



City Council Agenda

Thursday, March 12, 2020

6:00 PM

35 Cabarrus Avenue, W, Concord NC 28025

Cell phones are to be turned off or placed on vibrate during the meeting. Please exit the Council Chambers before using your cell phone.

The agenda is prepared and distributed on Friday preceding the meeting to Council and news media. A work session is then held on the Tuesday preceding the regular meeting at 4:00 pm.

I. Call to Order

II. Pledge of Allegiance and Moment of Silent Prayer

III. Approval of Minutes:

January 30, January 31, February 11, and February 13, 2020.

IV. Presentations

1. Presentation to the City of Concord for receiving the Tree City USA designation.

(Work Session) On January 30, 2020, Concord was named a 2019 Tree City USA community by the Arbor Day Foundation. Concord achieved Tree City USA recognition by meeting the programs four requirements: having a tree board or department, establishing a tree care ordinance, having an annual community forestry budget of at least \$2.00 per capita and an Arbor Day observance and proclamation. Tree City USA recognition from the NC Forest Service and Arbor Day Foundation highlights the City's commitment to urban forestry, community improvement and civic pride. Concord is one of more than 3600 Tree City USA communities with 87 of those communities being located in North Carolina.

2. Presentation of a Proclamation recognizing March as Red Cross Month.

V. Unfinished Business

A. Continue a public hearing and consider adopting an ordinance for annexation of four (4) parcels located on the northeast side of the Rocky River Road and Lower Rocky River Road intersection. The authorized petitioner for the annexation is Keith Rains, PE, of McKim and Creed. The subject property consists of +/- 56.83 acres on the northeast corner of Rocky River Road and Lower Rocky River Road. The property is also adjacent to the southwest corner of the Mills at Rocky River project, and west of Rocky River Elementary School. The applicant is proposing to annex in order to develop a single-family detached development under the Conservation Subdivision (CS) standards. See attached for detailed information.

Recommendation: Consider a motion to adopt an annexation ordinance and set the effective date for March 12, 2020.

VI. New Business

A. Informational Items

1. Presentation from Jacqueline Gafrarar, Managing Director, 600 Festival-CSM Production, regarding the 2020 Haulers on Union event (work session only). The 2020 Haulers on Union Parade and Fan Fest is planned for Thursday, May 14. In addition to over 30 NASCAR Cup car haulers en route to Charlotte Motor Speedway, there will be a free party in the streets with live music, activities for children, food trucks, giveaways, race cars on display and so much more.

B. Departmental Reports

C. Recognition of persons requesting to be heard

D. Public Hearings

1. **Conduct a public hearing and consider adopting an ordinance annexing one parcel of land, 3817 Cochran Rd (southwest corner of Cochran Rd and Roberta Rd), owned by Cabarrus County Schools.** The voluntary annexation petition is for +/- 43.824 acres for the purpose of constructing a middle school for the Cabarrus County School System. See the attached detailed information.

Recommendation: Conduct a public hearing and consider a motion to adopt an annexation ordinance and set the effective date for March 12, 2020.

2. **Conduct a public hearing pursuant to NC General Statutes Sec. 158-7.1 and consider offering a contract for a three year/85% tax based Downtown Municipal Service District Economic Development Incentive Grant to RCG SE, LLC for the redevelopment of 66 Union St. S.** RCG SE, LLC purchased the purchase of 66 Union St. S. (former City Hall Annex) in February 2020 in the amount of \$493,550. Since their initial presentation to City Council, RCG has expanded its plans to invest approximately \$1,009,448 into remodeling and renewal of the existing building to create a multi-tenant facility. The first floor would consist of four commercial bays targeting a market, savory bakery, and other retail service destinations. The second floor would be renovated to target a professional office user. The basement will be leased back to the City to sublease for non-profit office space. During due diligence, RCG discovered significantly greater renovation needs than initially projected. The proposed incentive will assist RCG in maintaining its envisioned high quality design and aesthetics. The proposed investment meets the requirements as set forth under the City of Concord Downtown Municipal Service District Economic Development Grant Program. The total value of the City's three-year grant is estimated to equal \$12,355.64.

Recommendation: Motion to offer a contract for a three year / 85% Downtown Municipal Service District Economic Development Incentive Grant to RCG SE, LLC for the redevelopment of 66 Union St. S., pursuant to NC General Statutes Sec. 158-7.1.

3. **Conduct a public hearing to consider adopting an ordinance amending Articles 8 and 14 of the Concord Development Ordinance (CDO) relative to allow "bars/taverns" as a permitted use.** In November, the voters of Concord approved a referendum to allow the on-premise sale and consumption of malt beverages, separate from restaurants. Prior to the referendum, on-premise sale and consumption was permissible only for establishments classified, through Alcohol Beverage Commission rules as 1) a restaurant, 2) a brewery where the malt beverages are produced on site, or 3) a private club, where mixed drinks are also produced. Therefore, the referendum allows issuance of malt beverage permits to establishments that function as bars or taverns, and it is necessary to amend the CDO to address this use. The Planning staff met with representatives of the Police Department regarding a reasonable accommodation of these uses, given current enforcement concerns and ABC permitting issues. It was the consensus that the private club approach works well as far as separation requirements. The amendment allows bars and taverns as permitted uses with specific standards within Center City (CC) and General Commercial (C-2). They could also be established within PUD, TND or MX districts as long as they are specified as permitted uses in the approval process. Those standards are identical to those in effect for private clubs, except that the minimum spacing requirement has been reduced from 1,000 to 200 feet. A bar/tavern could not be established within 200 feet of a residential zoning district, church, school, daycare or another bar/tavern. The standards clarify that the measurement is taken from the exterior wall (or deck/patio) of the bar to the other use. The spacing requirement would not be applicable in CC zoning or any of the mixed-use zoning districts. The requirement would also not be applicable to any mixed-use building (which could be developed in C-2). The amendment also adds a standard definition. At the February

meeting, the Planning Commission voted unanimously to refer the amendment to Council for public hearing and consideration.

Recommendation: Motion to adopt an ordinance amending Articles 8 and 14 of the CDO relative to bars/taverns.

4. **Conduct a public hearing for case Z(CD)-20-19 and consider adopting an ordinance amending the official zoning map for +/- 275.60 acres located on the west side of Odell School Road, generally south of Untz Road from Residential Low Density (RL) to Residential Village Conditional District (RV-CD).** The Planning and Zoning Commission heard the above referenced petition at their January 21, 2020 public hearing and acted to approve the request, by a vote of 5-1, with conditions. In accordance with Concord Development Ordinance section 3.2.4-B, "Any person aggrieved by the decision of the Planning and Zoning Commission shall have the right to appeal the action to the City Council. The appeal shall be filed by giving notice in writing to the Administrator as designated by the City Manager within fifteen (15) days of the decision of the Planning and Zoning Commission. The City Council shall place the item on the next available City Council agenda." An appeal was submitted on February 3, 2020 and is forwarded to City Council for reconsideration of the rezoning request. Please see the attached documents for further detail.

Recommendation: Conduct a public hearing and consider adopting an ordinance amending the official zoning map from Residential Low Density (RL) to Residential Village Conditional District (RV-CD).

E. Presentations of Petitions and Requests

1. **Consider adopting a resolution to sell 528 Allison Street NW to homebuyers, Zoltan and Hannah Felso, in the amount of \$127,500.** In FY 2018/2019, City Council took the initiative to allocate funds for the creation of affordable housing throughout the City as a first step to address the growing housing need. Through this effort, one (1) house has been constructed/sold with another nearing completion. Standards for all new construction include hardy plank siding, meeting SystemVision requirements and a landscaping package. To ensure the viability and attractiveness of the homes as well as the neighborhood, covenants have been attached to all City built properties. In June of 2019, Council approved the construction of 528 Allison Street NW. That home is the first 2-bedroom home build by the City, which was the result of request from potential homebuyers seeking smaller homes. The listed purchase price was \$127,500 and the City received the full asking price.

Recommendation: Motion to adopt a resolution to sell 528 Allison St NW to homebuyers, Zoltan and Hannah Felso, in the amount of \$127,500.

2. **Consider amending the City of Concord Downtown Municipal Service District Economic Development Grant Program to redefine the pre-construction assessed value for properties owned by tax exempt entities.** The City of Concord Downtown Municipal Service District Economic Development Grant Program is designed to stimulate development of new businesses and expansion of existing businesses. The policy acknowledges that while downtown is integral to the City's sustainability and economic growth, its future is dependent on the strength, vitality and growth of businesses and residences within the district. The City currently collects no tax revenues on several properties within the downtown Municipal Service District (MSD) that are owned by tax exempt entities (e.g. City, County, or non-profits). The proposed amendment specifies that the pre-construction assessed value for properties owned by tax exempt entities, at the time of a grant award, shall be recognized as zero for the purposes of the grant payment calculation. This policy change acknowledges that the location and success of an economic development project at one of these sites would allow the City to collect new tax revenues on the proposed improvements in addition to any existing assessed value that is not currently

taxed because of former ownership by a tax exempt entity. Attached is a copy of the Downtown MSD Program that highlights the proposed amendment on page 7.

Recommendation: Motion to amend the City of Concord Downtown Municipal Service District Economic Development Grant Program to redefine the pre-construction assessed value for properties owned by tax exempt entities.

- 3. Consider authorizing the City Manager to negotiate and execute a contract with McGill Associates, PA for engineering services relating to the design of the Union Streetscape Project.** Council gave approval in October 2019 to move forward with Option 1, which includes 22-foot sidewalks for the Union Streetscape Project. Staff prepared and issued an RFQ in December 2019 for design and engineering of the project. The City received eleven submissions which were reviewed by a selection committee made up of Planning staff and Directors of Planning, Buildings & Grounds and Engineering. Four of the eleven submissions were invited for interviews and McGill Associates was selected from these firms. McGill Associates has extensive experience with Streetscape projects in similar cities to Concord including Statesville, Asheville, Newton and Sanford. Their portfolio of streetscape projects, both active and recently completed, provides their design team and the City of Concord with current trends of construction costs for similar projects. This will help produce invaluable information at each milestone of design to develop a viable project to be implemented in Downtown Concord. Their team is composed primarily of in-house staff, but also includes Nealon Planning – Placemaking & Public Art, Ramey Kemp & Associates – Traffic Operations, and ECS Southeast – Geotechnical. In September 2019, City staff presented probable cost estimates to City Council during their Projects Update meeting. The probable construction cost for Option 1 came to \$5.96M. The design & bidding fees for McGill Associates total \$505,000. Staff feels this fee is appropriate given the expanded scope to include extensive infrastructure updates and based on the probable construction cost presented to Council in September 2019. If City Council approves the design contract, a budget amendment will be brought to Council in April transferring funds into the streetscape project account to cover the cost from the original budget, which was based on a \$2,000,000 streetscape and not the fully evaluated streetscape of \$5,960,000.

Recommendation: Motion to authorize the City Manager to negotiate and execute an engineering contract with McGill Associates, PA in the amount of \$505,000 for the Union Streetscape Project.

- 4. Consider approving the 2020 Federal and State Legislative agendas and priorities.** Council heard presentations on Federal and State challenges during the 2020 Planning Session in January. It is beneficial for City Council to consider legislative issues in advance so elected officials, staff and/or other representatives will have formal positions to advocate when discussing matters with representatives of the Federal executive branch, members of the United States Senate or House of Representatives, the Governor's office and/or members of the North Carolina General Assembly. The 2020 Federal Legislative Agenda and State Legislative Priorities were prepared based on Mayor/Council feedback from this discussion.

Recommendation: Motion to approve the 2020 Federal and State Legislative agendas and priorities.

- 5. Consider appointing a voting delegate and alternate voting delegate for the NC League of Municipalities' Business Meeting to be held during the 2020 CityVision Annual Conference in Wilmington, May 6-7, 2020.** Each municipality represented at the 2020 CityVision Conference is asked to appoint a voting delegate and alternate voting delegate for the business meeting that is scheduled for Thursday, May 7, 2020.

Recommendation: Motion to appoint a voting delegate and alternate voting delegate for the business meeting to be held at the NC League of Municipalities' Business Meeting to be held during the 2020 CityVision Annual Conference.

- 6. Consider approving the new benefit plan rates for the City of Concord for FY2020-2021 and authorize the City Manager to negotiate, conclude, and execute contracts with plan providers.** The PPO plan has consistently run well above budget and impacts the City's plan costs annually. In recognizing the unsustainability of this plan, staff identified the need to replace the PPO plan and began notifying staff in 2019 of this upcoming change for FY21. A new Base Plan has been identified which will replace the PPO plan option. It is a low cost premium plan option with a higher deductible/out of pocket maximum for participants who may rather spend money only if and when medical care may be needed and have a lower upfront cost on premiums. The HRA plan would remain in place.

Recommendation: Motion to approve the new rates for the City of Concord benefit plans for FY2020-2021 and authorize the City manager to negotiate, conclude, and execute contracts with plan providers.

- 7. Consider adopting a resolution authorizing the exchange of certain greenway easements and temporary construction easements with Martin Marietta Materials, Inc.** Martin Marietta conveyed certain easements located on a portion of property identified as PIN 4599-45-6349 for the purpose of extending the Hector Henry Greenway. Additional evaluation after the conveyance revealed that some of the easement areas were not suitable due to other existing utility easements and/or wetlands located in the area. Therefore, Martin Marietta has agreed to convey new easements in roughly equal proportions to the unsuitable portions with only 834 square feet of additional easement area. The new easement area is valued at \$150.

Recommendation: Motion to adopt a resolution authorizing the abandonment of the unsuitable easement areas and conveyance of those easements back to Martin Marietta and the exchange and purchase of the new easements areas and directing the City Attorney to take all necessary actions to complete the exchange.

- 8. Consider authorizing staff to pursue eligible grant program funding for the purchase of new and replacement service vehicles for the Rider Transit fleet.** Rider Transit's fleet is reaching the end of its useful life. To date, all revenue service vehicles in the fleet have been purchased with the assistance of Federal grant funds. There are several discretionary grant opportunities currently available to apply for funds to replace the current fleet as needed, as well as purchase one additional new bus to expand the number of available spare vehicles. These grant programs include FTA's 5339 program, the Federal BUILD program, and Surface Transportation Block Grant Program (STBGP). These grants provide 80%-83% of the cost of the vehicle purchase, depending on the program. Staff is requesting to submit applications to these available programs in an effort to secure grant funding to allow Rider Transit to maintain its fleet in a state of good repair. The request was presented to the Concord Kannapolis Transit Commission on 2/26/20 and was unanimously approved.

Recommendation: Motion to authorize staff to pursue eligible grant program funding to be able to purchase new and replacement service vehicles for the Rider Transit fleet.

- 9. Consider adopting a resolution to abandon an easement across property at 6620 Breezy Lane (Rocky River Wastewater Treatment Plant).** The easement as recorded in Deed Book 1351, Page 216, and shown on Plat Book 65 Page 12 was for Electric Department's use and is no longer needed. The Water and Sewer Authority of Cabarrus County (WSACC) has requested that the easement be abandoned. The Electric Department agrees with the abandonment.

Recommendation: Motion to adopt a resolution authorizing the Abandonment of Easement.

VII. Consent Agenda

- A. Consider authorizing the City Manager to execute a contract addendum for easement acquisition services with STV Engineers, Inc and to adopt a capital**

project ordinance. STV is currently under contract for the design of the Poplar Tent Road water main project. Additional services are required to proceed with easement acquisition. These additional services are priced at \$41,640.

Recommendation: Motion to authorize the City Manager to execute a contract addendum with STV Engineers in the amount of \$41,640 and adopt a capital project ordinance.

- B. Consider authorizing the City Manager to negotiate and execute a contract for the FY2020 audit to Martin Starnes & Associates, CPAs, P.A.** Staff sent out an RFP for audit services. The results of that request for proposals is attached for your review. Staff is requesting that the City Council award the contract to Martin Starnes & Associates, CPAs, P.A., which is the second lowest bidder. The low bidder was not selected as they did not have experience with municipalities of similar size or complexity. The lowest bidder also did not address additional services listed in the RFP including the Form 990 First Concord tax return and the HUD REAC submission. Staff has completed all reference checks and is recommending that the audit contract be awarded to Martin Starnes & Associates, CPAs, P.A. The bid proposal is for a period of 5 years. The fee for FY2020 is \$50,500, with estimated fees for FY2021 and FY2022 at \$52,025, and FY2023 and FY2024 at \$53,600. These fees include all services related to the required financial and compliance audit, preparation of the First Concord Form 990 tax return, and the HUD REAC submission.

Recommendation: Motion to authorize the City Manager to negotiate and execute a contract for the FY2020 audit to Martin Starnes & Associates, CPAs, P.A.

- C. Consider approving the 2020 Capital Fund Grant award from the US Department of Housing and Urban Development (HUD) and to adopt a budget ordinance appropriating the grant amount of \$354,993.** HUD has awarded the Housing Department a Capital Fund Grant for federal year 2020 in the amount of \$354,993 to assist with carrying out development, capital and management activities in order to assure that such projects continue to be available to serve low-income families.

Recommendation: Motion to accept the 2020 Capital Fund Grant award from HUD and adopt a budget ordinance appropriating the grant amount of \$354,993.

- D. Consider authorizing the Police Department to submit the 2021 NC Wildlife Commission application form to continue the extended Urban Archery season in the City of Concord for the year 2021.** The NC Wildlife Commission allows for an extended Urban Archery season for deer hunting in a municipality with the submission of the proper application. This application has been received and needs to be submitted by April 1, 2020 in order to extend the season for January 9 - February 14, 2021.

Recommendation: Motion to authorize the Police Department to submit the 2021 NC Wildlife Commission application form to continue the extended Urban Archery season in the City of Concord for the year 2021.

- E. Consider authorizing Parks and Recreation to apply for a Land and Water Conservation Fund (LWCF) Grant for construction of identified amenities at Marvin Caldwell Park.** The Marvin Caldwell Park is one of the City of Concord's oldest parks and was originally funded with Land and Water Conservation Funds (LWCF) in 1973. This year, Land and Water Conservation Fund (LWCF) grants can be used to renovate and/or replace outdoor recreational or support facilities at existing LWCF sites in accordance with approved master plans and based on public feedback. The Parks & Recreation Department would like to utilize the current master plan and the community feedback received on the re-development of the park for the application. The application would identify funds for up to three (3) amenities, which could include: 1) New, fully inclusive playground area; 2) Outdoor (covered) courts space; 3) Renovated Robert Mathis Amphitheater; 4) Baseball/multi-purpose field renovations; and 5) Support facilities, including new restroom building and/or shelters. The

maximum grant request is \$500,000 and these grants require a dollar for dollar match. Indoor recreation facilities and pools are not eligible for LWCF funds. The grant application is due to the Recreation Resource Office (NC State) by June 1, 2020 for review, and will be submitted to the State Park Advisory Board and National Park Service by July 1, 2020. The advisory board will review applications in mid to late August, and determine which projects will receive funding. The Advisory Board will announce awards by December of 2020. If approved and awarded, the City will have three (3) years to complete the project.

Recommendation: Motion to authorize Parks and Recreation to apply for a Land and Water Conservation Fund (LWCF) Grant for construction of identified amenities at Marvin Caldwell Park.

- F. Consider accepting an Offer of Dedication of an access easement and approval of the maintenance agreement.** In accordance with the CDO Article 4, the following access easements and maintenance agreements are now ready for approval: M & K Land, LLC, (PIN 4690-67-1034) 400 Woodhaven Place; and Park View Estates, LLC, (PIN 5528-45-5240) 5025 & 5175 Rocky River Road. Access easement and SCM maintenance agreement is being offered by the owners.

Recommendation: Motion to approve the maintenance agreements and accept the offers of dedication on the following properties: M & K Land, LLC and Park View Estates, LLC.

- G. Consider accepting an Offer of Dedication of utility easements and public rights-of-ways in various subdivisions.** In accordance with CDO Article 5, the following final plats and easements are now ready for approval: Allen Mills Phase 2 Map 3, Weddington Road Apartments, and Barnhardt Family Enterprises. Various utility easements and public rights-of-ways are offered by the owners.

Recommendation: Motion to accept the offer of dedication on the following plat and easements: Allen Mills Phase 2 Map 3, Weddington Road Apartments, and Barnhardt Family Enterprises.

- H. Consider accepting an Offer of Infrastructure at Lantana Subdivision Phase 4 Map 1, Allen Mills Phase 2 Map 2, Roberta Crossing, Action Glass & Mirror, and Dollar General Pitts School Road.** In accordance with the CDO Article 5, improvements have been constructed in accordance with the City's regulations and specifications. The following is being offered for acceptance: 936' of roadway, 6,862' of 8" water main, 74' of 6" water main, 13 hydrants, 4,581' of 8" sewer line, and 26 manholes.

Recommendation: Motion to accept the offer of infrastructure in the following subdivisions and sites: Lantana Subdivision Phase 4 Map 1, Allen Mills Phase 2 Map 2, Roberta Crossing, Action Glass & Mirror, and Dollar General Pitts School Road.

- I. Consider adopting an ordinance to amend the utility capital reserve project fund to adjust the budgets to actual estimates.** Staff is requesting this amendment to adjust the budgets to what actual collections are estimated to be at year end.

Recommendation: Motion to adopt an ordinance to amend the utility capital reserve project fund to adjust the budgets to actual estimates.

- J. Consider adopting an ordinance amending the operating budgets for Water, Stormwater, and Electric for the OPEB (Other Postemployment Benefits) contribution.** Staff is recommending additional funding to the OPEB fund based on current reserves in the Water, Stormwater, and Electric operating funds. The City is aggressively working to address the outstanding liability for Concord's total OPEB liability of \$39 million as of June 30, 2019. The following amounts will be sent to the trust that holds our OPEB reserves, upon City Council approval: Water \$2,917,954, Stormwater \$457,880, and Electric \$273,916. After this contribution is made, the City will have approximately \$9.8 million in the OPEB Trust Fund.

Recommendation: Motion to adopt an ordinance amending the operating budgets for Water, Stormwater, and Electric to fund the City's OPEB liability.

- K. Consider acceptance of the Tax Office reports for the month of January 2020.** The Tax Collector is responsible for periodic reporting of revenue collections for the Tax Collection Office.

Recommendation: Motion to accept the Tax Office collection reports for the month of January 2020.

- L. Consider approval of Tax Releases/Refunds from the Tax Collection Office for the month of January 2020.** G.S. 105-381 allows for the refund and/or release of tax liability due to various reasons by the governing body. A listing of various refund/release requests is presented for your approval, primarily due to overpayments, situs errors and/or valuation changes.

Recommendation: Motion to approve the Tax releases/refunds for the month of January 2020.

- M. Receive monthly report on status of investments as of January 31, 2020.** A resolution adopted by the governing body on 12/9/1991 directs the Finance Director to report on the status of investments each month.

Recommendation: Motion to accept the monthly report on investments.

VIII. Matters not on the agenda

- TAC
- MTC
- Centralina Council of Government (CCOG)
- Concord/Kannapolis Transit Commission
- WSACC
- Public Art Advisory Committee
- Concord Family Enrichment Association
- PTT Committee
- Barber Scotia Task Force Committee

IX. General comments by Council of non-business nature

X. Closed Session (if needed)

XI. Adjournment

*IN ACCORDANCE WITH ADA REGULATIONS, PLEASE NOTE THAT ANYONE WHO NEEDS AN ACCOMMODATION TO PARTICIPATE IN THE MEETING SHOULD NOTIFY THE CITY CLERK AT (704) 920-5205 AT LEAST FORTY-EIGHT HOURS PRIOR TO THE MEETING.