



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

May 2, 2023
7:00 p.m.

- I. Call to Order
- II. Invocation by Reverend Charles Kyker, Christ United Methodist Church
- III. Pledge of Allegiance
- IV. Special Presentations
 - NA** A. Presentation of a Proclamation for Building Safety Month – May 2023. **(Exhibit IV.A.)**
 - NA** B. Presentation of a Proclamation to Kim Pate, Lenoir-Rhyne University. **(Exhibit IV.B.)**
 - NA** C. Presentation of a Proclamation to Alexis Brown, Lenoir-Rhyne University. **(Exhibit IV.C.)**
 - NA** D. Presentation of the Rudy Wright International Service Award to Joseph Thomas.
- V. Persons Requesting to Be Heard
- VI. Approval of Minutes
 - A** A. Special Meeting of April 13, 2023. **(Exhibit VI.A.)**
 - A** B. Regular Meeting of April 18, 2023. **(Exhibit VI.B.)**
- 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 20. **(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 of a Cemetery Deed Transfer from Larry D. Huffman, Single, to Jerry Wayne Isenhour and Kathy Marie Huffman Isenhour, Husband, and Wife, Being Lots 7, 8, & 3, 4, Plot K8 & J8, Section 58, Containing 4 Graves in Oakwood Cemetery, Containing Approximately 160 Square Feet. (Prepared by Kimberly H. Whitley, Attorney at Law). **(Exhibit VIII.A.)**
 - A** B. Notice of Delinquent Taxes within City of Hickory Limits and Issue an Order for Staff to Advertise all Real and Personal Current Fiscal Year Tax Amounts in a Newspaper having General Circulation in the Hickory Area. **(Exhibit VIII.B.)**

G.S. 105-369(a) mandates that the tax collector must first inform the governing body of and then advertise the "total amount of unpaid taxes for the current fiscal year that are liens

on real property". The 2022 real property delinquent dollar amount is \$286.14 and the 2022 personal property (\$365.84) and business personal property (\$51,521.41) for Burke County total \$51,887.25. A taxing unit has the option of advertising personal property taxes that are not a lien on real property, but the cost of that advertisement may not be passed along to taxpayers as is the cost of the real property tax lien advertisement. The amount advertised should be only the principal amount of taxes owed, not including any interest, costs, or fees. G.S. 105-369(c) requires that real property tax liens for the current year be advertised at any time from March 1 through June 30. Three actions must occur before the advertisement may be published and posted. (1) The governing body is informed of the "total amount of unpaid taxes for the current fiscal year that are liens on real property." (2) The governing body must issue an order to the tax collector to advertise the tax liens; the order will be issued, presumably, immediately upon receipt of the tax collector's report. (3) At least thirty days before the advertisement is published and posted, the tax collector must provide written notice to the affected taxpayers of the intent to publish outstanding current tax liens. When a taxpayer files a bankruptcy petition, an "automatic stay" immediately becomes effective. Essentially this stay bars any effort by a creditor to collect a debt from the debtor in bankruptcy. The advertisement of a tax lien arguably qualifies as an act to enforce a tax lien and is therefore barred by the automatic stay. The Tax Collector has informed City Council of the unpaid tax amounts for the current fiscal year. It is recommended that City Council issue an order to advertise all real and personal current fiscal year tax amounts in the Hickory Daily Record in an attempt to collect the outstanding taxes.

- A C.** Approval to Issue Pyrotechnic Display Permits to PyroStar Entertainment for Fireworks Displays at the Hickory Motor Speedway on May 12, and May 13, 2023 (Rain Dates, June 23, and June 24, 2023). **(Exhibit VIII.C.)**

Staff requests approval to issue pyrotechnic display permits to PyroStar Entertainment for fireworks displays at the Hickory Motor Speedway for May 12 and May 13, 2023 (rain dates June 23 and June 24, 2023. Kevin Piercy, General Manager of Hickory Motor Speedway, submitted a request to obtain permission to conduct public fireworks displays on the aforementioned dates. 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 D.** Approval of the Community Relations Council's Spring 2023 Grant Recommendations. **(Exhibit VIII.D.)**

The City of Hickory Community Relations Council (CRC) requests approval of the grant recommendations for the Spring 2023 grant cycle. As part of the CRC work plan and annual budget process, the Community Relations Council receives funds to disperse during the fiscal year through the CRC grant process. Non-profit agencies working with diverse populations in Hickory are eligible for grant funding. The grant proposal must show how the program under consideration fits into the CRC goals and mission and how the program will serve to improve human relations in the Hickory area. For the Spring 2023 grant cycle, the CRC received seventeen grant applications for projects totaling \$23,300.39 and recommends approval of the following eight grants: Let Me STEAM - \$2,000; Hickory Music Factory - \$1,500; Hickory Area Ministers (HAM) - \$1,500; Hickory Museum of Art - \$1,000; Morning Star's Joseph Hill Tutorial Program - \$1,500; Hickory Community Theatre - \$1,500; Centro Latino - \$1,000; and Catawba County Council on Aging - \$750, totaling \$10,750. Funds are available in the CRC budget for the recommended grant approvals.

- A** E. Approval of Change Order 5 to the Agreement with Vaughn & Melton Consulting Engineers, Inc. for Design Modifications and Consulting Services Related to OLLE Art Walk Multiuse Trail Project, EB-5911 in the Amount of \$81,710.73 Contingent Upon North Carolina Department of Transportation (NDOT) Concurrence. **(Exhibit VIII.E.)**

Staff requests Council's approval of change order number five to the Agreement for Professional Services with Vaughn & Melton Consulting Engineers, Inc. for construction phase services including design modifications and consulting services as directed by the City of Hickory during the construction phase of EB-5911 in the amount of \$81,710.73 contingent upon NCDOT concurrence. The OLLE Art Walk Multi-Use Trail Project is one of the projects envisioned in the Bond Referendum and is intended to provide improved connectivity from City Walk to Riverwalk and Aviation Walk. This project has received Federal funding at 80/20 ratio, Federal and City, respectively. Change order number five for the OLLE Art Walk Multi-Use Trail identifies additional services that include design modifications, utility coordination and consulting services during the construction phase of this project. Staff recommends Council's approval change order number 5 to the agreement for Professional Services with Vaughn & Melton Consulting Engineers, Inc. for design modifications and consulting services related to EB-5911 in the amount of \$81,710.73 contingent upon NCDOT concurrence.

- A/PH** F. Call for a Public Hearing to Consider the Voluntary Contiguous Annexation of Property Owned by Discovery Christian Fellowship Church, Inc. Located at 2201 Startown Road, Newton, PIN 3721-13-22-2922, Containing Approximately 17.728-Acres. **(Authorize Public Hearing for May 16, 2023, at 7:00 p.m. in Council Chambers of the Julian G. Whitener Municipal Building). (Exhibit VIII.F.)**

- PH** G. Call for a Public Hearing to Review and Adopt the System Development Fees Compliant with the Requirements of SL 2017-138. **(Authorize Public Hearing for May 16, 2023, at 7:00 p.m. in Council Chambers of the Julian G. Whitener Municipal Building). (Exhibit VIII.G.)**

- A1** H. Budget Revision Number 21. **(Exhibit VIII.H.)**

1. *To appropriate \$34,160 from donations and sponsorship receipts for the Library.*
2. *To appropriate \$880 from an insurance payment to repair a damaged guard rail in the Street Division.*
3. *To appropriate \$508,326 from the Capital Reserve Fund for building repairs and upfit.*
4. *To appropriate \$18,501 in interest from 2021 ARPA Funds to be used towards Fire Department and Police Department Salaries.*
5. *To transfer \$1,100,000 from the General Fund to the Airport Fund for the remaining cost of 12 T-Hangars.*

IX. Items Removed from Consent Agenda

X. Informational Item

XI. New Business:

A. Public Hearings

- A** 1. Consideration of a Joint Economic Development Agreement with Merchants Distributors, LLC and MDI Management, LLC – Presentation by Business Services Manager Dave Leonetti. **(Exhibit XI.A.1.)**

Staff requests City Council's consideration of a Joint Economic Development Agreement with Merchants Distributors, LLC and MDI Management, LLC. Merchants Distributors, LLC and MDI Management, LLC own and operate the distribution facility at 5005 Alex Lee Blvd in Hickory. In October 2020, the City approved a joint economic development agreement with these entities for

infrastructure development and property tax incentives in exchange for their investment of at least \$120 million and the creation of 111 jobs. The business estimates additional private investment of at least \$35,000,000 in the property. The investment will stimulate and stabilize the local economy and result in the creation of a substantial number of new, permanent jobs in the county. To stimulate this investment, the City proposes a joint economic development agreement that includes an infrastructure development grant and partial refunds of property tax payments. Staff recommends Council's consideration of the Joint Economic Development Agreement with Merchants Distributors, LLC and MDI Management, LLC.

The public hearing was advertised in a newspaper having general circulation in the Hickory area on April 21, 2023.

- A** 2. Consideration of the Community Development Block Grant 2023-2024 Annual Action Plan – Presentation by Business Services Manager Dave Leonetti. **(Exhibit XI.A.2.)**

In program year 2023, the City of Hickory will receive \$328,228 through the U.S. Department of Housing and Urban Development, and approximately \$160,000 in program income from repayments of loans made with Community Development Block Grant (CDBG) funds for a total of \$488,228. Funds will be used to develop stronger communities by providing decent housing, creating suitable living environments, and expanding economic opportunities, principally for people of low and moderate incomes. The City of Hickory's 2020-2024 Consolidated Plan is updated on an annual basis through the development of an Annual Action Plan. This plan sets priorities among these needs and sets out an action plan for use of available funds on a yearly basis. This provides for flexibility in determining priorities as the needs of the community change from year to year. The 2023 Annual Action Plan will be submitted to the U.S. Department of Housing and Urban Development upon approval by City Council. The plan will serve as the City's strategy for administering 2023 Federal funds for community development and housing. The proposed budget line items are as follows: Housing Rehab/Purchase Rehab Program - \$125,000; Public Infrastructure and Facility Improvements - \$175,000; Small Business Assistance Program - \$60,000; Public Service Activities - \$48,500; Contingency - \$7,878; Program Administration and Fair Housing - \$71,850; Total CDBG - \$488,228. The Citizen's Advisory Committee reviewed the draft action plan at their meeting on March 2, 2023 and recommended approval of the proposed budget. Staff requests Council's consideration of the CDBG 2023-2024 Annual Action Plan.

The public hearing was advertised in a newspaper having general circulation in the Hickory area on March 31, April 17, and May 2, 2023.

B. Departmental Reports

- NA** 1. Partnership with Catawba Riverkeepers for Installation and Maintenance of a Stream Trash Trap at Glenn Hilton Park for Liter Abatement – Presented by Public Works Director Steve Miller.

The City was issued an NPDES Phase II Stormwater Permit by the North Carolina Department of Environment and Natural Resources on July 1, 2005. One of the requirements of the permit is public education and outreach. A minimum measure is that the City develop and implement a public education and outreach program to raise public awareness on the causes and impacts of stormwater pollution. This opportunity would allow for the City to partner with an established community-oriented organization, the Catawba Riverkeepers. The City of Hickory and Catawba Riverkeepers will use this as a visual device to keep trash out of the Catawba River and help educate the community. The agreement advances the City of Hickory's commitment to educate and outreach as required by our MS4

***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**