

CONCORD CITY COUNCIL  
WORK SESSION  
MARCH 10, 2020

The City Council for the City of Concord, North Carolina, held a work session on March 10, 2020, at 4:00 p.m., in the Council Room of City Hall, with Mayor William C. Dusch presiding. Council members were present as follows:

**Members Present:**

Mayor Pro-Tem John A. Sweat, Jr.  
Council Member Andy Langford  
Council Member W. Brian King  
Council Member Ella Mae P. Small  
Council Member JC McKenzie  
Council Member Terry L. Crawford  
Council Member Jennifer H. Parsley

**Others Present:**

City Manager, Lloyd Wm. Payne, Jr.  
City Attorney, Valerie Kolczynski  
City Clerk, Kim J. Deason  
Department Directors

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The following agenda was presented for discussion:

**Presentations:**

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

On January 30, 2020, Concord was named a 2019 Tree City USA community by the Arbor Day Foundation.

City of Concord Arborist, Bill Leake, introduced Cabarrus County Forest Ranger, Jason Morrow with the NC Forest Service.

Mr. Morrow present the 2019 Tree City USA designation plaque to Mayor Dusch.

Presentation of a Proclamation recognizing March as Red Cross Month.

**Unfinished Business:**

Consider continuing a public hearing to a date certain concerning annexation of four (4) parcels located on the northeast side of the Rocky River Road and Lower Rocky River Road intersection.

The Planning and Neighborhood Services Manager, Starla Rogers, explained the location of the parcels. The applicant is proposing to annex in order to develop a single-family detached development under the Conservation Subdivision (CS) standards.

She stated the City of Concord Police and Fire Departments have concerns with the proximity of the site for public service. Fire would need to contract with Harrisburg Fire to provide fire service to this area. Police would need additional officers in the future to serve this area should annexation be approved.

She stated the proposed development could possibly meet the conservation district standards. However, staff has not had adequate time to review and confirm that.

She also stated the NCDOT has stated a Traffic Impact Study (TIA) will not be required by the DOT.

Mayor Pro-Tem Sweat asked if the developer could build per Cabarrus County standards should the annexation be denied. The Planning and Neighborhood Services Manager stated that was correct.

**Informational Items:**

Presentation from Jacqueline Gafrarar, Managing Director, 600 Festival-CSM Production, regarding the 2020 Haulers on Union event (work session)

Ms. Gafrarar stated the 2020 Haulers on Union Parade and Fan Fest is planned for Thursday, May 14<sup>th</sup>. In addition, there will be a free party in the streets with live music, activities for children, food trucks, giveaways, race cars on display and much more.

**Public Hearings:**

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 Planning and Neighborhood Services Manager stated Cabarrus County is requesting annexation to receive City services.

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.

The Planning and Neighborhood Services Director, Steve Osborne, stated RCG SE is proposing an investment of \$1 million into remodeling and renewal of the existing building to create a multi-tenant facility.

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.

The Planning and Neighborhood Services Deputy Director, Kevin Ashley, stated in November, a referendum was approved 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, since the referendum allows issuance of malt beverage permits to establishments that function as bars or taverns, a CDO amendment is needed.

The proposed 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. 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.

The Planning Commission, at their February meeting, voted unanimously to refer the amendment to Council.

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 Neighborhood Services Manager stated this request was heard by the Planning and Zoning Commission at their January 21, 2020 meeting. The Commission acted to approve the request by a vote of 5-1 with conditions. In accordance with CDO Sec 3.2.4-B, an appeal was filed on February 3, 2020.

She explained the site and surrounding zoning classifications. She stated the 2030 Land Use Plan designates the subject property as "Suburban Neighborhood". The proposed zoning amendment is consistent with the 2030 Land Use Plan as RV and conditional district variations are corresponding zoning classifications to the Suburban Neighborhood land use category. Furthermore, although the subject property is not within the Conservation area of the 2030 Land Use Plan, the 101.07 acres of contiguous undisturbed open space provides habitat conservation as well as tree preservation which is encouraged within the Conservation land use category and throughout the City.

She stated the developer is proposing 300 lots (551 lots are allowed by right in the existing RL zoning classification), with a minimum lot size of 7,500 square feet. The developer is proposing 64%, 177 acres, of open space (8% is required in the existing RL zoning classification and the proposed RV zoning classification). The open space will include an undisturbed buffer, an amenity center, and 5 pocket parks.

The City requires a new development to maintain the 1 year, 10 year, and 24 hour stormwater control measure. The developer has agreed, as a condition, to include a 100 year stormwater control measure along with the existing City requirement.

She provided the information the Cabarrus County School System provided to staff in January 2020.

She explained the 21 conditions that were approved by the Planning and Zoning Commission. She also explained 3 new conditions proposed by the applicant which 1) to limit the amount of homes to 300, 2) to include a deed restriction to be placed on the common open space area identified as "undisturbed", and 3) to locate the sewer easement within the general location of the "undisturbed" area.

The City Attorney explained the steps that could be taken if the deed restriction is violated. She also stated once the deed restriction is in place it could never be removed.

#### **Presentations of Petitions and Requests:**

Consider adopting a resolution to sell 528 Allison Street NW to homebuyers, Zoltan and Hannah Felso, in the amount of \$127,500.

The Community Development Manager, Mary Carr, stated the City received an offer for the full asking price of \$127,500.

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 Planning and Neighborhood Services Director explained 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.

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.

The Planning and Neighborhood Services Director stated 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. The design & bidding fees for McGill Associates total \$505,000.

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.

The proposed Federal goals were presented to the Council during the annual Planning Session. The City Manager provided the State goals to the Mayor and Council prior to the Work Session for their review.

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.

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.

Interim Human Resources Director, Chantel Thompson, introduced representatives from Arthur J. Gallagher.

A new Base Plan is proposed for FY20-21 which will replace the PPO plan option. It is a low cost premium plan option with a higher deductible/out of pocket maximum. The HRA plan will remain in place.

Consider adopting a resolution authorizing the exchange of certain greenway easements and temporary construction easements with Martin Marietta Materials, Inc.

The City Attorney explained Martin Marietta conveyed certain easements located on a portion of property 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.

Consider authorizing staff to pursue eligible grant program funding for the purchase of new and replacement service vehicles for the Rider Transit fleet.

The Transit Manager, LJ Weslowski, stated 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. He also stated the request was presented to the Concord Kannapolis Transit Commission on 2/26/20 and was unanimously approved.

Consider adopting a resolution to abandon an easement across property at 6620 Breezy Lane (Rocky River Wastewater Treatment Plant).

The Engineering Director, Sue Hyde, stated the easement 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.

### **Consent Agenda:**

There was no discussion regarding the Consent Agenda.

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A motion was made by Council Member McKenzie, seconded by Mayor Pro-Tem Sweat, and duly carried, to conduct a closed session in accordance with N.C. General Statute 143-

318.11 (a)(3) to consult with the Attorney to protect the attorney-client privilege; N.C. General Statute 143-318.11(a)(4) to discuss matters relating to the location or expansion of business in the area served by this body; N.C. General Statute 143-318.11(a)(6) to consider the qualifications, competence, performance, condition of appointment of a public officer or employee or prospective public officer or employee—the vote: all aye.

A motion was made by Mayor Pro-Tem Sweat, seconded by Council Member Parsley, and duly carried, to return to regular session—the vote: all aye.

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Upon reconvening in open session, a motion was made by Council Member Parsley, seconded by Mayor Pro-Tem Sweat, and duly carried, to adopt the following resolutions authorizing Eminent Domain for 1) Poplar Tent Rd waterline; and 2) Spring Street roundabout—the vote: all aye.

RESOLUTION AUTHORIZING NEGOTIATED PURCHASE OR EMINENT DOMAIN TO ACQUIRE PROPERTY

WHEREAS, the City Council for the City of Concord, North Carolina, hereby determines that it is necessary and in the public interest to acquire a portion of a property interest identified and defined, as follows:

Lying and being in No. 2 Township, City of Concord, County of Cabarrus and is identified as a Permanent Utility Easement, labeled as 1,237.26 Sq. Ft. or 0.028 Acres, more or less, as shown on map titled. "24" Poplar Tent Road Water Main Easement Acquisition Plat for the City of Concord of Mark James Stodgill," dated 04/01/2019 an is attached as Exhibit A for further reference.

WHEREAS, the fee simple acquisition, affecting a portion of PIN 5600-89-9589 is currently owned by Mark James Stodgill, is being acquired to construct the "Poplar Tent Road Sanitary Sewer Replacement Project;" and

WHEREAS, representatives of the City of Concord are in negotiation with the above stated owner to acquire the above-described properties by negotiated conveyance.

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

The City of Concord will acquire by condemnation or negotiated conveyance for the purposes stated above the property and interest therein described above to the Resolution.

The City Attorney is authorized and directed to acquire by negotiated offer or, in the alternative, institute the necessary proceedings under Chapter 40A of the North Carolina General Statutes, to acquire the properties described above.

Adopted this 11<sup>th</sup> day of March, 2020.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim J. Deason, City Clerk

RESOLUTION AUTHORIZING NEGOTIATED PURCHASE OR EMINENT DOMAIN TO ACQUIRE PROPERTY

WHEREAS, the City Council for the City of Concord, North Carolina, hereby determines that it is necessary and in the public interest to acquire a portion of two property interests identified and defined, as follows:

## PROPERTY INTEREST #1 - FEE SIMPLE ACQUISITION - 43 Sq. Ft.

Lying and being in the City of Concord, No. 12 Township, Cabarrus County, North Carolina, crossing Deed Book 12198, Page 316 (PIN: 5630-06-3131) as recorded among the Cabarrus County Register of Deeds; and being more particularly described as follows:

Commencing from an existing IRON ROD located on the east side Public Right of Way (variable width) of Spring Street, SW at the common corner of Deed Book 12198, Page 316 (PIN: 5630-06-3131) and the property of Michael S. Rohrer and wife, Cynthia G. Rohrer (now or formerly) Deed Book 1181, Page 285 (PIN: 5630-06-215; REAL ID: 12-036 -01124.00) and running a tie line along the east side Public Right of Way (variable width) of Spring Street, SW South 43°19'04" East 43.45 feet to a new SET IRON ROD; said SET IRON ROD being further described as being the POINT OF BEGINNING (POB) of the area to be described herein; thence leaving the POINT OF BEGINNING (POB) and crossing Deed Book 12198, Page 316) (PIN: 5630-06-3131)

1. 22.86 feet along the arc of a non-tangent curve deflecting to the left, having a radius of 15.00 feet and a Chord Bearing and Distance of South 86°59'05" East 20.71 feet to a new SET IRON ROD on the north side Public Right of Way of Chestnut Drive, SW; thence running along said Public Right of Way of Chestnut Drive, SW

2. South 49°20'55" West 14.32 feet to a COMPUTED POINT at the northeast intersection of the aforesaid Public Right of Way of Chestnut Drive, SW and the east side Public Right of Way of Spring Street, SW; thence running along the east side Public Right of Way of Spring Street, SW

3. North 43°19'04" West 14.32 feet to the Point of Beginning and containing 43 square feet or 0.001 acres of land, more or less, as shown on the map titled, "Exhibit Plat, Property of Stephen L. Furr and Amber Yuill (Joint Tenants with the Right of Survivorship)" dated April 26, 2019 and is attached as Exhibit A.

WHEREAS, the fee simple acquisition of a portion of PIN 5630-06-3131 is being acquired to construct the "Spring and Chestnut Round-About" (Project Number 2016-048); and

WHEREAS, representatives of the City of Concord are in negotiation with the above stated owner to acquire the above-described properties by negotiated conveyance.

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

The City of Concord will acquire by condemnation or negotiated conveyance for the purposes stated above the property and interest therein described above to the Resolution.

The City Attorney is authorized and directed to acquire by negotiated offer or, in the alternative, institute the necessary proceedings under Chapter 40A of the North Carolina General Statutes, to acquire the properties described above.

Adopted this 11<sup>th</sup> day of March 2020.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: Kim J. Deason, City Clerk

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There being no further business to be discussed, a motion was made by Council Member Parsley, seconded by Council Member McKenzie, and duly carried, to return to closed session for reasons previously stated—the vote: all aye.

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There being no further business to be discussed, a motion was made by Council Member King, seconded by Council Member McKenzie, and duly carried, to return to adjourn—the vote: all aye.

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William C. Dusch, Mayor

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Kim J. Deason, City Clerk