

**MINUTES
BREVARD CITY COUNCIL
Regular Meeting
April 15, 2019 – 7:00 PM**

The Brevard City Council met in regular session on Monday, April 15, 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, Executive Assistant to City Manager Denise Hodsdon, Planning Director Daniel Cobb, Planner Bryan Brightbill, Public Works Director David Lutz, Police Chief Phil Harris and Fire Chief Bobby Cooper.

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 Executive Assistant.

B. Invocation – Father Shawn O’Neal from Sacred Heart Catholic Church, offered an invocation.

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

D. Certification of Quorum - The Executive Assistant certified a quorum present.

E. Approval of Agenda – Mr. Landreth moved, seconded by Mr. Daniel, that the Agenda be approved. Motion carried unanimously.

F. Approval of Minutes –

F-1. March 18, 2019 Regular Meeting. Mr. Morrow moved, seconded by Mr. Jones, that the March 18, 2019 minutes be approved as presented. Motion carried unanimously.

F-2. March 22, 2019 City Council Annual Planning Session. Mr. Daniel asked that Item K-Brevard Music Center Auditorium Update on Page 18 be amended to add that “Mr. Weinstein gave the City of Brevard use of the space free of charge.” Mr. Landreth asked that Item H-Development Review Steps on Page 17 be amended to add his suggestion that we need to finalize the Land Use Plan before we move forward with the Community Appearance Commission. Mr. Daniel moved, seconded by Mr. Landreth, that the March 22, 2019 annual planning session minutes be approved as amended. Motion carried unanimously.

G. Certificates / Awards / Recognition –

G-1. Proclamation 2019-06 Supporting the Designation of April as Parkinson’s Awareness Month. Mayor Harris asked Dick and Jane Orwell of the Brevard/Hendersonville Parkinson’s Disease Support Group to come forward and stand with him as he read the proclamation.

**PROCLAMATION NO. 2019-06
SUPPORTING THE DESIGNATION OF APRIL AS PARKINSON’S AWARENESS MONTH**

WHEREAS Parkinson’s disease is a chronic, progressive neurological disease and is the second most common neurodegenerative disease in the United States;

WHEREAS there is inadequate data on the incidence and prevalence of Parkinson's disease, but it is estimated to affect nearly 1 million people in the United States, and that number is expected to more than double by 2040;

WHEREAS Parkinson's disease is the 14th leading cause of death in the United States according to the Centers for Disease Control and Prevention;

WHEREAS there are millions of Americans who are caregivers, family members and friends greatly impacted by Parkinson's disease;

WHEREAS it is estimated that the annual economic burden of Parkinson's disease is over \$26.4 billion per year, and indirect costs to patients and family members total \$6.3 billion;

WHEREAS research suggests the cause of Parkinson's disease is a combination of genetic and environmental factors, but the exact cause in most individuals is still unknown;

WHEREAS there currently is no objective test, or biomarker, to diagnose Parkinson's disease;

WHEREAS there is no known cure or drug to slow or halt the progression of the disease, and available treatments are limited in their ability to address patients' medical needs and remain effective over time;

WHEREAS the symptoms of Parkinson's disease vary from person to person and can include tremors; slowness of movement and rigidity; gait and balance difficulty; speech and swallowing disturbances; cognitive impairment and dementia; mood disorders; and a variety of other non-motor symptoms;

WHEREAS volunteers, researchers, caregivers and medical professionals are working to improve the quality of life of persons living with Parkinson's disease and their families;

WHEREAS increased research, education and community support services are needed to find more effective treatments and to provide access to quality care to those living with the disease today;

NOW, THEREFORE, I, Jimmy Harris, Mayor of the City of Brevard of the State of North Carolina, do hereby proclaim April as Parkinson's Awareness Month in the City of Brevard.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Brevard to be affixed this 15th day of April, 2019.

G-2. Proclamation 2019-07 Arbor Day. Mayor Harris read aloud the Proclamation recognizing Arbor Day and the ceremony scheduled for April 26, 2019, and for this being the 40th year Brevard has been recognized as a Tree City USA.

**PROCLAMATION NO. 2019-07
ARBOR DAY
Brevard, North Carolina**

WHEREAS, in 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, trees in our City increase property values, enhance the economic vitality of business areas and beautify our community; and

WHEREAS, this is the 40th year Brevard has been recognized as a Tree City USA by the National Arbor Day Foundation and desires to continue its tree planting ways.

NOW, THEREFORE, I, Mayor Jimmy Harris and the Brevard City Council, do hereby proclaim **April 26, 2019**, as **Arbor Day in the City of Brevard** and we urge all citizens to support efforts to protect our trees and woodlands, to support our City's urban forestry program, and we urge all citizens to plant trees to promote the well being of our present and future.

Adopted and approved this the 15th day of April, 2019.

G-3. Proclamation from Governor Roy Cooper-Guardian Ad Litem Child Advocate Month, April, 2019. Mayor Harris read aloud Governor Roy Cooper's Proclamation recognizing April, 2019 as "Guardian Ad Litem Child Advocate Month" in North Carolina.

H. Public Hearing(s) -

H-1. Proposed Amendment to the Official Zoning Map-Falling Waters Planned Development District.

Mayor Harris opened the public hearing at 7:29 p.m.

Mr. Cobb explained that this is a request by Jim Yamin of Workforce Homestead, Inc. for rezoning of property on Rosman Highway to the Falling Waters Planned Development District. The project consists of three multistory residential buildings totaling 80 apartments ranging from one to three bedrooms, a clubhouse structure, and covered picnic area. The project site is located at the intersection of Nicholson Creek Road and Rosman Highway and is approximately 8.9 acres in size. It is currently zoned Neighborhood Mixed-Use and the maximum density allowed for this site is 223 dwelling units. However, the City's UDO specifically requires Planned Development Districts for any residential subdivision over 50 units. A PDD is a form of conditional rezoning in which the applicant submits an application that is reviewed by Staff and the Planning Board and approved by City Council. That provides a site-specific zoning ordinance that applies only to that property.

In addition to the rezoning request, the applicant has applied for funding through the Asheville Regional Housing Consortium and has been recommended for award of \$318,000. The Low-Income Housing Tax Credit program is a very successful program across the State and provides an opportunity for developers to acquire tax credits through a competitive grant process. Those credits are used to raise capital to offset the cost of construction of the project.

The applicant is in full compliance with everything with regards to site design. The only changes specifically requested are an increase in the number of parking spaces, a requirement of the tax credit program, and open space. A portion of the site is relatively steep and they are trying to avoid disturbing that. The number of bedrooms would require 2.2 acres of open space. The applicant has agreed to dedicate land for a future bike path along the highway as part of that open space requirement. There is a balance of 1.6 acres that needs to be either developed or pay the fee in lieu of. Staff is recommending the fee in lieu of as part of the final masterplan and the fee that is paid goes to the City's multi-use fund to be used for bike paths and parks in the future.

Mr. Cobb passed out a list of conditions that were not included in the packet. This is the Planning Board's recommendation. The packet on Page 39 included the list of conditions as recommended by the Planning Staff. It varies slightly from what the Planning Board recommended. The specific differences are that the Planning Board recommendation excludes Wireless Telecommunication Facility-Stealth as a use as well as Utilities - Class 1 and 2. Their recommendation is to approve this without those uses which are present in the original Staff recommendation. The other difference on Page 41 of the packet under open space, the Board provided a general recommendation that the applicant provide an easement for the pedestrian infrastructure. The Staff recommendation says the same thing but in more detail and specifically states that a fee in lieu of is an option if, when it comes time for construction there is no space to do that. On Page 41 the Planning Board recommendation says all grading and development activities shall comply with Chapter 6 of the UDO, which is the environmental protection section regarding steep slopes. In the Staff recommendation, development is prohibited above 2,235 feet. Mr. Cobb explained either would protect the City's interest and preserve the integrity of the steep slope ordinance; one is just more specific than the other.

Mr. Daniel and Mr. Landreth noted that there is a discrepancy in the open space requirement. They pointed out that the staff report refers to .03 acres but in the ordinance draft it is .3 acres. Mr. Cobb clarified that it should read .03 acres. That is listed on the site plan as a playground and covered picnic area. He noted that there are no dimensions for the playground and deferred to the applicant to explain the size of the playground. Mr. Yamin said it is generally 30' x 30' plus the picnic shelter is 250 square feet so it is roughly .03 acres. Mr. Cobb clarified that #7.a.II should read "Falling Waters is proposing a small picnic and playground area of approximately .03 acres". The .3 acres in #7.a.I is accurate as that is the dimension of the property frontage times 30 feet, which is what we would need for the pedestrian easement. This would leave a balance of 1.87 acres to either provide or pay a fee in lieu of. Mr. Cobb said the question is do you require open space at all and if you do, do you require the entire 2.2 acres of functional open space and if not, how much are you going to reduce that. Based on what is existing on the site and what the easement would be across the front of the property, you are left with a balance of 1.87 acres.

Mr. Yamin commented that with regard to open space, it is not uncommon to find these kinds of open space requirements in local ordinances. However, there is a particular challenge in Brevard and Transylvania County with the local topography. Especially when developing affordable housing, there is a real premium on looking for efficiencies in terms of potential expenditures and we try to find sites that can be developed in a way that avoids things like retaining walls to create a level building area, which can be very expensive. What is shown as unused space on this parcel will remain unused because it is too steep. Mr. Yamin said he is happy to do what he can in terms of the opportunities on this site...things like offering an easement for some sidewalk infrastructure, but he is also willing to participate in some sort of fee in lieu arrangement.

Mr. Yamin added that this year's application to the State Housing Finance Agency is a repeat of what he submitted last year. The application process is a very competitive one and typically they will only fund one in four applications. Last year Falling Waters would have been the next application in the West region to have gotten funded if there were more tax credits available. He said there is no guarantee but given the reasonable positive experience he had last year he is cautiously optimistic that he will have better luck this year.

Public Hearing Participation – Judith West encouraged the City Council to support the project and not to put obstacles in the way. She said we have got to have housing if we want people that work here to live here. This is an opportunity for the City to support affordable housing and we will keep our fingers crossed that it gets funded.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 8:00 p.m.

I. Public Participation

Jim Bollini commended the Board of Adjustment and the Planning Department for the many hours they spent on the hearings regarding the fitness activities in the dome at the Racquet Club. He noted that in the end, the Board of Adjustment denied the Racquet Club's request to continue providing fitness activities within the canvas dome and that it was to remain a covered tennis court. However, now two months after the ruling, he is concerned that there are Racquet Club members who still use the dome for fitness. He is hopeful that the Planning Department will be diligent in the enforcement of the ruling of tennis only and asks that the Planning Department require the racquet club to stay in total compliance with their special exception permit.

Elizabeth Pell, representing the Transylvania County chapter of Moms Demand Action for Gun Sense in America, informed everyone that they are hosting two free events for the community. This year is the 20th anniversary of the Columbine High

School shooting and there will be a special screening of *Newtown*, on Tuesday, April 23rd from 6:30 to 8:30 pm at Brevard College Ingram Auditorium. In October they will have a family friendly public art experience around the Las Vegas mass shooting.

Jacob Dinkins commented that 3 weeks ago members of the Fire Department were presented with the proposed budget for 2019/2020 and he wanted to bring something of note to the Council's attention. In that budget proposal was a provision seeking to remove a long standing agreement between current and former Councils with past and present firefighters. That agreement states that firefighters who live in the City limits will receive complimentary water and sewer service in exchange for the training hours and call response. He said this agreement has been in place for over 35 years and we respectfully ask that you help us assure that this agreement remains in place. The department would appreciate your continued support and would like to hear your thoughts on this matter potentially during the remarks portion of the Council meeting tonight. A verbal vote of confidence and support for your local Fire Department would mean a lot to us as firefighters.

J. Special Presentation – None

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. Daniel moved, seconded by Ms. Copelof that the Consent Agenda be approved as presented. Motion carried unanimously.

K-1. Staff Reports:

- a. Financial Report for month ending March, 2019.
- b. Public Works Monthly Report, January 2019 & February 2019.

K-2. Council Parks, Trails & Recreation Committee Minutes, February 20, 2019

K-3. Council Public Safety Committee Minutes, February 25, 2019.

K-4. Mary C. Jenkins Community Center Task Force Minutes, February 25, 2019.

K-5. Audit Contract for Year Ending June 30, 2019.

K-6. Ordinance – FY2018-2019 Budget Amendment No. 1.

K-7. Ordinance Street Closure for White Squirrel Festival.

K-8. Brevard Cares Clean Up Recap

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

- a. City-County Building Permit Activity Report, March 2019.
- b. Letter of Thanks from the Transylvania Heritage Museum.

L. Unfinished Business – None

M. New Business –

M-1. Resolution – Authorizing Grant Application for Gallimore Road Sewer Rehab Project. Mr. Fatland explained that the City has been dealing with sewer system overflows for several years and this is an opportunity to hopefully seek some grant money or a no-interest loan. Public Works Director David Lutz added that we are looking at rehabilitating 8,000 feet on the Gallimore side of the system. Upon Council's approval, Summit Engineering will submit an application to the State on behalf of the

City. Mr. Morrow moved, seconded by Mr. Landreth to adopt Resolution 2019-08. Motion carried unanimously.

RESOLUTION NO. 2019-08

**A RESOLUTION AUTHORIZING APPLICATION FOR SRF LOAN
FUNDING FOR THE DESIGN AND CONSTRUCTION OF THE
CITY OF BREVARD - GALLIMORE SEWER BASIN REHABILITATION**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of a wastewater collection system project; and

WHEREAS, The Gallimore Road pump station continues to experience sanitary sewer overflows due to excessive inflow and infiltration during rain events; and

WHEREAS, The City of Brevard has the need for and intends to construct a sewer system rehabilitation project described as the Gallimore Sewer Basin Rehabilitation Project; and

WHEREAS, The City of Brevard intends to request state SRF loan assistance for the project, in the amount of \$2,083,000.00, which includes \$1,785,000 for construction of the above referenced project and \$298,000 for engineering and grant administration.

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

That the City of Brevard, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State SRF Loan award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Brevard to make scheduled repayment of the loan, to withhold from the City of Brevard any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Jim Fatland, City Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted and approved this the 15th day of April, 2019.

M-2. Set Work Session for Community Appearance Commission (CAC). Mr. Landreth noted that the Land Use Plan was delayed when we were finishing the Comprehensive Plan and he would like to see that completed before we go forward with the Community Appearance Commission. Mr. Cobb said the decision is to either reinstitute the CAC in its previous form with its previous mission, or do a Land Use Plan, redesign the CAC as a body and give them some authority to regulate projects. Mr. Cobb suggested that Staff look at those options in more detail and bring back ideas for consideration before we set a work session date. Mr. Landreth moved, seconded by Mr. Daniel to table the May 6th work session item and ask the Planning Department to provide structured ideas. Motion carried unanimously.

M-3. Ordinance – Proposed Amendment to the Official Zoning Map – Falling Waters Planned Development District. Mr. Landreth moved, seconded by Mr. Morrow to approve the Ordinance for the proposed amendment to the official zoning map for Falling Waters Planned Development District with the changes recommended by the Planning Office. Motion carried unanimously.

ORDINANCE NO. 2019-05**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP
OF THE CITY OF BREVARD CREATING THE
FALLING WATERS PLANNED DEVELOPMENT DISTRICT**

WHEREAS, a public hearing was conducted April 15, 2019 in consideration of establishing the Falling Waters Planned Development District (District); and,

WHEREAS, the property under consideration of this request is located immediately south of the intersection of Nicholson Creek Road and Highway 64 west (Rosman Highway), further identified by tax parcel 8585-06-6740-000;

WHEREAS, the City of Brevard Planning Board considered REZ-19-001 March 19, 2019 and unanimously recommended approval of this request; and,

WHEREAS, in accordance with North Carolina General Statute 160A-382(b), Brevard City Council finds the following:

- 1) REZ-19-001 is consistent with the following polices and goals of the City of Brevard 2015 Comprehensive Plan:

Element 2: Economic Health, Element 3: Environmental Health, and Element 4: Livable Communities:

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 3.1: Preservation of surrounding natural assets of mountains, farmlands, woods, and water for future generations.

POLICY 3.1.A: Continue using land development regulations and incentives to steer future development away from environmentally sensitive areas such as steep slopes and floodplains.

POLICY 4.2.E: Collaborate with partners to increase the amount of available affordable and workforce housing, and to combat homelessness.

- 2) 2012 City of Brevard Vision Statement:

Foster economic diversity while enhancing the quality of life in an environmentally friendly way by creating an environment that promotes and encourages businesses, and business owners, attracted to and utilizing our natural assets of woods and water and our cultural/historic assets of music, arts, and outdoor recreation.

- 3) That the size of the tract and the proposed uses are reasonable and appropriate within the context of the existing zoning districts and the prevalence of uses in the vicinity of the Subject Parcel.

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

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

Section 1. The Official Zoning Map of the City of Brevard is hereby amended as described herein (Exhibit A).

Section 2. Development within the District shall occur in accordance with the approved Preliminary Masterplan (Exhibit B) and List of Conditions (Exhibit C).

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

Adopted and Approved this the 15th day of April, 2019.

M-4. Board and Committee Appointment(s)

Mr. Daniel moved, seconded by Ms. Copelof to approve the appointments of

Keenan Smith, Gregory Copeland and Ryan Olson to serve on the Parks, Trails & Recreation Committee. Motion carried unanimously.

N. Remarks / Future Agenda Considerations

Ms. Copelof informed everyone that the annual fundraiser for Rise & Shine will be held on Saturday, April 27th. The event will be "Motown Memories", a Motown dance with local entertainment, a meal and an auction.

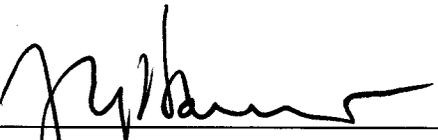
Mr. Fatland asked Mr. Cobb to introduce new Planner Bryan Brightbill who comes to us from Kill Devil Hills, NC.

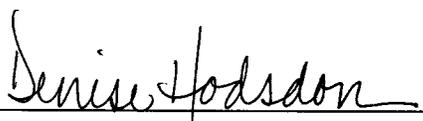
O. Closed Session(s) - Mayor Harris asked the City Attorney if it would be appropriate for Council to hold a closed session to discuss a matter of potential litigation. City Attorney advised pursuant to **GS § 143-318.11. (a)(3)** it would be appropriate to convene a closed session on the matter. A closed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

Closed Session #1 - At 8:39 p.m. Mr. Landreth moved, seconded by Mr. Morrow to enter into closed session to discuss potential litigation and clear Council Chambers. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager, Executive Assistant, Public Works Director David Lutz, Planning Director, Daniel Cobb and David Loftis of S&ME.

Council Returned to Regular Session - at 9:17 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 - At 9:17 p.m. Mr. Landreth moved, seconded by Mr. Daniel, the meeting be adjourned. Motion carried unanimously.


Jimmy Harris
Mayor


Denise Hodsdon
Executive Assistant to City Manager

Minutes Approved: May 20, 2019