

**MINUTES
BREVARD CITY COUNCIL
Regular Meeting
January 18, 2022 – 5:30 PM**

The Brevard City Council met in regular session on Tuesday, January 18, 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, Maurice Jones, Aaron Baker and Geraldine Dinkins.

Staff Present – City Attorney Mack McKeller, Interim City Manager Steve Harrell, City Clerk Jill Murray, Finance Director Dean Luebbe, Planning Director Paul Ray and Human Resources Director Kelley Craig.

Press – John Rich, Transylvania Times

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

B. Invocation – Pastor Jeremy Jackson of Calvary Baptist Church offered an invocation.

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

Mayor Copelof introduced Council members, Attorney, City Clerk and the new Interim City Manager Steve Harrell. She asked Mr. Harrell to tell everyone a little bit about himself. Mr. Harrell said “I am happy to be here as interim City Manager and look forward to working with Council for the next six months and putting together the budget and some projects that we’re working on and helping them find a permanent manager. I am retired after 38 years in local government, 27 years as a city manager. I’m from Goldsboro, NC and got my undergraduate at Western North Carolina so I am a Catamount.”

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

E. Approval of Agenda – Attorney McKeller asked to add an issue regarding the prospective new City Manager’s salary and benefits under New Business as item M-8. Mr. Jones moved, seconded by Mr. Daniel to approve the agenda as amended. Motion carried unanimously.

F. Approval of Minutes – Mr. Jones asked that on page one of the minutes, that Council Member Mac Morrow’s name be added to the second paragraph. Mr. Jones moved, seconded by Mr. Daniel to accept the addition of item M-8 to the agenda. Motion carried unanimously. Mr. Jones moved, seconded by Mr. Morrow to accept the minutes as amended. Motion carried unanimously.

G. Public Participation – Mayor Copelof explained that due to Covid, we asked that comments be submitted to the City Clerk by noon today and we have one submission that I will read into the record now. The email was from Mr. Doug Denton with regards to the 2022 Co-Ed Theater Lease. The email reads as follows:

To the Brevard City Council:

I have received a copy of the proposed ten-year lease for the operation of the City owned Co-Ed Theater, a copy of which I have attached so we are all working on the same document. I understand that the lease will be offered to the same proprietor that has occupied the aforementioned space for the last 10 years. Please recognize that the Co-Ed Theater space is an integral part of the City. The Co-Ed Theater needs to be operated, albeit at a breakeven level, as an important community asset, particularly as it now sits next to a new City Park on Caldwell St., across the street from the soon to be renovated bank building, and connects the restaurants (and guest houses and house rentals) further down West Main Street with the City center. The Community was fortunate to have the Pisgah Film House on West Main Street, which drew many locals to that side of town. As a key volunteer, and supporter, of the Pisgah Film House, I can attest that there exists great local interest in

independent film, including thought provoking documentaries. Its existence on Main Street revealed that there is great local interest in a variety of films. I believe that the Co-Ed Theater Lease should include stipulations that the operator of this City owned property should offer a cross section of film genres, and not only so-called "blockbusters." Whomever is awarded the privilege to operate the Co-Ed Theater would greatly benefit as proprietors if they would recognize the potential this City owned property holds. The Co-Ed Theater has the potential to be a Community Hub, but only if said proprietors recognized that the residents of the City of Brevard and Transylvania County are not only interested in Marvel Comic movie characters.

I recommend that the Co-Ed Theater Lease be rewritten to include:

- 1) That the Co-Ed Theater contract be awarded for a period of 3 years to give the City flexibility in the event the lessee is unable to provide a cross section of films for the community at large.
- 2) That the lease requires the facility "annum" be increased to \$1,000.00 each year after the first year, to be used by the City for minor facility repairs.
- 3) That the lease requires the Theater to be open every Saturday and Sunday (weather permitting) and at least on two other nights during the week.
- 4) That the lease requires monthly attendance numbers, to reflect community interest and engagement.
- 5) To offer a wide variety of film genres, including independent fiction and non-fiction films during weekdays.
- 6) That, on a cost basis only, the Theater be available for use by the Community during the week.

I fully understand the limitations imposed by the ongoing pandemic and its impact on staff shortages, but these will pass, and the Co-Ed Theater has to be ready and incentivized to grow with the needs of a vibrant Community of film goers, and to be a destination that is looked upon as a special place to build Community. The current lessee has not in the last five years done any real marketing or community outreach and therefore I recommend that the City extend the current lease for one-year, and that the City offer a fair and open process to consider other potential proprietors of the Co-Ed Cinema. The Co-Ed Theater is an important asset, a place where residents throughout our great City and County can come together to enjoy the Art of Film.

H. Certificates/Awards/Recognition - None.

I. Special Presentation(s) None.

J. Public Hearing(s) - None.

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. Jones asked that item K-5 Short Term Rental Task Force Minutes be removed for discussion and be renamed as item M-9 under New Business. Mr. Daniel moved, seconded by Mr. Baker to approve the consent agenda as amended. Motion carried unanimously.

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

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

K-3. Resolution No. 2022-01 Approving Property Tax Releases.

RESOLUTION 2022-01

A RESOLUTION APPROVING PROPERTY TAX RELEASES

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

BE IT NOW, THEREFORE, RESOLVED THAT:

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

2021: \$8.46

Adopted this the 18th day of January, 2022.

K-4. Council Finance and Human Resources Committee Minutes-December 16, 2021.

K-6. Correspondence (No Action. Offered as information only.)

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

L. Unfinished Business – None.

M. New Business.

M-1. Co-Ed Theater Lease.

Attorney McKeller explained that the Co-Ed Theater is a City owned property. The equipment inside is not the City's. If we are to issue a lease for less than ten years, we are allowed to do so upon 30 days' notice and there has been a proposal from the current lease holder. What we're looking for tonight is if Council is ready to enter into the lease that was included in your packet or if there needs to be another negotiation. If they wish to approve, there will be a public notice issued for 30 days and then a resolution would be passed allowing us to enter into the lease. This lease expires in February, so if it expires, the lease is over.

Abby Steel said that she has been the owner since 2015. She heard the proposal and understands the questions and concerns and is committed to keep it a vibrant hub and part of the community and listening to the concerns that people have.

Mr. Daniel said that looking at the list of improvements over ten years, it looks more like maintenance and not improvements. If we are giving this building to someone for ten years, I think there should be some expectations. Attorney McKeller said if you read paragraphs 4 and 5, it essentially relieves the City of maintenance of that building.

Mr. Harrell added we have a leak issue in the roof and I just met with David, Bobby and Dean today to discuss it. We had a structural engineer look at it and it needs structural support back into the roof. It has nothing to do with the operation of the building. We'll bring it to your February 7th meeting with estimates.

Attorney McKeller said we need a decision by Council to give me what the terms of the lease are going to be, the length and terms, and if majority of Council agrees, I can speak to Ms. Steel tonight and make those amendments and start the 30 day notice period.

Ms. Dinkins motioned, seconded by Mr. Daniel to authorize the City Attorney to amend the lease as presented with the following additions. The lease term be amended to be a ten year lease in effect for five years and then is authorized to renew each year after that up to ten years, that an annual report be required and that the proposed lease be presented for a 30 day public notice. Motion carried unanimously.

M-2. Update on Estatoe Trail.

Mr. Ray explained that in October, 2019 Conserving Carolina applied for grant funds from Pisgah Health Foundation to support three separate multi-use trail projects, the Ecusta Trail, the Estatoe Trail and the Mills River Valley Trail. The application was denied by Pisgah Health in November, 2019. On March 27, 2020, Conserving Carolina was formally notified that Pisgah Health Foundation had decided to fund only the Estatoe Trail portion of the request and the narrative and budget were revised to reflect a \$240,000 award for construction of the Estatoe Trail segment from Main Street to the Mary C. Jenkins Community Center. Unfortunately, COVID slowed down many projects

and, although the funding cycle was extended to July, 2021, it was not enough time. However, Lex Green, President of Pisgah Health Foundation, encouraged the City to resubmit for grant funding once we are "shovel ready". A financial summary was shared with Council showing that Fund 78 recorded a deficit of \$380,000 as of 6-30-21. (On file in Clerk's Office)

Mr. Harrell explained that Mr. Luebbe made him aware of the deficit and said that each year the City gets a letter from the Local Government Commission (LGC) dinging us for a debt in the general fund. That letter will continue to come until we take care of it and it could hurt us for future projects that they have to approve. Our recommendation is to put it in the budget this year. It stops us from moving ahead with some of the trail work that we need to do so we need to get rid of this deficit.

Mr. Luebbe added that if you ever look at Note 2 of the financial statements, its entitled stewardship in finance and accountability, and that's where this deficit is listed. We actually have one in the Rosenwald Fund as well (a smaller number) but I think the Interim Manager and I are used to seeing nothing under that column because what that's basically telling you is that you are not being perfect stewards of your money and I think that's why when I brought it to Steve's attention, he was concerned. Mr. Harrell added that he is not used to getting those letters from the Local Government Commission and you don't want those kind of letters coming in particularly if a project comes up and you want to borrow some money, they're going to be looking at anything in your financial statement that would say you're not in a position to borrow money.

Ms. Dinkins said so in other words, we started and finished a project without a dedicated funding source?

Mayor Copelof said the plan was this \$45,000 a year payment. Now with new leadership, a new City Manager and new Finance Director, they think we should change the approach. We clear the debt and pay it off and have a better standing with the LGC. We also lost the \$240,000 that Pisgah Health was providing. They have assured me that they still support this effort and although there are no guarantees, they encouraged us to resubmit when we're shovel ready.

Ms. Dinkins asked how much this will set back our multi-use path. Mr. Luebbe said \$380,000. She then asked how many years that would be? Mr. Harrell said he wasn't sure at this point but would get back to her at the February 7th meeting with some more concrete ideas.

Mr. Baker said I have to say a couple of things and I know that they're not necessarily the fault of the people in this room. We were told to great fanfare that we had a million dollars for the multi-use path a few months ago and we've lost \$240,000 of that million dollars and we never really had the \$388,000 to begin with. So, we had a million dollars and we lost \$628,000 of that. In terms of open communication and transparency, that's not a great look to be honest. We've heard from citizens that this trail is a huge asset and that they want to see it finished and I realize again that some of the folks that made this decision are not here in this room but I think it's on us now especially heading into a budget season that we make good on the promises that we've made. That 2018 resolution that was passed that said the path would be finished in three years and we're past that now and now we have \$36,000 left in our fund that's supposed to be building that trail. I see a lot of problems with that and I would challenge us to make it a priority.

Mr. Harrell said that we will bring back some concrete ideas.

M-3. Update on Railroad Avenue Bridge Replacement.

Mr. Luebbe explained that the Railroad Avenue Bridge Replacement project is the other active project in fund 78 which is what we call the Multi-Use Paths Fund. So, the two active projects are this one and the Estatoe Trail project. The bridge is over 60 years old and recently received a rating of 31.92. In July, 2013, the City signed an

agreement with NCDOT for a project that was supposed to be worth \$1,040,000 and the City of Brevard was responsible for 20% of that, or \$208,000. From January, 2016 through November, 2019, the City expended \$595,000 of which \$196,000 represented three property acquisitions and \$399,000 represented engineering costs. The most recent estimate to complete the bridge is \$1,731,000 which includes the \$595,000 we have already spent. The City is currently in communication with NCDOT to request an additional contract for the difference in cost which is \$691,000. If that contract is awarded, the City will still be responsible for 20% of that amount which would be \$138,200.

Mr. Harrell said that one of the questions that I had and am sure some Council members had is where did \$399,000 go for engineering costs and why don't we have a new bridge. In talking with the engineer earlier today, they basically designed a 50 foot wide bridge for the corridor that was going through there, they spent the money ready to put in a 50 foot bridge with sidewalks on each side and then when it was decided we weren't going to do that and go down to a 30 foot wide, they had to redesign it again. They also discovered that there was water, sewer and storm water lines that needed to be moved so they had to spend money to have that engineering work done as well. There are things too like someone being on site to oversee the construction, the administrative work, environmental work because it's over water so that's where we're at. My understanding from the engineer today is that we were going to move ahead with this in 2021, then DOT came in and said, we don't have the money right now. I don't know if you remember, but in 2019 the State legislature did not adopt a budget and everyone was living on what they budgeted the previous two years so for two years, it's been static as far the State money goes. I have talked to the engineer about coming to your February 7th meeting and give the Council a much more detailed look at what has been spent. His hope is that we'll be in a position to bid the bridge this spring with the idea of getting it completed in the four months before October. There is a period of time between October and April that you are not allowed to go into a waterway and do any work because of wildlife that depends on that waterway so we have a window that we have to hit in 2022 to get this done and bringing the engineer here will give you an opportunity to ask whatever questions you would like to ask and let them tell us this is where we've been and this is where we're going and I would highly recommend that.

Mr. Luebbe added that we have to get that additional DOT agreement first. Without the agreement, we're at \$691,000 out of our pocket to get it done.

Mayor Copelof said so the worst case scenario is that we have to find \$691,000 in our general fund to cover it if we don't get the agreement. Best case, we pay \$138,200 if we get the contract. The bridge is a responsibility that we have to rebuild so hopefully we get the 80/20 split and we can execute the project before the costs go up anymore.

Council agreed that the engineer should come to their February meeting to explain everything and answer any questions Council may have.

M-4. Resolution No. 2022-03 Authorizing Signatures be Printed on A/P Checks. Mr. Harrell explained that we're processing about 50 checks a week and we're doing it with handwritten signatures and it does allow for local governments to use electronic and hand stamps rather than signing them. I would highly recommend with a multi-million dollar operation, we moved into what most cities are doing. The resolution before you authorizes that.

Mr. Baker thanked Mr. Harrell for bringing this up and bringing it forward.

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

RESOLUTION NO. 2022-03

RESOLUTION AUTHORIZING THE USE OF ELECTRONIC SIGNATURES AND SIGNATURE STAMPS ON FINANCE RELATED DOCUMENTS

WHEREAS, the City of Brevard mails approximately fifty accounts payable checks each week which requires dual signatures of authorized personnel;

WHEREAS, North Carolina General Statute 159-28.1 allows a governing board of a local government to provide by appropriate resolution for the use of facsimile signature machines, signature stamps, or similar devices in signing checks and drafts and in signing the preaudit certificate on contracts or purchase orders. The board shall charge the finance officer or some other bonded officer or employee with the custody of the necessary machines, stamps, plates, or other devices, and that person and the sureties on his official bond are liable for any illegal, improper, or unauthorized use of them for local governments to use electronic signatures to expedite this process;

WHEREAS, the City of Brevard desires to implement the use of an electronic signature system and/or signature stamp system in accordance with the aforementioned NCGS 159.28.1;

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

Section 1. The City of Brevard desires to approve and authorize the use and acceptance of electronic signatures and/or signature stamps per NCGS 159.28.1;

Section 2. The electronic signature approval shall be limited to the Finance Director and City Manager who are both entitled by current official Council action to manually sign finance related documents on behalf of the City of Brevard.

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

Adopted and approved this the 18th day of January, 2022.

M-5. Agenda Management App. Mr. Harrell explained that this is another improvement. Currently the agenda packet is done by hand, everyone sends everything to Jill and Jill puts it all together. There are agenda apps out there that allow the department heads to enter their info into the app and it automatically sends it to the City Manager, Finance Director and City Clerk. It stores the agenda documents and we can immediately pull everything without issue. Going to two Council meetings a month, we need this app. The estimate is \$6,500 this year and then \$4,000 every year after to maintain. Before we move forward, I wanted to get Council's approval.

Mr. Daniel moved, seconded by Ms. Dinkins to approve the purchase of the agenda app. Motion carried unanimously.

M-6. Wilson Road Betterments Option.

Mr. Ray explained that at the direction of City Council, staff has been working closely with NCDOT on an initiative to beautify our major transportation corridors through Brevard by designing betterments which go above and beyond the State's standard landscaping treatments for projects. Project R-5763 was approved by the NCDOT to improve approximately 3.6 miles of Wilson Road between U.S. 276 and Old U.S. 64. Mosaic Civic Studio has merged with Traffic Planning and Design, Inc. and they have proposed a schematic landscape design for the Wilson Road roundabout and constructions drawings to coordinate with NCDOT's aggressive timeline for that project. The estimated cost for the design work is \$13,500.

Ms. Dinkins she would like to see the same company doing all of our roundabouts and I would like to see the designs to make sure they're copasetic and tell the story of Brevard.

Mr. Morrow moved, seconded by Mr. Baker to approve the cost of \$13,500 for hiring Traffic Planning and Design Inc., to design a landscaping plan for the roundabout for R-5763 at Wilson Road. Motion carried unanimously.

M-7. Cashier's Valley Road Award of Contract.

Mr. Ray explained that City Council approved a project budget Ordinance No. 2021-23 for the construction of the Mary C. Jenkins Community Center which allocated \$300,000 for parking lot and street improvements. The project was let out for bid by Summit Engineering Group, Inc. on December 7, 2021. On January 13, 2022, the sealed

bids were publicly opened at City Hall by Matthew Campbell with Summit Engineering Group Inc., with three bidders/plan holders in attendance. First Victory was the the lowest bidder at \$351,879.59. Staff recommends directing the City Manager to sign a contract with First Victory Inc., for the base bid as presented, subject to the City Attorney's approval of terms and conditions.

Mayor Copelof added that this paves the parking lot but also repositions that road for safety reasons so people can walk from the parking lot to the Mary C. Jenkins Community Center without crossing the road.

Ms. Dinkins asked if we take note of when the same contractor always has the lowest bid. Mr. Ray said that he and Dean Luebbe have spoken about making sure that the lowest bidder doesn't have a bunch of change orders that would come above the next lowest bidder.

Mr. Morrow moved, seconded by Mr. Jones to approve the City Manager to sign a contract with First Victory Inc., for the base bid as presented, subject to the City Attorney's approval of terms and conditions. Motion carried unanimously.

M-8. Hiring Range for new (incoming City Manager).

Ms. Craig explained that Council has entered into a contract with Baker Tilly for your search for a permanent City Manager. They are close to finalizing a draft of their recruitment brochure and they want to put in a general hiring range and want to know what to expect the hiring range to be. I gathered a lot of salary information from other small towns (on file in Clerk's office). The other benefits are pretty standard like travel, car allowance, a deferred comp contribution (most cities are seeing 5%). Also, the City ordinance requires that the City Manager live in Transylvania County.

Mr. Harrell added that most City Managers live in the cities that they manage unless you're in a city where the cost of living can't be maintained by the salary. The majority do require it unless you're in a resort area.

Mr. Morrow moved, seconded by Ms. Dinkins that the new City Manager must live within Transylvania County. Motion carried unanimously.

Mr. Morrow moved, seconded by Mr. Jones that the salary range be \$134,000-\$164,000. Motion carried unanimously.

M-9. (K-5). Short Term Rental Task Force Minutes-December 16, 2021.

Mr. Jones pulled this from consent to get clarity on the grant that is funding the economic impact study and what the focus will be.

Mr. Baker said that Land of Sky did a similar study in Buncombe County and I asked for a copy of it. When I get it, I can pass it along to all of you. It's pretty holistic and wide-ranging and focuses a lot on the real estate market and housing prices in particular.

Mr. Jones moved, seconded by Ms. Dinkins to accept the Short Term Rental Task Force Minutes as presented. Motion carried unanimously.

N. Remarks/Future Agenda Considerations.

Mr. Baker thanked Dean and Steve. I know I had some spicy remarks but ultimately I'm very thankful that you're digging in and trying to correct it. Steve you're taking it seriously and helping us out. I also wanted to take a second to thank all of the City workers and police and fire for getting rid of snow. We got a big one and we don't often get that much snow.

Mr. Daniel said that he seconds what Mr. Baker said.

Mr. Morrow said that he thirds what Mr. Baker said.

Ms. Dinkins said that it used to be a point of pride to be walking or running downtown and I didn't make it out this year but the downtown streets looked clear at a time in the morning when I didn't expect it to. The crews were working hard and that's impressive. I echo what Aaron said and I'm really impressed with how much has been changed and looked at and applaud you for that and continue to look out what's best for the City.

Mr. Jones thanked everyone for what they did to make it where we have access to freedom because I had a lot of snow to dig out of and I want to thank David Lutz and Steve. Thank you all for what you've done and what you're doing.

Mr. Harrell said I don't really have anything else to say except I appreciate the thanks and that's what Dean and I are supposed to do.

Attorney McKeller said that when we are done, I ask that we go into closed session to discuss a property acquisition and ask that Mr. Ray stay for that. Also, I have been impressed in the very short time that these guys have been working here and I feel good.

Mayor Copelof said she is so proud of what our entire team did during the snow, that includes our City Clerk who came in on Saturday and the City Manager helping get the proclamation out. I got so many phone calls that I passed on to David and they responded to every single one. This crew did this work seriously undermanned. This was a significant event. I'm so proud of all of you. I want to remind people that next week on January 27th, I'm holding my first meeting with Mayor at Kingdom Harvest, its informal and a drop-in. I'm bringing City Hall to you.

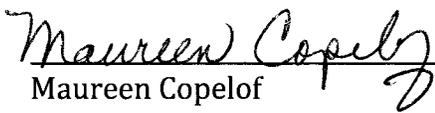
~~ At 7:47 PM Mayor Copelof called for a ten minute break and reconvene for a closed session. ~~

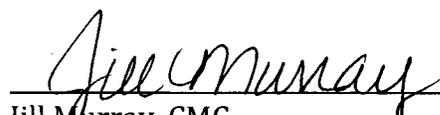
O. Closed Session(s) – Mayor Copelof asked the City Attorney if it would be appropriate for Council to hold a closed session to discuss a property acquisition. City Attorney advised pursuant to **GS § 143-318.11. (a)(3)(5)** it would be appropriate to convene a closed session on the matter. A closed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

Closed Session #1 - At 7:56 p.m. Mr. Daniel moved, seconded by Ms. Dinkins to enter into closed session to discuss a property acquisition and clear Council Chambers. Motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were the City Manager, City Clerk and Planning Director Paul Ray.

Council Returned to Regular Session – at 8:32 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. Jones, the meeting be adjourned. Motion carried unanimously. Meeting adjourned at 8:32 p.m.


Maureen Copelof
Mayor


Jill Murray, CMC
City Clerk

Minutes Approved: February 7, 2022