



Life. Well Crafted.

A = Approved, A1 = Approved First Reading, A2 = Approved Second Reading, D = Deferred, NA = No Action, PH = Authorized Public Hearing, AD = Approval Denied

ACTION AGENDA

Hickory City Council
76 North Center Street

December 20, 2022
7:00 p.m.

- I. Call to Order
- II. Invocation by Reverend Sandi Hood, Peace United Church of Christ
- III. Pledge of Allegiance
- IV. Special Presentations
- V. Persons Requesting to Be Heard
- VI. Approval of Minutes
- A** A. Regular Meeting December 6, 2022. **(Exhibit VI.A.)**
- VII. Reaffirmation and Ratification of Second Readings. Votes recorded on first reading will be reaffirmed and ratified on second reading unless Council Members change their votes and so indicate on second reading.
- A2** A. Budget Revision Number 11. **(First Reading Vote: Unanimous)**
- VIII. Consent Agenda: All items below will be enacted by vote of City Council. There will be no separate discussion of these items unless a Council Member so requests. In which event, the item will be removed from the Consent Agenda and considered under Item IX.
- A** A. Approval a Pyrotechnic Display in the Parking Lot Adjacent to Moretz Mills for December 31, 2022. **(Exhibit VIII.A.)**

Casey Shell has submitted a request to obtain permission to conduct a fireworks display on December 31, 2022 in the parking lot adjacent to Moretz Mills. The North Carolina Fire Code requires an operational permit for the use and handling of pyrotechnic special effects material. The Hickory Fire Department Fire & Life Safety Division shall review all required documentation for the event, including Alcohol Tobacco and Firearm’s (ATF) License, Operator and Assistant Operators Permits from North Carolina Office of State Fire Marshal (NCOSFM), Site Plan, and the one-million-dollar liability insurance policy. The Fire & Life Safety Division will also inspect the pyrotechnics display area before the event to ensure compliance with NCOSFM Guidelines, National Fire Protection Association (NFPA) NFPA 1123 Code for Fireworks Display, and NFPA 1126 Use of Pyrotechnics Before a Proximate Audience (if applicable). Staff recommends approval of the above pyrotechnics displays.
- A** B. Approval to Award Service Weapon and Badge to Retiring Chief Thurman Whisnant Upon his Retirement January 31, 2023. **(Exhibit VIII.B.)**

Hickory Police Department requests City Council award retiring Chief Thurman Whisnant his service weapon (Glock Model 19 - Serial # BUBU446) and badge upon his retirement January 31, 2023. Chief Thurman Whisnant will retire from the City of Hickory Police

Department January 31, 2023, after completing 30-years of qualifying service to the citizens of Hickory. By authority of NC General Statutes, City Council may award the service weapon and police badge to Chief Thurman Whisnant upon his retirement from Hickory Police Department. Upon approval from City Council, the police badge and service weapon will be declared surplus and removed from the City's fixed asset inventory. Staff recommends approval of awarding the service weapon and police badge to Chief Thurman Whisnant upon his retirement from Hickory Police Department.

- A C.** Acceptance of Funding in the Amount of \$54,835 from the State Library of North Carolina through the SFRF Non-Recurring State Aid Program. **(Exhibit VIII.C.)**

Staff requests acceptance of funding in the amount of \$54,835 from the State Library of North Carolina through the SFRF Non-Recurring State Aid program. Hickory Public Library receives annual funding distributed through the State Library of North Carolina. In 2022, the State Library received additional funds for local library systems as part of Coronavirus State Fiscal Recovery Funds under the American Rescue Plan Act. The Non-Recurring State Aid to Public Libraries is separate from, and in addition to, normal recurring State Aid to Public Libraries. The \$54,835 in supplemental funding will allow library staff to purchase equipment and supplies to improve library services. No matching funds are required. Staff recommends acceptance of the non-recurring State Aid funds.

- A D.** Acceptance of Funding in the Amount of \$12,200 from the State Library of North Carolina through the Food Literacy Center Grant Program. **(Exhibit VIII.D.)**

Staff requests acceptance of funding in the amount of \$12,200 from the State Library of North Carolina through the Food Literacy Center Grant Program. Hickory Public Library offers educational programs and resources to residents of Hickory and Catawba County. The State Library of North Carolina is providing grant funds to public libraries to purchase mobile teaching kitchens, supplemental programming materials, and appropriate safety supplies. Library staff applied for funding in November 2022. Hickory Public Library was one of eleven libraries chosen to receive the funding. The \$12,200 grant will allow library staff to purchase equipment and supplies needed for high quality food literacy programs. No matching funds are required. Staff recommends approval of the LSTA grant agreement.

- A E.** Adoption of a Resolution Approving a Construction Manager At-Risk Contract for the Construction of the Hickory Aviation Museum Project. **(Exhibit VIII.E.)**

Staff requests Council's consideration of the Resolution Approving a Construction Manager At-Risk Contract for the Construction of the Hickory Aviation Museum Project. The City of Hickory, in partnership with the Sabre Society of North Carolina/Hickory Aviation Museum and Catawba Valley Community College (CVCC), plans to construct a +/- 52,000 square feet airplane museum hangar; a three-story structure consisting of entryway/lobby, classroom space, and shell space for future restaurant/event space totaling +/- 25,000 square feet; and approximately +/- 15,000 square feet education center for Catawba Valley Community College located in Hickory. Chapter 143 of the North Carolina General Statutes authorizes a number of methods municipalities may use to construct public buildings. N.C.G.S. 143-128.1 specifically authorizes the City to use the construction management at-risk delivery method to construct the facility. The City has selected David E. Looper & Company to be the construction manager at-risk in accordance with Article 3D of Chapter 143 of the North Carolina General Statutes. Per N.C.G.S. 143-128.1, the Construction Manager is required to contract directly with the City for all construction. The proposed Resolution authorizes the City Manager to take all necessary steps to negotiate, execute, and deliver a final contract with the Construction Manager. Staff requests Council adopt the Resolution Approving a Construction Manager At-Risk Contract for the Construction of the Hickory Aviation Museum Project.

- A F.** Approval of Change Order Number 1 with JS Haren in the Amount of \$38,322.26 for the Lyle Creek Sewer Pump Station Project. **(Exhibit VIII.F.)**

Staff requests Council's approval of change order number 1 with JS Haren in the amount of \$38,322.26 for the Lyle Creek sewer pump station project. This project consists of a new cast-in-place sewage pump station complete with all appurtenances and approximately 100 LF of 10-inch force main with connection to existing sanitary sewer manhole. In October 2022, Council approved the contract for construction of this pump station with JS Haren in the amount of \$1,679,000. Due to exceeding the bid hold time, prices for materials have increased. This change order reflects the difference in bid prices and prices when the bid was awarded of \$38,322.26. Staff recommends Council's approval of change order number 1 with JS Haren in the amount of \$38,322.26 for the Lyle Creek sewer pump station project.

- A G. Adoption of a Resolution Authorizing the City to Enter into a Lease Agreement with Pepsi-Cola Bottling Company of Hickory NC. **(Exhibit VIII.G.)**

Staff requests Council's consideration of the Resolution Authorizing the City to Enter into a Lease Agreement with the Pepsi-Cola Bottling Company of Hickory NC. In the nineties, Pepsi made a onetime donation to City for the construction of L.P. Frans Stadium. The City also is the owner of two skyboxes located within the stadium. At that time, Council determined Pepsi's donation afforded the company the opportunity to lease a skybox. Pepsi has leased the skybox for several years. The lease has expired. N.C.G.S. 160A-272 requires Council to adopt a Resolution that authorizes the execution of a lease agreement having a term greater than one year upon 30 days' public notice. The notice must describe the property to be leased, list the annual lease payments, and announce Council's intent to authorize the lease. The proposed new lease agreement is for a 9-year, 11-month term, beginning, January 1, 2023 and ending November 30, 2032. The lease fee is a total sum of \$15,000 to be paid over the lease term in ten separate annual payments. The lease outlines the City's and Pepsi's obligations and responsibilities for the skybox, including maintenance and the procedure for Pepsi to make improvements and alterations to the skybox. Staff requests Council adopt the Resolution authorizing the City to enter into the Lease Agreement with Pepsi.

Legal notice was advertised in a newspaper having general circulation in the Hickory area on December 16, 2022.

- PH H. Call for a Public Hearing to Consider a Joint Economic Development Agreement for the Conveyance of City-Owned Property Located in Downtown Hickory on Main Avenue NE. **(Authorize Public Hearing for January 3, 2023, at 7:00 p.m. in Council Chambers of the Julian G. Whitener Municipal Building).** **(Exhibit VIII.H.)**

- A1 I. Budget Revision Number 12. **(Exhibit VIII.I.)**

1. To appropriate \$1,489 from a payment received towards a Basic Law Enforcement Training reimbursement.
2. To appropriate \$335 from a payment received from Burke County towards the shared cost of public safety technology.
3. To appropriate \$300 from Donations towards Youth Council operations.
4. To appropriate \$79 from Donations towards Library programming materials.
5. To appropriate \$12,000 from State grant revenues towards the purchase of mobile teaching kitchens, programming materials, and safety supplies.
6. To appropriate \$54,835 from State grant revenues towards the purchase of equipment and supplies to improve library services.
7. To appropriate \$287,576 from Water & Sewer Fund Balance towards a Sanitary Sewer Easement on the Lyle Creek sewer project.
8. To appropriate \$38,323 from Water & Sewer Fund Balance towards the installation of additional infrastructure for the Lyle Creek sewer pump station project.
9. To appropriate the second installment of \$4,100,000 in ARPA Funds to be used for public safety related expenses.

- IX. Items Removed from Consent Agenda – None

X. Informational Item

XI. New Business:

A. Public Hearings

- A1** 1. Consideration of Rezoning Petition 22-13 for 3.54-Acres of Property Located within the Trivium Corporate Center – Presentation by Planning Director Brian Frazier. **(Exhibit XI.A.1.)**

The City of Hickory requests the rezoning of 3.54-acres of property within the Trivium Corporate Center. This property was recently annexed and requires rezoning from Catawba County zoning to Hickory zoning. The request is to rezone the property from R-20 Residential to Industrial – Conditional (IND-CZ). The subject property is part of Lot 5 of the Trivium Corporate Center. The property was purchased by Trivium Corporate Center, Inc. and added to Lot 5. The subject property, all of Lot 5, is vacant, but will be developed in the future to facilitate continued business/industrial within the business park. The subject property is currently zoned R-20 Residential. The current zoning allows for properties to be used primarily for residential uses at a maximum density of two dwelling units per acre. The requested Industrial – Conditional (IND-CZ) district is specific to the business park and allows property to be used for business and industrial uses, with specific exceptions. The district does not have a specified maximum intensity, provided all necessary building and site improvements meet the referenced conditions and all other regulatory development requirements. The Hickory Regional Planning Commission conducted a public hearing on December 7, 2022, to consider the petition and acknowledged the petition’s consistency with the Hickory by Choice 2030 Comprehensive Plan and recommended approval.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on December 9 and December 16, 2022.

- A1** 2. Consideration of Rezoning Petition 22-14 for 104.19-Acres of City-Owned Property Located along Deitz Road and River Road – Presentation by Planning Director Brian Frazier. **(Exhibit XI.A.2.)**

The City of Hickory requests the rezoning of 104.19 acres of property along Deitz Road and River Road from R-20 Residential and 321ED (MX) to R-1 Residential and Industrial (IND). The properties are City-owned, were purchased approximately 20-years ago, and have recently been annexed. Following annexation, Hickory is required to rezone the properties from Catawba County zoning to Hickory zoning. The prior annexation and rezoning places the properties under Hickory’s official jurisdiction and provides the City with further authority to decide how or if the properties are to be developed in the future. There are no current development plans for the properties. The current zoning allows for properties zoned R-20 to be developed for residential purposes at a maximum intensity of two dwelling units per acre, while the 321ED (MX) district permits a combination of retail commercial, office/institutional and residential components. This district has varying maximum intensities based upon property size. These intensities are measured in floor area ratio and vary from 1:1.175 to 1:3. The requested R-1 Residential and Industrial (IND) districts are very similar, as both are residential, and their maximum permitted intensity is two dwelling units per acre. The 321ED (MX) district and the Industrial (IND) district are different from one another on two key features. Uses within Industrial (IND) districts are primarily office and industrial, and the district has no maximum development intensity, while 321ED(MX) districts permit retail, service, and residential uses; with a maximum development intensity listed in the above paragraph. The Hickory Regional Planning Commission conducted a public hearing on December 7, 2022, to consider the petition and acknowledged the petition’s consistency and

inconsistency with the Hickory by Choice 2030 Comprehensive Plan and recommended approval.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on December 9 and December 16, 2022.

- B. Departmental Reports
- NA 1. Appointments to Boards and Commissions
- COMMUNITY APPEARANCE COMMISSION**
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
At-Large (Outside City but within HRP) (Council Appoints) VACANT
- COMMUNITY RELATIONS COUNCIL**
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Other Minority (Council Appoints) VACANT
Other Minority (Council Appoints) VACANT
Other Minority (Council Appoints) VACANT
- HICKORY REGIONAL PLANNING COMMISSION**
(Term Expiring 6-30; 3-Year Terms With Unlimited Appointments) (Appointed by City Council)
Burke County Representative (Mayor Appoints with Recommendation from Burke County) Robert Weaver Resigned 9-26-2022 VACANT
- HISTORIC PRESERVATION COMMISSION**
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Licensed Architect (Council Appoints) VACANT
- LIBRARY ADVISORY BOARD**
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
At-Large (Mayor Appoints) (Mark Thomas Resigned 11-3-2022) VACANT
- PUBLIC ART COMMISSION**
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Ward 4 (D. Williams Appoints) VACANT
- RECYCLING ADVISORY BOARD**
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Ward 6 (Patton Appoints) VACANT
- UNIVERSITY CITY COMMISSION**
(Terms Expiring 6-30; 2-Year Terms) (Appointed by City Council)
At-Large Not Including ETJ (Council Appoints) VACANT
- C. Presentation of Petitions and Requests
- XII. Matters Not on Agenda (requires majority vote of Council to consider)
- XIII. General Comments by Members of Council, City Manager or City Attorney of a Non-Business Nature
- XIV. Adjournment

Hickory City Code Section 2-56. Public Address to Council:

“When conducting public hearings, considering ordinances, and otherwise considering matters wherein the public has a right to be heard, when it appears that there are persons present desiring to be heard, the Mayor shall require those opposing and favoring the proposed action to identify themselves. Each side of the matter shall be given equal time. Those opposing the proposed action shall be allowed 15 minutes for presentation, followed by 15 minutes for those favoring the action, with the opponents then to have five minutes for rebuttal and the proponents to then have five minutes for surrebuttal. Those persons on either side shall have the right to divide their allotted time among them as they may choose. The Council, by majority vote, may extend the time for each side equally. On matters in which the person desiring to address the Council does not have a legal right to speak, the Council shall determine whether it will hear the person. The refusal to hear a person desiring to speak may be based upon grounds that the subject matter is confidential, that its public discussion would be illegal, that it is a matter not within the jurisdiction of the Council or for any other cause deemed sufficient by the Council. Any person allowed to speak who shall depart from the subject under discussion or who shall make personal, impertinent, or slanderous remarks, or who shall become boisterous while addressing the Council shall be declared out of order by the Mayor, or by vote of the Council, and barred from speaking further before the Council unless permission to continue shall be granted by a majority vote of the Council, under such restrictions as the Council may provide.”

**The City of Hickory holds all public meetings in accessible rooms.
Special requests for accommodation should be submitted by individuals
with disabilities at least 48 hours before the scheduled meeting.
Phone Services (hearing impaired) – Call 711 or 1-800-735-2962**