary C Jenkins Community Center and parking lot improvements
Section 2: The City wishes to amend Project Ordinance 2021-23 to reflect current expenditures and revenues needed to complete the project

Section 3: The following amounts are appropriated for the project:

Account Number	Account Name	Budget Amount
82-4100-2910	Mary C Jenkins CC	$2,530,000
TOTAL PROJECT APPROPRIATION		**$2,530,000**

Section 4: The following revenues are anticipated to be available for project expenses:

Account Number	Account Name	Budget Amount
82-3920-0040	Proceeds from Borrowing	$2,350,000
82-3250-0000	Transfer from Gen Fund	$180,000

TOTAL PROJECT REVENUE **$2,530,000**

Section 5: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 6: Funds may be advanced from the General Fund or from any Enterprise Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 7: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 8: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 9: Copies of this capital project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 16th day of May, 2022.

K-5. Extension of Interim City Manager Written Agreement to Expire July 1, 2022.

L. Unfinished Business –

L-1. FY2022-2023 Budget.

Steve Harrell said that you have in front of you the same information from the last workshop along with some additional information which detailed the following and is attached:

- Street Resurfacing
- Railroad Avenue Bridge Replacement
- General Fund Balance

Also the proposal from the County was that they would fund our three new positions, but only if we add medical response. If we remove it, we could face the County removing the money to fund those three new positions. That's where we stand right now.

Dean Luebbe presented the project ordinance for Silversteen. In November 2020, we adopted a project ordinance for the Silversteen playground and we mentioned four specific pieces, the playground, basketball court, picnic shelters and the splash pad. The ordinance was for $398,000 and the first two of those have been completed. The second two have not. We've started on the Norton Creek Streambank Restoration and we received a $95,000 grant from DEQ and at this point my new ordinance increases this project to half a million dollars. We have to match the $95,000 grant. That is the ordinance that we're proposing. At this point, the picnic area and splash pad are not funded. If we want to get those complete the general fund is going to have to go into the Rosenwald Fund unless we find some grants. Adopting this project ordinance puts this in place and if you want to make changes or bring in more revenue, it would be done by ordinance amendment.

M-5. Project Ordinance No. 2022-28 Capital Project Ordinance to Amend Ordinance No. 2020 -36, Silversteen Memorial Playground-$500,000. Mr. Jones moved, seconded by Mr. Morrow to approve the project ordinance for Silversteen as presented. Motion carried unanimously.

ORDINANCE NO. 2022-28
CAPITAL PROJECT ORDINANCE TO AMEND ORDINANCE
NO. 2020-36, SILVERSTEEN MEMORIAL PLAYGROUND

BE IT ORDAINED by the City Council of the City of Brevard, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1: The budgeted revenues and expenditures listed under the original ordinance (2020-36) will be cancelled and replaced with the amounts listed under sections 3 and 4 of this document.

Section 2: This project is authorized to make improvements to the Silversteen Memorial Playground and adjoining areas.

Section 3: The following amounts are appropriated for the project:

Account Number	Account Name	Budget Amount
82-4100-2920	Silversteen Park	$500,000
TOTAL PROJECT APPROPRIATION		**$500,000**

Section 4: The following revenues are anticipated to be available for project expenses:

Account Number	Account Name	Budget Amount
82-3300-0000	Donations	$27,000
82-3300-0150	Bethel Church Donation	$10,200
82-3250-0000	transfer from General Fund	$367,800
78-3300-0250	NCDEQ Grant	$95,000
TOTAL PROJECT REVENUE		**$500,000**

Section 5: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 6: Funds may be advanced from the General Fund or from any Enterprise Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 7: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 8: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 9: Copies of this capital project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 16th day of May, 2022.

Budget –

Mayor Copelof said roads come up again and again. If we could get on a schedule for a 25 year repaving program that we could stick to that would be a real step forward. I really like the suggestion that staff put forward increasing our street budget so that we can pave the amount that's needed to have a 25 year plan.

Mr. Daniel said I appreciate the recommendations and they answered the questions that I had. The Capital Reserve Fund, is there money in that fund that is sitting there accumulating and not being used. Dean said yes and that it was system development fees and I estimate we'll about a $350,000 balance on June 30th. I think $100,000 of that was reserved for streets. Mr. Daniel asked if it can be used toward tap fees and Dean said yes he believes so but would have to be sure. Steve said he suggests that we find out for sure if we can do that and then add it to the final budget in June. Mr. Daniel was thinking of putting $50,000 towards it if it's allowed.

Mr. Jones said we have all of these additional meetings and committee meetings, should we set aside some funds for Council for snacks, water, drinks for these meetings.

Mr. Baker asked how much the Powell Bill money was. Dean said $240,000 but normally that number is very stable. We usually get two equal payments to the penny but this year the second payment was $50,000 higher. I'm unclear if that's going to

continue for all future payments or if it was a one-time thing. Mr. Baker said he agrees with the Mayor that we need to get this on a schedule to actually have a plan resurfacing of every street every 25 years, just makes sense. One of the sources of revenue that we have is vehicle tax which is $274,500 and if you add that to whatever Powell Bill money, we're getting close to that annual number of $437,000 and I know that we can't directly tie those vehicle tax dollars to what we're going to spend it on but I think we should start to plan for that going forward. People like to know they're paying taxes so their streets are getting repaved. We may have to use some ARPA fund this year to sort of catch up and get us where we need to be but I think going forward, we should have it in the budget, planned that $437,312, knowing that's probably going to change again due to the cost of everything. Steve said 1.07 mile worth of roads is $285,000 and there's 41 City streets. That's 10.9 million dollars to resurface everything.

Ms. Dinkins said she's pretty sure that I didn't vote for the sale of the property for the hotel but I am struggling with the $200,000 and that being untouchable for anything but parking. Steve said that it is a stipulation in the contract. Geraldine said she wants to see it and I would like to see it and that is something in principal I don't understand. When we sell property, how can the buyer stipulate what we do with the money? Mack McKeller said that it is in fact in the contract, theoretically we would be sued by City Camper, LLC if we fail to follow the terms of the contract.

Mayor Copelof said if she remembers correctly, we had a real need for parking and they actually increased the amount that they gave in the sales price because of that need so I don't think that it was that they were trying to mandate us, as much as, it was a concern about parking and so they basically came back with a suggestion and they put the money in the sale that we could use towards this need. This was at our request.

Ms. Dinkins added I would like for us to get back to priorities. The fund balance is a priority. There are projects that we have to do and there are projects that we want to do. I'm not going to bring it up or read it, but we do have a resolution for 2018 that the City would finish its multi-use path in three years and we're almost a year past that. From now on, that's priority number one. Even if other things are small or quick. The next one is the Downtown Master Plan needs to be priority number two. Other things have been funded and built. We don't spend more money on things right now just because we have money in our pots.

Mr. Harrell confirmed with Council that they want staff's recommendations and suggestions put in the final budget for the June 20th approval.

M. New Business

M-1. Petition for Annexation into HOB MSD-City Camper, LLC. Mr. Ray explained that the City Clerk received a petition from City Camper LLC., to be annexed into the Heart of Brevard Municipal Service District. This petition is for the same properties that make up the Brevard Hotel Conditional Zoning District, which was approved by Council via Ordinance No. 2021-17 on April 21, 2021. The right of the City to annex these parcels into the HOB MSD was a condition of the agreement of sale between City Camper LLC., and the City. This extension of service is covered by General Statute 160A-538 and requires that we hold a public hearing before adopting an ordinance that extends the boundaries of a service district. The ordinance must also be passed at two meetings of the City Council by majority vote of the voting members present and cannot go into effect until the beginning of a fiscal year commencing after its passage. This expansion of the HOB MSD would increase the tax revenue for the Heart of Brevard by approximately $3,100 based on the current land value but with an estimated $25 million worth of improvements to the site, the actual increase will be substantially more. Staff recommends that City Council direct the City Clerk to add a public hearing for this matter to their June 6th meeting agenda, as well as, a second reading of the ordinance on their June 20th meeting agenda. Mr. Daniel moved, seconded by Mr. Morrow to approve the petition as presented and directs the City Clerk to advertise for a public hearing. Motion carried unanimously.

M-2. Contract with NOEGOV. Ms. Craig explained that the City is looking to improve its ability to recruit and retain and one of those efforts involves investing in NEOGOV technology which is an applicant tracking and onboarding software. They have agreed to allow the City to proceed with signing the contract and implementation of the software in the current year with the understanding that payment will not occur until after July 1, 2022. This is a three year contract with the first year costing $10,468.90 for the software and installation/setup. The cost for FY2023-2024 is $9,118.40 and for FY2024-2025 is $11,398.00. Mr. Morrow moved, seconded by Mr. Daniel to approve entering into an agreement with NEOGOV as stated. Motion carried unanimously.

M-3. Memorandum of Understanding (MOU)-First Victory. Mayor Copelof explained that First Victory would like to conduct periodic fundraisers to raise funds for the specific purpose of conducting ongoing maintenance and repairs on the Mary C. Jenkins Community Center. First Victory has requested an MOU with the City of Brevard to ensure that dollars raised will be restricted to use for ongoing maintenance and repairs to the Mary C. Jenkins Community Center.

Ms. Dinkins asked if this fundraising is tied to the fact that we awarded them the project. I wonder if this is a ploy to be a part of this community in a way that will pave the way for future developments in that community.

Mr. Jim Kaufman of First Victory said that we saw a great building being put up but it comes with it, you buying a future maintenance project. The roof is going to have to be replaced, it's going to have to be painted and landscaped. It's going to need maintenance and something that you need to put in your budget. We love the project and we'd like it to stay as pristine as possible so our idea was First Victory is putting an initial donation or commitment for five years and the number we came up with was $6,000 and then get other organizations or other businesses to try to match that or contribute what they can. Our goal is to put together an endowment that would be there and would be funded over 5 years that would give you a chunk of money that in 20 years when the shingles have to be replaced, that you have it already and it doesn't have to linger and wait. We wanted to make sure that it was a beautiful well-kept piece of property and we just want to make sure that money goes to that project. We have no ties to doing the work. That's it. We want to be an active part of the community and there are no ulterior motives.

Mr. Jones moved, seconded by Mr. Morrow to approve the MOU as presented. Motion carried 4-1, with Ms. Dinkins being the nay.

M-4. Memorandum of Understanding (MOU)-Transylvania Youth Soccer Association. (PULLED)

N. Remarks/Future Agenda Considerations.

Mr. Daniel said that he is kind of excited about the budget and I think there's going to be some very visible things happen in the next year. The Housing Trust Fund Committee is taking great strides with our City Manager and Planning Department. Waiving the tap fees is one of the many great things, including reaching out to the Development Finance Initiative. I'm real happy with the progress made and look forward to more initiatives.

Mayor Copelof said I'm really thrilled about our budget and I want to thank Land of Sky and DOT for getting us that $700,000 for that bridge. The other good news is that we did get the $1,000,000.00 FLAP Grant for the Ecusta Trail so we have that with no local match that will help us do the engineering for the Ecusta Trail. We have a number of events coming up. Memorial Day with a parade at 9:00am and ceremony in front of the courthouse at 10:00am. We are planning our Juneteenth ceremony at the Mary C. Jenkins Community Center. The board of directors is organizing it along with the summer picnic starting at 1:00pm on Juneteenth. We are looking at having an official

opening of Clemson Plaza hoping to be May 26th. We also have Meet the Mayor on May 26th from 2p-4p at TCarts. About a week ago, I met with Sam Hazen with HCA to convey a lot of concerns we have at that level. This is a man that runs something like 500 hospitals around the world and we are working to create a community council to discuss the interaction between the community and the hospital.

O. Closed Session(s)

Closed Session #1 - At 8:40 p.m. Mr. Jones moved, seconded by Mr. Morrow to enter into closed session for property acquisition and clear Council Chambers. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the Interim City Manager Steve Harrell and City Clerk Jill Murray.

Council Returned to Regular Session – at 8:58 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the Minutes of the closed session are authorized to be sealed.

Closed Session #2 - At 8:58 p.m. Mr. Baker moved, seconded by Ms. Dinkins, to enter into closed session for property acquisition. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the Interim City Manager and City Clerk.

Council Returned to Regular Session – at 9:11 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the Minutes of the closed session are authorized to be sealed.

Closed Session #3 - At 9:11 p.m. Mr. Baker moved, seconded by Ms. Dinkins, to enter into closed session for a personnel matter. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the Interim City Manager and City Clerk.

Council Returned to Regular Session – at 9:53 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the Minutes of the closed session are authorized to be sealed.

P. Adjourn – There being no further business, Ms. Dinkins moved, seconded by Mr. Daniel, the closed session be recessed until Monday, May 23, 2022 at 5:30p.m. Motion carried unanimously. Closed session recessed at 9:53 p.m.

Maureen Copelof
Mayor

Jill Murray, CMC
City Clerk

Minutes Approved: June 6, 2022