MINUTES
BREVARD CITY COUNCIL
Regular Meeting
October 21, 2024 – 5:30 PM

The Brevard City Council met in regular session on Monday, October 21, 2024, 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, Pamela Holder, and Lauren Wise

Staff Present – City Attorney Mack McKeller, City Manager Wilson Hooper, City Clerk Denise Hodsdon, Assistant City Manager/Finance Director Dean Luebbe, Assistant City Manager David Todd, Assistant Planning Director Aaron Bland, Senior Planner Emily Brewer, Planner Stephanie Holland, Human Resources Director Kelley Craig, Communications Coordinator Becky McCann, Police Chief Tom Jordan, Fire Chief Bobby Cooper, Water Treatment Plant ORC Dennis Richardson, Wastewater Treatment Plant ORC Emory Owen, and Community Center Director Tyree Griffin

Press – Jon Rich, Transylvania Times; Dan DeWitt, Brevard NewsBeat

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

B. Invocation – Pastor Kenneth Albright of Lutheran Church of the Good Shepherd offered an invocation.

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

D. Certification of Quorum – City Clerk Denise Hodsdon certified that a quorum was present.

E. Approval of Agenda – Mr. Hooper noted that the Closed Session Item 0-2 Potential Litigation should be removed from the agenda, and that there are two Closed Session Pending Litigation matters. Mr. Morrow moved, seconded by Ms. Holder to approve the agenda as presented. The motion carried unanimously.

F. Approval of Minutes

F-1. October 8, 2024 Regular Meeting – Ms. Holder moved, seconded by Mr. Wise to approve the minutes of the October 8, 2024 Regular Meeting as presented. The motion carried unanimously.

G. Public Comments

Paula Hartman-Stein of 249 Pine Mountain Trail said I am speaking as the Community Coordinator for Age-Friendly Brevard and its programming. She said I want everyone to know about a project we began a few weeks ago. I have arranged for a total of nine community support groups that are open to adults of all ages and we have had two so far. They are on Monday mornings from 9 to 11 and they are done in conjunction with the nursing program of Blue Ridge Community College, so I always have a group of nurses present. Our first meeting was a week ago and we had a larger than average group of 31 people ranging in age from 19 to 86. Today we had a total of 13 people. The reason I wanted to say this is that the psychological and emotional impact of hurricanes can be profound, even for people who haven't had their own property destroyed. Social support and community cohesion play important roles in buffering this emotional toll of disasters like hurricanes, and communities that come together, share resources, and provide emotional support report lower levels of distress compared to those with weaker social networks. The support groups do not treat mental health disorders; they are not providing individual psychotherapy or

spiritual-based counselling. There are resources for that, and I am personally compiling a list. The next meeting will be on October 28th at the Mary C. Jenkins Center. I have extended them through mid-December and those will be held at the Blue Ridge Community College campus in Brevard.

Nadia Paz of 45 Duck's Drive spoke through interpreter Yesica Miranda. She said I live in Duck's Trailer Park, and I would like to mention that this hurricane affected us a lot. The parking lot looks very empty because not everybody is able to come back to their houses. I heard there was a situation regarding the building permits, maybe because some people didn't ask for the right permissions, or people didn't get the permissions. One thing that I did see is I saw a lot of people volunteering from their heart wanting to help the small community of Duck's Trailer Park. In a situation like this where everybody was in shock, we accepted all this help because we need it. The last thing we thought about was asking for permits. We wanted to get our houses built again. We didn't think of all the protocol. We accepted the help because, in that parking lot we have people who have small children and babies there and we just needed the help. Now I see that the volunteers are no longer there, and I want to know was it because we didn't have this permit? People were not just remodeling their houses because they wanted to; people were doing this because it was an emergency situation, and we want to know what is stopping us from remodeling our houses for an emergency.

Yesica Miranda, Executive Director of El Centro Comunitario Brevard said today I am talking on behalf of the families that live in Duck's Trailer Park. When I found out about these families and their situations, the first thing I thought was how can I help them. I went out to their trailers and started looking at the conditions where they were staying. People were sleeping in mattresses full of mold; there was water; some of the houses the water went up to the windows, but they were still staying there because that is their place. A lot of these people bought their trailers years ago. They have been working on their trailers; they are putting new stuff in the trailers; and I know they want to fix the trailers to make them livable for themselves and their children. I know that we have this problem with the flooding zone and I know that there are new requirements, but I also know that these people are willing to go by those requirements. We just need time. If you guys give them time to rebuild their houses as they are right now, they will lift up those trailers. They are not going to say no we don't want to do it anymore. Trust me, I know these families and these families have worked for many years. They cannot go to a bank and ask for a loan like everybody because of different situations, but I can tell you that these families will comply with you guys. They will lift the trailers once they have the money to do it. At El Centro we have been raising a lot of money to help them rebuild. We have materials and we have contractors willing to spend the time there. We've had electricians; we've had plumbers; we've had everything. The only thing we didn't have was thinking about getting those permits to continue rebuilding the trailers. Right now we have about 15 Hispanic families that I'm working with and we're sending them to different places to stay. Some people are staying at the Brevard Music Center, some are staying at vacation rentals. I have been paying $3500 a month for families to stay for one month in a vacation rental when I can use that money to purchase materials and make these things faster and for a longer term. Today I am talking on behalf of them, but I am also talking on behalf of El Centro. We want a place for these families. They want to have a safe place for their children, but this was an emergency and they're not doing this just to have a nicer place, they're doing it because it needs to happen, but we will help them get the trailers lifted if you guys give us some time to do that.

Blanca Rojas of 66 Duck's Drive said I am also a resident of the Duckworth Mobile Home Park. I am a single mom, and I have a 16-year old that lives with me. That is our concern – what is the next step for us to do the work that we need in our home, because we work, we have children and we also have bills to pay, lot rent to pay and the concern is are we going to be able to fix our homes or do we need to wait for you guys to make a decision on what's the next step to follow. More than anything is that we all lost something. Some lost more than others, but we all lost something. For example, I lost my car and had to purchase a new one because I need to move around to do my job.

Of course, one of the things is that I have lived there for 14 years, and I have never seen something like this ever happen. We have been flooded before, but this one is a massive one. Like they said, it was an emergency to get people in there and help the families, but we're concerned; what is going to happen to all of us, especially those of us that were affected the most. When are we going to hear what's next - to go ahead and move forward or start looking for another place. It's just a waiting period; how long before we actually hear something concrete and forward so we can start moving around and see what's best for all of us, because it's not just one family, it's quite a few.

Natalia Vega of 65 Duck's Drive spoke through interpreter Yesica Miranda. She said I am here to speak for me and on behalf of my children. We've been living in the house for a long time, and I am asking you to please help us. I have two children; a baby and a little boy that has autism and I need help. I need you to put your hands on your heart to give us permission so that my husband can rebuild everything again, because we lost everything. My son, it hit him really hard because he didn't understand what happened with his toys, he didn't understand what happened with his bed, he didn't understand what happened with this stuff. I need help because right now I'm staying at a vacation rental, and I need to be out of there by next week. I need you guys to give permission so that my husband can move quickly and continue remodeling because there are no houses. I have searched for houses and I have not found any houses.

Ana Gospas spoke through interpreter Yesica Miranda. She said our Hispanic community has been very affected and my heart is full from all the volunteers that were willing to help us and are willing to help us. And, now everything is on hold. We don't know what is going to happen; we don't know what we're going to do. And so, things with the permits, things with the protocol that we didn't follow, things are getting complicated even more. Please think about our community and know that we need more help.

Emiliano Paz of 45 Duck's Drive said I am a resident of Duck's Drive as well. I have lived there for close to 20 years now. I understand that in order to do things in this world you have to follow protocol, whether that's at a job or everyday life, but when this hurricane hit it affected everyone. When the waters and the wind rushed in it didn't look for a permit, it didn't care what language you spoke, what financial status you were in; it hit us all. We see the destruction in Chimney Rock, Bat Cave, Lake Lure, Asheville, Hendersonville. It was a tragedy. Nobody expected this; maybe the last time something like this hit us was a hundred years ago in 1916. What really I think touched a lot of people's hearts in this community was the fact that volunteers from all over the country, all over the areas around us, came to help us and they did it out of a feeling of comradery and they did it without asking anything in return. They brought materials, they came to help, they did anything that these families needed. Again, I understand there are protocols to follow, but we couldn't wait three to four weeks, we needed to rebuild soon. There are families out there that have babies, winter is coming and it's getting cold, and with everything that we lost, the last thing on our minds was what is the protocol. Because what would be the protocol? This was a natural disaster. We didn't expect this and to me these families are getting help. If we can't get things working or the permits can't come in and people can't get help, we are at risk of losing houses and right now we know that all over the country there is a housing shortage. Where would these people go? These people contribute to the community, they work with us, they work around us, the children go to our schools, it's a big part of the community and it would be a very terrible extension of the tragedy if these people were forced to move away from where they settled and put roots down, and where they and their children call home. I would like you guys to keep it in mind. I understand that we're still coming off the effects of the storm, but if you could find it in your hearts to…I don't know what could be done, but understand that these people came to help us out of the kindness of their hearts and we are very deeply moved and we are touched by what they did and we welcomed them in without a second thought of what the right protocol was.

Ehrow Draegen of 272 Delphia Drive said I don't think I can say anything more clear than what the gentleman just said, but I speak on behalf of being a board member

of El Centro. I have been in a place of survivor's guilt since Thursday afternoon, seeing that the disparity between some of us of what we experienced through this time. Never more was that so apparent as helping at the distribution center at El Centro and also seeing the amazing capacity and huge hearts of our community wanting to come in and assist each other and help out. Our amazing director Yesica Miranda has been able to get funds and resources to a lot of these families but now we are kind of in a holding zone where all of us that have these big hearts, that want to help the people that are further affected, are at a standstill, and that we see that that's kind of a displacement in the separation of our Latino community. I ask that instead of, I know we have the protocols, we have the FEMA and flood zones, but instead of a scarcity mentality, if we could just look at that trust and support that there are folks that we have the resources, we have the helpers, there are no other places to build or rebuild and that we actually trust each other, that we know that we're here and we will conform. But, as Ms. Yesica said we need the time, we need the ability, and we need the permission.

Jim Hannen spoke through interpreter Yesica Miranda. He said I am the park owner and I'm not going to say anything different and certainly not anything better than what has already been said by my tenants. These are resilient people. I was notified by Mr. McKeller…last week I spoke to him and he went over some things that the City is looking at. The timeframe I understand is somewhat negotiable; the City does have some discretion as to how long. I would ask of the City to let me know as soon as possible. I would let Yesica know to then spread around the park those hoops we need to jump through; we're ready. To everyone who has helped out in this situation, who has come out there to pound a nail, to bring food and provisions, and to the people that are listening, I thank you from the bottom of my heart.

H. Certificates/Awards/Recognition – None.

I. Special Presentations

I-1. Update re Tropical Storm Helene Response and Recovery – Mr. Hooper and Department Heads gave a presentation on Brevard's preparation for and response to Tropical Storm Helene. The report included each department's staffing, equipment and operational preparations prior to the storm; the number and types of calls received by Brevard Fire and Police Departments, and challenges faced and subsequent steps taken by the Public Works, Water Treatment, Wastewater Treatment, and Communications Departments. Immediate aftermath included a damage assessment of City equipment and facilities; and an overview of initial recovery services, such as substantial damage determinations performed by the Planning Department, supply distribution, and sanitation collections, provided to residents in the wake of Helene. A copy of the PowerPoint presentation is attached. Mr. Hooper also expressed thanks to our County colleagues for all that they did. He noted that emergency management is a County function, and they were the lead agency for the Helene response.

Mayor Copelof added that as we finished the initial emergency response, we started shifting to recovery and the focus is on people - how did this impact our community and how do we help displaced families. She reported that there are 74 residential homes in Transylvania County that have substantial damage and 58 of those are in the city. Arrangements were made to temporarily move some families to Brevard Music Center and El Centro and local faith groups paid to move some families into hotels. The City, the County and non-profit partners Housing Assistance Corporation, Habitat for Humanity and Sharing House worked together to create one central list of how many people need housing and start matching them up to available housing. Amy Fisher of Fisher Realty volunteered her time to create a database where people who need housing, as well as people who have available housing can register. Our faith organizations and non-profits have set up special donations to provide financial assistance to help families with rent. She said we are working with FEMA, but we don't have any FEMA trailers immediately coming, so we started looking for short-term rentals and are now in the process of looking for RV's. She encouraged anyone with any type of housing available to register on the database at www.housing-assistance.com.

~~ At 7:03 PM Mayor Copelof called for a ten-minute break ~~

J. Public Hearing(s)

J-1. Proposed Amendments to City of Brevard Code of Ordinances Chapter 1, 46, and 62 – Sidewalk Usage Policy – Emily Brewer explained that this is a staff-initiated text amendment to ensure that all the objects that are placed on our sidewalk in City or State rights-of-way have insurance and meet minimum separation requirements. North Carolina General Statutes §160A-296 states that cities have general authority and regulatory authority over all public sidewalks within its corporate limits. It is the stated duty of a municipality to keep the public sidewalks "open for travel and free from unnecessary obstructions." The North Carolina League of Municipalities (NCLM), the City's insurance provider, advised Staff that, in order to be adequately covered, all items placed in the public rights-of-way need to be permitted with insurance naming the City as an additional insured and have an executed hold harmless agreement. Additionally, the City needs to proactively monitor the sidewalk encroachments and take enforcement actions to remedy violations when necessary.

The proposed changes are aimed to reduce the burden on business owners by making this a one-time permit. Staff conducted a comprehensive review of legal constraints and ordinances from other municipalities to ensure compliance with federal and state laws and planning best practices. These changes have been discussed numerous times by the Downtown Master Plan Committee beginning in January 2024, and a public hearing was conducted on June 17, 2024. At that meeting City Council sent the text amendment back to the Downtown Master Plan Committee for further review. Staff brought the amendment to the committee again on August 29, 2024 and the committee unanimously recommended in favor of the amendments with the following changes:

- Reducing the required amount of liability insurance to $1,000,000.
- Renaming the title of Chapter 46 - Peddlers and Solicitors to Chapter 46 - Peddlers, Solicitors, and Businesses.
- Adding an exemption for the City, NCDOT, or other government agency to place public infrastructure and amenities with a reduced minimum separation, provided that NC Building Code and ADA minimum requirements are met.

At 7:16 p.m. Mr. Morrow moved, seconded by Ms. Holder to open the public hearing. The motion carried unanimously.

Public Participation – None.

At 7:16 p.m. Mr. Morrow moved, seconded by Ms. Holder to close the public hearing. The motion carried unanimously.

This item will be placed on the agenda for Council action at its November 18, 2024 meeting.

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. Wise moved, seconded by Mr. Morrow to approve the consent agenda. The motion carried unanimously.

K-1. Tax Settlement Report – September 2024

K-2. Ordinance Declaring Road Closure for Veterans Day

ORDINANCE NO. 2024-36
AN ORDINANCE DECLARING A ROAD CLOSURE
FOR VETERAN'S DAY CEREMONY

WHEREAS, Brevard City Council acknowledges a tradition of providing for festivals and special events downtown for the pleasure and enjoyment of citizens and visitors alike; and,

WHEREAS, Brevard City Council acknowledges that festivals and special events provide an opportunity for family-oriented activities that celebrate our small-town charm; and,

WHEREAS, Brevard City Council acknowledges these events require NCDOT system roads to be closed for setup, activities, and cleanup; and,

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

SECTION 1. Pursuant to authority granted by G.S. 20-169, the City of Brevard hereby declares the following temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

Veteran's Day Ceremony
Date: Monday, November 11, 2024
Time: 10:00 AM – 1:00 PM
Route Description: Main Street (U.S. 276) from Broad Street to Gaston Street.

SECTION 2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this the 21st day of October 2024.

Attest: Denise Hodsdon, CMC, City Clerk s/ Maureen Copelof, Mayor
Approved as to Form: Mack McKeller, City Attorney

K-3. Closing of Railroad Avenue Bridge Replacement Capital Project

ORDINANCE NO. 2024-37
CAPITAL PROJECT ORDINANCE TO CLOSE ORDINANCE NO. 2022-21 and 2023-43, RAILROAD AVENUE BRIDGE REPLACEMENT PROJECT

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 closed:

Section 1: In August of 2013, the City of Brevard received funding through the NC Dept of Transportation for the replacement of the Railroad Avenue Bridge. The funding agreement (B-5550) provided 80% or $832,000 and the City was required to provide a match of 20% ($208,000). Expenses were first recorded in early 2016, and mainly involved engineering and property acquisition, through the middle of 2019. Progress on the project was halted by the COVID pandemic in early 2020. At this stage, the City had spent nearly $600,000 of the budgeted funds. In late 2021, the City became aware that the most recent estimates for the bridge replacement were $1,750,000, requiring an additional $700,000 in City funds. Fortunately, the City, mainly through the efforts of Interim City Manager Steve Harrell and Mayor Maureen Copelof were able to work with NCDOT to produce an agreement where NCDOT took over the entire bridge replacement and the City was only responsible for an additional $70,000 of engineering costs. Local Representatives Jake Johnson and Chuck Edwards, and Wanda Austin from NCDOT played an important role in this agreement.

Section 2: The project will be closed with actual revenues of $677,147 and actual expenditures of $665,451. Actual and budgeted revenues and expenditures will be reversed on the City financial software, and no further expenditures will be required on the project.

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

Account Number	Account Name	Budget Amount
78-6500-4500	Railroad Ave Bridge Repl	$1,810,200
TOTAL PROJECT APPROPRIATION		**$1,810,200**

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

Account Number	Account Name	Budget Amount
78-3345-0000	NCDOT STP B-5550	$832,000
78-3750-0000	Transfer from GF – 20%	$208,000
78-3755-0110	Transfer from GF	$700,000

78-3750-0020	Transfer from GF – CDM	$70,200
TOTAL PROJECT REVENUE		**$1,810,200**

Section 5: The Finance Director will 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: The Finance Director will maintain a detailed analysis of all revenues and expenses associated with the project since its inception.

Section 7: Copies of this capital project close out shall be furnished to the City Clerk, Finance Director and City Manager.

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 21st day of October, 2024.

Attest: Denise Hodsdon, CMC, City Clerk s/ Maureen Copelof, Mayor
Approved as to Form: Mack McKeller, City Attorney

K-4. Closing of Burrell Mountain Water Tank Capital Project

ORDINANCE NO. 2024-38
CAPITAL PROJECT ORDINANCE TO CLOSE ORDINANCE NO. 2021-37 AND 2024-24, BURRELL MOUNTAIN WATER TANK PROJECT

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 closed:

Section 1: In June of 2021, the City of Brevard received funding through the NC Dept of Environmental Quality for the replacement of the Burrell Mountain Water Tank. The funding agreement provided 75% or $2,143,538 in debt forgiveness and $25% or $714,512 in twenty year, zero percent debt. The project went over budget and the City requested and received additional debt funding of $233,085 in March of 2024. Expenses were first recorded in October of 2020, and the project was completed in January of 2024.

Section 2: The project will be closed with actual revenues of $3,091,135 and actual expenditures of $3,154,714. Actual and budgeted revenues and expenditures will be reversed on the City financial software, and no further expenditures will be required on the project.

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

Account Number	**Account Name**	**Budget Amount**
31-8540-1000	Burrell Mountain Water Tank	$3,165,211
TOTAL PROJECT APPROPRIATION		**$3,165,211**

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

Account Number	**Account Name**	**Budget Amount**
31-3330-0000	Transfer from Water Fund	$57,161
31-3970-0420	Burrell Mtn grant and loan	$3,108,050
TOTAL PROJECT REVENUE		**$3,165,211**

Section 5: The Finance Director will 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: The Finance Director will maintain a detailed analysis of all revenues and expenses associated with the project since its inception.

Section 7: Copies of this capital project close out shall be furnished to the City Clerk, Finance Director and City Manager.

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 21st day of October, 2024.

Attest: Denise Hodsdon, CMC, City Clerk s/ Maureen Copelof, Mayor
Approved as to Form: Mack McKeller, City Attorney

K-5. Authorization for City Manager to Sign Deed Granting Highway Right of Way to NCDOT

RESOLUTION NO. 2024-46
AUTHORIZING CITY MANAGER TO EXECUTE DEED GRANTING
HIGHWAY RIGHT OF WAY TO NCDOT REGARDING PROJECT R-5800

WHEREAS, R-5800 is a North Carolina Department of Transportation (NCDOT) project to construct a roundabout at Fortune Cove Road and US Hwy 276/64 in the City of Brevard, Transylvania County, North Carolina; and

WHEREAS, NCDOT has requested, for the consideration of $25,000, that the City grant a deed for a right of way easement, a permanent utility easement, and a temporary construction easement on city-owned rights of way; and

WHEREAS, the parcel measures just under a quarter of an acre and is unused by the City of Brevard; and

WHEREAS, the Brevard City Council received a staff report on this request with maps and other relevant information at its October 21, 2024 City Council meeting.

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

The City Manager (or his designee) is hereby authorized to execute the deed for highway right of way with the North Carolina Department of Transportation for the purposes described in the above referenced staff report.

Approved and adopted this 21st day of October, 2024.

Attest: Denise Hodsdon, CMC, City Clerk s/ Maureen Copelof, Mayor

K-6. Resolution Directing Clerk to Investigate Sufficiency of Petition for Annexation – Mills Ave Properties, LLC / Forest Hill Drive

RESOLUTION NO. 2024-47
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 September 17, 2024, requesting the annexation of a contiguous area described in said Petition as the Mills Ave Properties, LLC property located on Forest Hill Drive, Brevard, NC 28712, consisting of 4.64 acres, more or less, be annexed into the City of Brevard. (Tax Property Identification Numbers: 8585-36-0021; 8585-35-0899-000; 8585-35-1747-000; and 8585-35-1676-000).

Metes and Bounds Property Description:

Beginning at a broken concrete monument having North Carolina NAD 83/86 grid coordinates of North: 555675.23 East: 882903.55; said monument standing S 36°49’51” E a distance of 1,328.41 from NCGS MONUMENT GEORGE which has North Carolina NAD 83/86 grid coordinates of North: 556738.54 East: 882107.07 and 6.2’ away from an existing utility pole in the right of way for Forest Hill Road; thence N 72°35'30" W a distance of 9.48’ to a calculated point on the old 45’ right of way; thence N 22°22'36" W a distance of 58.85’ to a calculated point on the old 45’ right of way; thence N 22°22'36" W a distance of 30.91’ to a calculated point on the old 45’ right of way; thence with a curve turning to the right with an arc length of 27.95’, with a radius of 289.00’, with a chord bearing of N 19°36'24" W, with a chord length of 27.93’, to a calculated point on the old 45’ right of way; thence with a compound curve turning to the right with an arc length of 58.85’, with a radius of 289.00’, with a chord bearing of N 11°00'10" W, with a chord length of 58.75’, to a calculated point on the old 45’ right of way; thence with a compound curve turning to the right with an arc length of 58.87’, with a radius of 289.00’, with a chord bearing of N 00°39'58" E, with a chord length of 58.76’, to a calculated point on the old 45’ right of way; thence leaving the old right of way N 42°42'28" E a distance of 18.15’ to a point in the center of a ditch; thence down and with the center of a ditch N 70°17'08" E a distance of 32.99’ to a point in the center of the ditch; thence N 65°22'33" E a distance of 44.58’ to a point in the center of a ditch; thence N 39°05'26" E a distance of 19.33’ to a point in the center of a ditch; thence N

13°02'07" W a distance of 42.04’ to a point in the center of a ditch; thence N 15°38'54" E a distance of 60.58’ to a point in the center of a ditch; thence N 27°30'15" E a distance of 27.48’ to a point in the center of a ditch; thence N 46°24'44" E a distance of 34.48’ to a point in the center of a ditch; thence N 52°18'45" E a distance of 44.06’ to a point in the center of a ditch; thence N 63°35'23" E a distance of 24.90’ to a point in the center of a ditch; thence N 68°35'48" E a distance of 34.51’ to a point in the center of a ditch; thence N 82°42'23" E a distance of 18.77’ to a point in the center of a ditch; thence N 59°06'04" E a distance of 10.91’ to a point where the ditch meets the center of Brushy Creek; thence down and with the center of Brushy Creek S 31°45'09" E a distance of 62.74’ to a point in the center of Brushy Creek; thence S 36°59'42" E a distance of 95.95’ to a point in the center of Brushy Creek; thence S 36°59'42" E a distance of 76.42’ to a point in the center of Brushy Creek; thence S 11°00'05" E a distance of 45.80’ to a point in the center of Brushy Creek; thence S 19°22'35" E a distance of 32.79’ to a point in the center of Brushy Creek; thence S 38°07'26" E a distance of 24.16’ to a point in the center of Brushy Creek; thence S 58°35'26" E a distance of 37.39’ to a point in the center of Brushy Creek; thence S 38°46'28" E a distance of 17.91’ to a point in the center of Brushy Creek; thence S 38°46'28" E a distance of 15.80’ to a point in the center of Brushy Creek; thence S 28°10'33" E a distance of 121.25’ to a point in the center of Brushy Creek; thence S 22°12'32" E a distance of 22.95’ to a point in the center of Brushy Creek; thence S 09°32'28" E a distance of 3.35’ to a point in the center of Brushy Creek; thence S 09°32'28" E a distance of 16.33’ to a point in the center of Brushy Creek; thence S 18°24'11" W a distance of 35.66’ to a point in the center of Brushy Creek; thence S 33°58'27" W a distance of 65.28’ to a point in the center of Brushy Creek; thence S 44°26'22" W a distance of 31.27’ to a point in the center of Brushy Creek; thence S 14°19'46" W a distance of 29.38’ to a point in the center of Brushy Creek; thence leaving the center of Brushy Creek N 77°32'22" W a distance of 21.02’ to a point in the center of a ditch; thence N 70°38'59" W a distance of 156.06’ to a point in the center of a ditch; thence N 77°40'10" W a distance of 71.18’ to a 5/8” rebar; thence N 72°39'09" W a distance of 29.26’ to a 5/8” rebar; thence N 46°48'46" W a distance of 41.05’ to a 5/8” rebar; thence S 89°46'32" W a distance of 60.26’ to 5/8” rebar; thence N 72°47'04" W a distance of 28.12’ to a 5/8” rebar; thence N 72°50'41" W a distance of 30.42’ to a broken concrete monument; which is the place and point of beginning and containing Tracts 2A, 2B, 2C and 2D as shown on Plat File 22, Slide 158, and having an area of 4.640 acres.

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 THAT:

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 21st day of October, 2024.

Attest: Denise Hodsdon, CMC, City Clerk s/Maureen Copelof, Mayor

L. Unfinished Business

L-1. Ordinance – Voluntary Contiguous Annexation – Jason Shepherd / 35 Verdery Avenue – Aaron Bland recalled that most of the property at 35 Verdery Avenue is already within city limits and this is a request to annex the remainder. The Planning Board considered the request at its September 24, 2024 meeting and unanimously recommended approval. Council held the public hearing at its October 8, 2024 meeting. Mr. Baker moved, seconded by Mr. Daniel to approve the ordinance for voluntary contiguous annexation. The motion carried unanimously.

ORDINANCE NO. 2024-39
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. 2024-30 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 September 24, 2024 and recommended 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. 2024-36 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 8th day of October, 2024, after due notice by publication on the 23rd day of September, 2024; 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 Jason Shepherd, as shown and being a portion of that property described in the deed recorded in Document Book 765, Pages 452-455, 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 21st day of October, 2024.

Said property is more fully described as follows:

Location: 35 Verdery Avenue, Brevard, NC 28712. A portion of Transylvania County Tax Property Identification Number 8585-28-6101-000

Property Description:

That certain piece of land being located in the state of North Carolina, county of Transylvania, township of Brevard. Beginning at an unmarked point on the existing line of the City of Brevard Limits and on the northern right of way line of Verdery Ave., also being located on the southern line of that property of Jason M. Shepherd described in Deed Book 765 Page 452, said property being that 0.34 Acre tract shown on Plat File 16 Slide 749. Thence running with the existing City of Brevard Limits, a curve with an arc length of 113.84', with a radius of 983.05', with a chord bearing of N 42°18'23" W, with a chord length of 113.78', to an unmarked point in the northern line of the before mentioned tract, said point being on the existing line of City of Brevard Limits. Thence leaving the existing City of Brevard limits and running with the Earnest Duncan line a course S 76°10'43" W a distance of 18.15' to a 1/2" Rebar found, the southwest corner of the Earnest Duncan property described in Deed Book 320 Page 140. Thence with the Bobby Tucker line a course S 14°14'36" E a distance of 20.01' to a 1/2" Rebar found at a 3" spindle guard stake, the southeast corner of the Bobby Tucker Tract described in Deed Book 332 Page 469. Thence with the line of the other property owned by Jason M. Shepherd, described in Deed Book 765 Page 436, for two calls, S 13°27'48" E a distance of 4.95' to a 5/8" Rebar and Cap set, thence S 13°37'43" E a distance of 75.06' to a 5/8" Rebar and Cap set. Thence leaving the Shepherd tract described in Deed Book 765 Page 436 and traveling along the northern right of way line of Verdery Ave. N 76°09'56" E a distance of 72.55' to an unmarked point on the existing line of the City of Brevard Limits, which is the point of beginning. Containing 0.101 acres, more or less. Being a portion of the property conveyed to Jason M. Shepherd in Deed Book 765 Pages 452-455.

Also shown as "This Portion of Property to be Annexed +/- 0.101 acres" on a plat prepared by David L. Burrell titled "Plat of a Boundary/Annexation Survey for Jason M. Shepherd" being drawing number 24-27-REVISED and dated June 20, 2024-Revised July 23, 2024. Reference is hereby made to said plat for a more complete and accurate description. The intent of the landowner, Jason M. Shepherd, is to annex any portion of the property described in Deed Book 765 Pages 452-455 that is not in the existing City of Brevard Limits, into the City of Brevard limits.

Section 2. Upon and after the 21st day of October, 2024 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 David L. Burrell, PLS for Jason M. Shepherd, dated June 20, 2024, revised July 23, 2024 and recorded in Plat File 24, Slide 348, 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 this the 21st day of October, 2024.

Attest: Denise Hodsdon, CMC, City Clerk s/ Maureen Copelof, Mayor
Approved as to Form: Mack McKeller, City Attorney

M. New Business

M-1. Discussion of NFIP impacts on Housing Recovery Efforts – Mr. Hooper explained that there is a conflict between two important public health and safety approaches and Staff is looking for direction from Council. The first point of view is do we accommodate people's requests to make emergency repairs to their homes, perhaps heading off additional public health issues like living in damaged homes or performing unpermitted repairs; or do we stick to our previously approved policy of requiring homes that have been substantially damaged to elevate out of the floodplain. This is an important health and safety matter because the next time it floods we won't have to pull those folks out with boats again. And there is also the argument to make for requiring elevation that it maintains our eligibility for the National Flood Insurance Program (NFIP), without which nobody in our jurisdiction can buy government flood insurance and everybody would be left to their own devices if and when the next flood comes, and their homes are damaged.

Mr. Hooper called Council's attention to four documents that he hoped would inform the conversation:

1. Letter from Transylvania County making the case for leniency from our floodplain requirements. If we adopt that point of view, we would give people a grace period from our substantial improvement requirements so that they can perform minimal emergency repairs to make their homes habitable.

2. NC Department of Public Safety's document entitled Effects of Non-Participation in the National Flood Insurance Program, which explains the benefit of the program and the opportunities we would lose if we forgo our eligibility.

3. NFIP Temporary Permitting Possibilities, which outlines the pros and cons of each approach.

4. Draft agreement that Staff has developed based on input from multiple sources that we think is a compromise solution which will allow folks to make emergency repairs without putting our eligibility in NFIP at undue risk. The highlights of this approach are as follows:

    a. We would issue permits for minimal repairs that are just designed to bring the home back up to habitable standards and give property owners a one-year grace period from our elevation requirements.

    b. The requester must give us an estimate, either from an engineer or a licensed general contractor, on the cost of elevating the home and bringing it into NFIP compliance, so that we can make sure that the cost of their repair efforts doesn't exceed 50% of the value of the home, and thus would be considered a substantial improvement under normal circumstances.

    c. Includes the opportunity for two additional one-year periods if good faith efforts toward compliance are made.

    d. If non-compliance, enforcement measures up to and including revocation of certificate of occupancy

Mr. Hooper pointed out that this program is not endorsed by FEMA and we do not know how they will react to it, but it is based on a similar program in Craven County that is currently underway and has been since Hurricane Irene, and FEMA has not messed with their NFIP eligibility there, so we don't think they will mess with ours here. He noted that we are not rewriting the UDO, staff is just asking Council for direction on how to administer it.

City Attorney McKeller added that as a general rule, since 1974 building in floodplains and special flood hazard areas has been discouraged. Therefore, trying to come up with ways to make sure houses don't get flooded out has been an important governmental task. We have rules that were put in place that require that anybody who builds in a special flood hazard area to raise their dwelling above base flood elevation. In 2009 the City adopted regulations requiring that dwellings must be raised two feet above base flood elevation. In addition to complying with NFIP, which is required for many federal loans, required for us to be able to get FEMA grants that might come for fixing up houses, in order to qualify for all of that, we have to follow these and put these ordinance rules into effect. The problem with that is that we have a shortage of housing and one of the solutions we have looked at is to allow a temporary permitting process to allow people an extended period of time to come into compliance with the floodplain ordinance. The two competing factors are: 1) raising homes out of the floodplain is a long-term goal of the City of Brevard and it complies us with the NFIP; and 2) we have an immediate need and there is a possible solution to at least allow them to repair their homes enough so they can live there while they are trying to come into compliance.

Aaron Bland added information regarding the mechanics about some of terminology that is being used. He explained that a property is deemed "substantially damaged" when the damage sustained by the structure because of the flood is estimated to be greater than 50% of the value of the structure. He also explained how those numbers are determined. There are approximately 50 of those structures and the owners of those structures have been notified of that determination. They do have the option to provide better data that could change that percentage to below the 50% threshold and remove them from that substantially damaged list.

Ms. Holder moved, seconded by Mr. Morrow to direct the staff to pursue the temporary authorization permit as contained in the Craven County model.

During discussion it was noted that the requirement to submit an estimate with the initial application makes it difficult for folks to move forward immediately. Following further discussion, Mr. Hooper summarized the revisions as discussed:

- Adopt the Craven County model, but strike the second bullet requiring that initial application for grace period must include an estimate from a licensed general contractor, etc. and replace that with a clause that requires such an estimate must be included as part of the good faith effort after one year, along with some other demonstration of good faith effort; and
- Staff will not evaluate the applications for minimal repairs, but will let the County decide what a minimal repair is, with the following exceptions:
    - We will not permit an application that describes a repair that exceeds 50% of value; and
    - Staff is empowered to refuse a permit for something that we think is excessive

Ms. Holder amended the original motion, seconded by Mr. Morrow to include the revisions described by the City Manager. The motion as amended carried unanimously.

N. Remarks/Future Agenda Considerations.

Mr. Baker commented about the storm and said the word that keeps coming up was resilient. I was seeing a lot of resiliency in the stories that the staff shared. It was amazing to see the people that stepped up and it shows the character of the people that we have here and the character of our whole community. There have been amazing

responses from volunteers, non-profit organizations, and just neighbors checking on each other. It is going to take a long time for us to recover as a region and it is going to take a lot of hard work from a lot of people. Thank you to the staff for all you did. We were talking about a housing crisis before this natural disaster and the main issue we discussed tonight shines a further light on the problems we are having with housing and the fact that people can't find adequate housing, especially those that are most vulnerable. Some short-term rental owners have stepped up to help with the immediate need and I want to thank them for that. This is an issue that we have to work together on, and I hope that as we come out of the immediate emergency housing needs from the hurricane that we can work together to help solve that housing crisis that we already had before this happened.

Mr. Daniel said I appreciated hearing the stories that our responders gave tonight which gave us an insight into their experiences. I particularly was pretty lucky, and I had to leave the house to know that there had been a storm of that magnitude because I couldn't tell it from where I was.

Mr. Morrow said it certainly was an unprecedented storm, but also an unprecedented response. Thank you for your stories. I think we are on the road to recovery. Thanks, and a shoutout to the management team, the Mayor, the Manager, and the City Attorney for the out-of-box option you gave us.

Ms. Holder said I want to say thank you to all who came and shared your stories and your heart. It reminded me of a message that I preached on Sunday called "Riding through the storm" and I talked about how hurricanes spawn tornadoes at times, and so we have a storm within the storm. Certainly, you helped us when we had the storm within the storm. We had no idea that you all were out there doing what you were doing. And it also talked about resiliency and as citizens we could ride through the storm because of what you all did. Thank you.

Mr. Wise said our city staff is unbelievable. That kind of attitude and levity in these situations really can make all the difference and I appreciate everyone who spoke to us tonight. He asked everyone to remember that we are in our biggest business season and our business owners are suffering. We have started some new programs through Transylvania Tomorrow to help them, but anything we can do to help them personally – to shop locally or tell your friends that Brevard is open for business – they need help. We are a city of 8000 people, and we all are going to be impacted directly by a lack of tourism dollars, which is our prime source of revenue in this amazing place we live. I drove through Pisgah Forest when it reopened, and it was great to back in the forest. He reminded everyone that early voting has started and encouraged folks to go vote.

Mr. Hooper reported that the milling and paving of Johnson and Jordan Streets will begin this week. He asked for forgiveness from Council and residents as some of our voluntary projects have been postponed as we have focused more on response and recovery, but we can see the light at the end of the tunnel and will be shifting staff's focus back to performing some of those voluntary things soon.

Mayor Copelof said you guys are incredible, you are heroes and did such a wonderful job. The primary responsibility of a city is to ensure that Brevard is a safe healthy place for people to live, and that is a responsibility that you stood up to. I am so grateful for everything that our City staff has done; I am so grateful for the way our community has stood up; with our non-profits, our faith groups, with individuals, with all the fundraisers, free meals, clothing and all the different items where people have stepped up. I am so proud of how we as a community have cared about one another and we will have to continue to do that because recovery is going to take a while. We are working on temporary housing, and I am so glad that we came up with a solution to allow people to go ahead and fix their homes. Thank you to the people who came, opened their hearts and told us what they are feeling and what they are facing. Thank you Council for listening and reacting to those voices. The other voice that I have been hearing is that of our small businesses. Many of those business owners have told me

how frightened they are that their business isn't going to survive. They need customers so we have got to rally as a community and help our small businesses. There is Transylvania Tomorrow and we have Halloweenfest and a benefit concert coming up on Saturday, which is an opportunity to come together as a community.

O. Closed Session

O-1. Pending Litigation: NCGS §143-318.11.(a)(3) – At 8:45 p.m. Mr. Morrow moved, seconded by Ms. Holder to go into closed session to discuss pending litigation matter City of Brevard vs. Bauslaugh - Case No. 21-CVS-381 and to clear Council Chambers. The motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were City Manager Wilson Hooper, City Clerk Denise Hodsdon, Assistant Planning Director Aaron Bland, and Assistant City Manager David Todd.

Council Returned to Regular Session – at 9:07 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.

O-2. Pending Litigation: NCGS §143-318.11.(a)(3) – At 9:07 p.m. Mr. Morrow moved, seconded by Mr. Baker to go into closed session to discuss pending litigation matter City of Brevard et al. vs. HCA et al. The motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were City Manager Wilson Hooper and City Clerk Denise Hodsdon.

Council Returned to Regular Session – at 9:20 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, at 9:20 p.m. Mr. Morrow moved, seconded by Mr. Baker, to adjourn the meeting. The motion carried unanimously.

Maureen Copelof Mayor	Denise Hodsdon, CMC City Clerk

Minutes Approved: November 4, 2024