

MINUTES
BREVARD CITY COUNCIL
Regular Meeting
January 22, 2019 – 7:00 PM

The Brevard City Council met in regular session on Tuesday, January 22, 2019, at 7:00 p.m. in the Council Chambers of City Hall with Mayor Jimmy Harris presiding.

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

Staff Present – City Manager and Finance Director Jim Fatland, City Attorney Michael Pratt, City Clerk Jill Murray, Deputy Finance Director Tom Whitlock, Executive Assistant to City Manager Denise Hodsdon, Planning Director Daniel Cobb, Senior Code Enforcement Officer Paul Ray, Fire Chief Bobby Cooper, Deputy Police Chief Shawn Miller, Police Chief Phil Harris, Human Resources Director Kelley Craig, Public Works Director David Lutz, Police Officer Ralph Cobb, Police Officer Rick Harbin, Police Officer Lee Kruse, Police Officer Barry Galloway, Police Officer Brent Sorrells, Police Officer Cory Niver and Police Detective Aaron Thompson.

Press – Matthew McGregor, Transylvania Times

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

B. Invocation – Jimmy Harris offered an invocation.

C. Pledge of Allegiance – Mayor Harris led in the Pledge of Allegiance.

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

E. Approval of Agenda – Attorney Mike Pratt asked that the agenda be amended to add a Resolution Authorizing Municipal Agreement with NCDOT Purchase and Installation of Rectangular Rapid Flashing Beacons (RRFB) at High Priority Crosswalks, as well as, adding a Potential Litigation closed session. Mr. Landreth moved, seconded by Mr. Morrow, the Agenda be approved as amended. Motion carried unanimously.

F. Approval of Minutes – Mr. Morrow moved, seconded by Mr. Jones, the December 17, 2018 minutes be approved as presented. Motion carried unanimously.

G. Certificates / Awards / Recognition – Mayor Harris and Police Chief Phil Harris presented to retired Brevard Police Officer, Vincent Frank Stone, an original of Resolution No. 2019-01 along with his service badge and sidearm, a Glock Model G22, Caliber .40, Serial Number BECV323. Family and friends were in attendance for the presentation. Chief Harris, Council and staff thanked Officer Stone 8 years of service.

H. Public Hearing(s) –

H-1. Proposed Amendment to UDO Chapter 6-Environmental Protection.

Mayor Harris opened the public hearing at 7:16 p.m.

Mr. Cobb stated that Chapter 6 of the Unified Development Ordinance provides development standards related to environmental protections. These include surface water protections, steep slopes, and erosion control among others. The existing steep slope standards are clear, however the way in which the slope is calculated is somewhat vague and open to interpretation. The intent of these amendments is to clarify this language and set specific standards for how the slope is calculated. He referred to pages 15 and 16 of the agenda packet which shows how the slope is calculated.

Mr. Daniel and Ms. Copelof questioned whether going to 50% (according to the chart) is a good idea because they could develop on steep land that isn't environmentally safe.

Mr. Landreth said that with regards to properties with multiple slopes on them, he agrees that this ordinance would expose the most unstable land for construction and it's also the most expensive place to build, but if you have the money you can do it.

Mr. Morrow said that he's happy that Planning has been challenged to find different ways to develop around here and how it's compared to surrounding counties. Kudos to the Planning Department.

Public Hearing Participation – None

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 7:50 p.m.

H-2. Proposed Amendment to UDO Chapter 16-Administration & Chapter 19-Definitions.

Mayor Harris opened the public hearing at 7:51 p.m.

Mr. Cobb explained that currently if a permit is issued on January 1st 2018, construction needs to begin six months after that, which would be June 1st, 2018 or the permit expires and becomes invalid. If the permit is issued on January 1st, 2018 and work begins on March 1st and stops on July 1st for some reason, the applicant has twelve months to resume that work before the permit expires. So, there's two different thresholds. The Planning Department received an application to propose changes to the UDO Chapter 16 to amend the language to change the way the UDO defines the start of construction after a permit has been issued. The proposal before you is for two different things. One is to modify the timeframe so you can get a permit on January 1, 2018 and have until January 1, 2019 to start construction and once you start, if you stop for some reason, you have 18 months to pick up again and continue the project. The other component of the application is to modify what qualifies as the start of construction. The current ordinance states that the start of construction is the date of issuance of a building permit provided the actual start of construction occurs within 180 days of the permit date. The request is to allow work to begin within one year of the date of the issue and if abandoned, have at least 18 months to resume it.

Public Hearing Participation – Tore Borhaug explained that the 6 month process isn't even close to being enough time and his intent in making this application is to give him at least twelve months and if he hasn't started construction, then a 12 month extension. Once I start construction, I go full force but my issue is the six months and the renewal. Financing has to be lined up, getting a commercial loan is a nightmare and around here, weather is an issue. Six months is not even close to enough time.

Attorney Mike Pratt added that the applicant's submitted language and the Planning Board's language in particular, says "this approval will apply retroactively to all development permits issued in the last twelve months". Retroactive approvals bother me and I don't find it necessary to say that so if Council decides to enact any version of this Ordinance, I would recommend that that particular sentence be deleted and replaced with something like this "such extensions may be granted with respect to all development permits or extensions thereof, issued within the past twelve months." The second point I want to make is it is my belief that building permits can be extended basically forever as long as work is done every so often and that's State law that we can't change, but it seems odd to me that we have a site plan approval that might expire and a building permit that might be extended and I think it might pay Council to either table this and let me do a little work and see if I can synthesize the two or to enact a version of this but with the idea that we're going to come back and look at this in the not too distant future.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 8:20 p.m.

I. Public Participation –

Kathleen Barnes spoke on the confederate flag and read a prepared statement on behalf of the Transylvania NAACP and presented a copy for the record. (Exhibit A). She spoke in opposition of the confederate flag being displayed at any public event.

Carter Heyward spoke on the confederate flag and read from a prepared statement and presented a copy for the record. (Exhibit B). He spoke in opposition of the confederate flag being displayed at any public event.

Eleanor Mockridge spoke on the confederate flag and read from a prepared statement and presented a copy for the record. (Exhibit C). She spoke in opposition of the confederate flag being displayed at any public event.

Curtis Cash spoke on the confederate flag and said that when the NAACP was outside of the courthouse doing a rally, a truck went by and called us names. I've been dealing with that flag and the racism and it still doesn't like blacks. I can't make a man like me but give me the same respect as you would for the men before me and the men after me. I don't need to be reminded of that mess at the parade. If I brought the Black Panther party, you would say no.

Tommy Kilgore spoke on the confederate flag and said that he is a native of Brevard and was born in segregation and graduated in integration. Shortly after MLK was assassinated, a group of students, along with some parents and community leaders went before the Transylvania County School Board. The subject was the Confederate Battle flag and Dixie being played at sporting events and pep rallies. At the beginning of pep rallies, students would run down either isle with confederate battle flags and play the National Anthem and then they would play Dixie. At football games and sporting events, the confederate flag was alongside the American flag. We protested that and the school board abolished it so it's not the first time that public display of the confederate battle flag has been abolished. I would ask the City Council strongly recommend, not as a man of color, but as a citizen of the United States, to abolish the flag being used.

Susan Lefler spoke on the confederate flag. I grew up in the South and lived here all my life. Memorial Day is a day to honor the soldiers who served this country and died to defend it including enumerable southern men and women who died to defend the United States of America before the Civil War and have continued to do so since. In light of that fact, it seems like a strange choice to display a symbol of rebellion particularly the battle flag of the confederacy in a Memorial Day parade. The leaders of the confederate rebellion General Robert E. Lee and Confederate President Jefferson Davis both expressed the desire to see the confederate flag put to rest for good. My final thought is this. "Therefore let us not pass judgement on one another any longer but rather decide to never put a stumbling block or hindrance in the way of a brother".

Sue Null spoke on the confederate flag and read from a prepared statement and presented a copy for the record. (Exhibit D). She spoke in opposition of the confederate flag being displayed at any public event.

~~At 8:40 P.M. Mayor Harris called for a ten minute break. ~~

Before going into "Special Presentations", Mike Pratt spoke about the confederate flag saying "At the risk of being somewhat unprofessional, let me just put my personal feelings in position, and on the record, I totally agree with everything that was said by the presenters. That's my position as well. But I have looked at this issue from a legal standpoint and the case law and the City of Brevard does not fly any confederate flags anywhere. If it had a confederate flag on its property, it could decide to take that down. It would have that right. But the confederate flag has no special protection of any kind. It's like a happy face, it's like the Nazi Swastika, it's like the Ku

Klux Klan, and it's like Mickey Mouse. You can put any of those on a flag and have no special protection for it but they're all free speech and all free speech has the same protection and the courts say things in analyzing cases about the confederate flag and they say things like this "we hate this. We hate this flag. It is racist. It is mean and cruel. It would be easy to ban something that you hate but that's not what the constitution requires of us. The constitution requires of us that we protect the minority's rights and that we protect everyone's free speech with the same equality. So that's where I'm afraid we are with the confederate flag. The City Council can ask me to look into it more deeply, we can study this issue, we can hold committee meetings on it but if we follow the law in my considered legal opinion, we can't ban it from a parade that is sponsored by some other entity like the American Legion or whatever group it may be. We can't ban it from a truck or a private citizen. We can only ban it from the City of Brevard's owned properties and that is what we have done.

Mayor Harris added that based on Mr. Pratt's comments, I just didn't want to leave an impression that the City Council is callous or uncaring or not sympathetic, we certainly are, but there are some free speech issues.

J. Special Presentation

J-1. CARE Coalition Annual Report by Bain Brown, Brevard High School Senior and founding member of the CARE Youth Coalition (Teens Advocating For Future Youth, TAFFY).

Dr. Joseph Cohen, Chairman of the CARE Coalition, thanked Council and explained that their mission is to bring together community leaders and concerned citizens to foster a vibrant and healthy Transylvania County free of drug abuse and underage drinking. You have a copy of our annual report in your packet. The health and future of our community really does depend on the youth that we engender here in this County to no small degree upon their ability to steer clear of destructive behaviors. He then introduced Bain Brown.

Bain Brown said that he is senior at Brevard High School and is the founding member of TAFFY. It's about youth empowering youth to make a choice to abstain from alcohol, tobacco and drugs. We went from 2 to 22 members in two years and I've become more involved in the CARE Coalition and we serve as the primary catalyst and the only centralized effort for community collaboration around drug and alcohol use in our County. TAFFY has had a pretty successful year. We assisted in the design and execution of a teen summit. Over 117 youth from several different counties in Western North Carolina attended and there they received drug and alcohol education but also public speaking skills and collaboration with other youth so they were able to hoan in on the issues that they wanted to take back and fix in their own communities and TAFFY was able to provide a lot of the leadership for that. We've put in a lot of this hard work and we've seen results but its slow moving. Our capacity to bring people together to solve problems is growing every day along with the impact that we make and that's what inspires me. We hope to see you at a meeting sometime in the future. Coalition meetings are the second Wednesday of every month at 1:00pm in the Community Services Building and TAFFY meets every Tuesday from 6-7:30 at the Light & Hope Ministry Center which is now the Boys and Girls Club Teen Center on Cashiers Valley Road.

K. Consent Agenda and Information - Consent Agenda items are considered routine and are enacted by one motion. Mayor Harris read aloud the items listed, and asked if Council desired to remove an item for discussion, or, to add an item(s) to the Consent Agenda. Mr. Jones recommended that Council consider adding New Business Items M3, M4 and M5 and that the Consent Agenda be approved as amended. Mr. Morrow moved, seconded by Mr. Daniel that items M-3, M4, and M5 be added to the Consent Agenda and be approved as amended. Motion carried unanimously.

K-1. Staff Reports:

- a. Financial Report for month ending December, 2018.
- b. Public Works Department Report, November, 2018.
- c. Brevard Fire Department 2018 Annual Report.

K-2. Staff Report Amending City Council Meeting Schedule Changing Date of Annual Planning Session to March 22, 2019.**K-3. Council Downtown Master Plan Committee Minutes-October 24, 2018.****K-4. Council Parks, Trails and Recreation Committee Minutes-September 25, 2019.****K-5. Council, Parks, Trails and Recreation Committee Minutes-November 14, 2018.****K-6. Mary C. Jenkins Task Force Minutes, November 20, 2018.****K-7. Correspondence (No Action. Offered as information only.)**

- a. December 2018 City-County Building Permit Activity Report.
- b. Transylvania County Building Permitting & Enforcement 2018 Annual Summary.
- c. Transylvania Community Arts Council Gallery Walk December, 2018.
- d. Transylvania Community Arts Council Film BrevardNC Story.

K-8. Resolution No. 2019-02 Authorizing Municipal Agreement with North Carolina Department of Transportation (NCDOT) Purchase and Installation of Rectangular Rapid Flashing Beacons (RRFB) at High Priority Crosswalks.**RESOLUTION NO. 2019-02**

**A RESOLUTION AUTHORIZING MUNICIPAL AGREEMENT WITH
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT)
PURCHASE AND INSTALLATION OF RECTANGULAR RAPID
FLASHING BEACONS (RRFB) AT HIGH PRIORITY CROSSWALKS**

WHEREAS, the City of Brevard Parks Trails and Recreation Committee discussed at its regularly scheduled meetings held on December 19, 2018 and January 16, 2019, the importance of Rectangular Rapid Flashing Beacons (RRFB) for pedestrian safety; and

WHEREAS, City of Brevard Parks, Trails and Recreation Committee at its meeting held on January 16, 2019 approved a recommendation for City Council consideration for the purchase and installation of RRFB at crosswalks on Ecusta Road and Broad Street; and

WHEREAS, Ecusta Road and Broad Street are owned and maintained by NCDOT; and

WHEREAS, NCDOT has provided a cost estimate for the installation of RRFB at \$13,000 per crosswalk; and

WHEREAS, NCDOT would require that the City of Brevard enter into a municipal agreement for the purchase and installation of RRFB; and

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

Section 1. That the City of Brevard does hereby agree to enter into a municipal agreement with NCDOT for the purchase and installation of RRFBs on Ecusta Road at the entrance to the City Sports Complex and Broad Street between Brevard College and First United Methodist Church; and

Section 2. That Jim Fatland, CPFO, City Manager, and successors so titled, is hereby authorized to execute the municipal agreement and directed to furnish such information to NCDOT for the purchase and installation of RRFB on Ecusta Road and Broad Street.

Adopted and approved this the 22nd day of January, 2019.

K-9. (M-3) Resolution No. 2019-03 Modifying the Membership Structure of the Housing Trust Fund Selection Committee.

**RESOLUTION NO. 2019-03
(Amending Resolution No. 2016-19)**

**RESOLUTION MODIFYING THE MEMBERSHIP STRUCTURE OF
THE HOUSING TRUST FUND SELECTION COMMITTEE**

WHEREAS, the Brevard City Council created the Housing Trust Fund on January 23, 2012 by adopting Ordinance 2012-02; and

WHEREAS, the Brevard City Council amended this ordinance on March 20, 2017 by adopting Ordinance 2017-02; and

WHEREAS, the Selection Committee will meet as needed to review applications; and

WHEREAS, the Committee shall be composed of one City Council member, the Chairman of the Planning Board, one citizen, City Manager, Finance Director, and Planning Director; and

WHEREAS, the initial appointment term of the City Council member and Planning Board Chairman was from December 1, 2016, to December 31, 2018. Hereafter, the appointed Council member and Planning Board Chairman will serve a two-year term beginning January 1, 2019. Citizen members shall serve a two-year term ending in December. City Directors and staff members (by position) are permanent Committee members; and

WHEREAS, the purpose of the Selection Committee is to review applications, based on initial staff review, compliance with Housing Trust Fund Priorities and availability of funds. The Selection Committee will either approve or reject applications. All loan recommendations of the Selection Committee are then submitted to the City Council for final approval.

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

Section 1. Brevard City Council approves the reappointment of Council Member Gary Daniel to serve on the Housing Trust Fund Selection Committee. His term is January 1, 2019-December 31, 2021.

Section 2. The Housing Trust Fund Selection Committee consists of the following members and terms of office:

One City Council Member	Two Year Term; Appoint in January
Chairman of the Planning Board	Two Year Term; Appoint in January
One Citizen	Two Year Term; Appoint in January
City Manager	Permanent
Finance Director	Permanent
Planning Director	Permanent

Section 3. The Housing Trust Fund Selection Committee will meet on an as needed basis. All meetings are subject to the Open Meeting laws and meeting Notice requirements. Minutes shall be provided by a City staff member or their representative.

Section 4. Restriction on Quorum. This Committee shall not meet unless at least the City Council Member or Planning Board Chairman who are Committee members are present.

Approved and adopted this the 22nd day of January, 2019.

K-10. (M-4) Resolution No. 2019-04 Directing the Clerk to Investigate the Sufficiency of a Petition for an Annexation Pursuant to NCGS 160A-31, As Amended.

RESOLUTION NO. 2019-04

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

WHEREAS, a petition was received on January 10, 2019, requesting the annexation of a contiguous area described in said Petition as the Felipe Flores Duenes property located at 961 Ecusta Road, Brevard, NC, 28712, be annexed into the City of Brevard. (Tax Property Identification Number: 8596-49-5834-000)

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

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

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

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

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

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

Adopted and approved this the 22nd day of January, 2019.

K-11. (M-5) Board and Committee Appointment(s):

Housing Trust Fund Selection Committee
Fireman's Relief Fund
Brevard Housing Authority

L. Unfinished Business – None

M. New Business –

M-1. Ordinance-Proposed Amendment to UDO Chapter 6-Environmental Protection. Mr. Morrow moved, seconded by Mr. Landreth, the Ordinance Amending the Unified Development Ordinance Chapter 6-Environmental Protections be approved as presented.

Mr. Daniel stated that he agrees that our sites are difficult and I think it means we need to be exceptionally careful. I don't quite understand this Ordinance clearly and how it achieves the objective of protecting our properties environmentally. I would like to see this more developed than what it is.

Ms. Copelof said that she understands our lack of unbuildable land but she also understands that Council should look at the environmental impacts. I am not willing to make that kind of change in order to open a development where there could be negative impacts and we need to look long term.

Mr. Morrow said that one of the things he likes about it is this change identifies those areas that are environmentally sensitive. I see this as a step forward. I see a lot of gains. Kudos to the Planning staff.

Mayor Harris called for a vote. The Ordinance passed with a vote of 3-2. Mr. Daniel and Ms. Copelof were the nays.

Attorney Mike Pratt said that this Ordinance will come before Council in February for a second reading.

M-2. Ordinance-Proposed Amendment to UDO Chapter 16-Administation and Chapter 19-Defiitions.

Mr. Morrow moved, seconded by Mr. Landreth that we table this Ordinance and allow our attorney to look at it and that it be coordinated with State laws. Motion carried unanimously.

Mr. Landreth added that while we're looking into that, he is concerned about the possibility of a project being in a delay for 2 ½ to 3 years. I would like the Planning Department to look into worst case scenarios as well.

N. Remarks / Future Agenda Considerations

Mayor Harris stated that this Saturday night the Chamber of Commerce is holding its gala and I will be there and hope to see others there.

Ms. Copelof said what a great MLK Jr. celebration we had with the breakfast, the march and the program at the Porter Center. There was unity in the community and it was well attended. The other thing, Project Empathy was recently selected in North Carolina as one of five programs to reconnect people in the rural urban divide.

Mr. Daniel said as the Chair of the Parks, Trails and Recreation Committee to see the flashing lights happening at the crosswalks is very gratifying. Citizens brought it to

us two years ago. I'm very happy with that. Also, I was very impressed with Bain Brown tonight.

Mr. Jones said echoing what Ms. Copelof said, it was an excellent MLK celebration and the Brevard College kids came out. I'd like to give my thanks to those three men sitting over there (Fire Chief Bobby Cooper, Police Chief Phil Harris and Public Works Director David Lutz) and their departments. We had power outages, trees falling, rain and snow and they kept this City afloat and please tell your guys that I said thank you.

Mr. Landreth said that you may have heard on public radio that the City of Waynesville has passed ordinances that allow the City to engage in economic development related to affordable housing and I just sent the City Manager an email with the article about it and ask that he forward it to Council and the Mayor. I feel like this is a topic that we need to get some traction on. When you hear about economic forecast in western North Carolina, housing is a critical issue for small rural communities that have a service based industry. People who are at their highest point in their earnings are able to buy what they want and it raises the prices of our land and our existing built infrastructure but nobody is building anything for people who are 22 years old and making \$18 an hour or less. I think it's a role that the City of Brevard has to play if we're going to continue to be the type of community that we want to be. We have a county over the mountain that is going after this and I hope we go after this as well.

Mr. Morrow said that according to the financial report, the Jordan Street lot is up 125%. Sales tax continues to reach new heights, November was \$135,000. Construction was the highest in five years.

Mayor Harris added that he too would like to thank Chief Cooper, Chief Harris and David Lutz and their respective departments, as the month of December was trying for everyone.

O. Closed Session(s) – Mayor Harris asked the City Attorney if it would be appropriate for Council to hold a closed session to discuss a matter of property acquisition. City Attorney advised pursuant to **GS § 143-318.11. (a)(3)(5)** It would be appropriate to convene a closed session on the matter. A closed session requires a separate motion, second and vote to discuss the matter. Council will enter and exit regular session for each closed session.

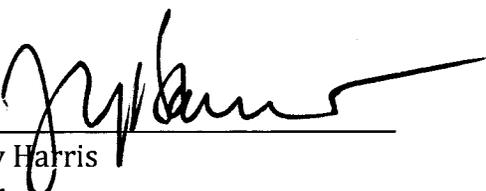
O-1 Closed Session #1 - At 9:37 p.m. Mr. Landreth moved, seconded by Mr. Morrow, Council go into closed session to discuss a property acquisition matter. Motion carried unanimously. (A three minute break was taken to allow Council Chambers to be cleared.) Authorized to remain with Council and the Attorney were the Manager, City Clerk, Planning Director and Code Enforcement Officer.

Council Returned to Regular Session – At 9:58 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.

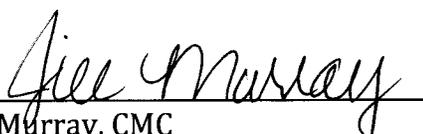
Closed Session #2 – At 9:59 p.m. Mr. Landreth moved, seconded by Mr. Daniel, Council go into a second closed session to discuss a potential litigation matter. Motion carried unanimously. Authorized to remain with Council and the Attorney were the Manager and City Clerk.

Council Returned to Regular Session – At 10:21 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the Minutes of the closed session are authorized to be sealed.

P. Adjourn – There being no further business, Mr. Landreth moved, seconded by Mr. Morrow, the meeting be adjourned. Motion carried unanimously. Meeting adjourned at 10:21 P.M.



Jimmy Harris
Mayor



Jill Murray, CMC
City Clerk

Minutes Approved: February 18, 2019