

A Regular Meeting of the City Council of the City of Hickory was held in the Council Chamber of the Municipal Building on Tuesday, July 18, 2023 at 7:00 p.m., with the following members present:

Tony Wood	Hank Guess	Anthony Freeman
Charlotte C. Williams	Aldermen	David P. Zagaroli
Danny Seaver		Jill Patton

A quorum was present.

Also present were City Manager Warren Wood, Assistant City Manager Rick Beasley, Deputy City Attorney Arnita Dula, City Attorney Timothy Swanson, and Deputy City Clerk Crystal B. Mundy

- I. Mayor Guess called the meeting to order. All Council members were present.
- II. Invocation by Reverend Tamika Garrison, Director of Community Relations Carolina Caring
- III. Pledge of Allegiance
- IV. Special Presentations

A. Oath of Office to City Attorney Timothy Swanson

Mayor Guess said all of our council meetings are special and we're always honored to have everyone present. This evening was a little bit more special than usual. It's not very often that we swear in a new city attorney, as most of you in the audience know, John Crone retired recently at our last meeting. This evening, we are privileged to have our newest member of our team, Mr. Tim Swanson, being sworn in just a few minutes as our new city attorney.

Mayor Guess made a couple comments about Mr. Swanson being a Hickory native. He has worked at the law firm of Young, Morphis, Bach, and Taylor since 2006. Mr. Swanson graduated from Lenoir Rhyne University and he received his doctorate degree from Campbell University in 2006. Mayor expressed council has been waiting for this day for some time now.

Mayor Guess gave him the opportunity to introduce his family.

Attorney Tim Swanson came to the podium and introduced his wife Constance, their daughter, Caroline who was 12 and their son Spencer, who was about to turn 10 in August. Caroline and Spencer both go to school at Hickory Christian Academy. Mr. Swanson also introduced his mother-in-law Sally Abernathy, his sister, Mindy Reynolds and his mom, Anita Swanson.

Mayor Guess asked City Attorney Timothy Swanson to the podium. Mayor Guess administered the oath of office to City Attorney Swanson.

B. Proclamation for Parks and Recreation Month.

Mayor Guess asked staff from Parks and Recreation to the podium. Mayor Guess read and presented the Proclamation for Parks and Recreation Month to staff in attendance.

V. Persons Requesting to Be Heard

VI. Approval of Minutes

A. Regular Meeting of June 20, 2023

Alderman Seaver moved, seconded by Alderwoman Patton that the Regular Meeting Minutes of June 20, 2023 be approved. The motion carried unanimously.

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.

Alderwoman Patton moved, seconded by Alderman Zagaroli that the following be reaffirmed and ratified on second reading. The motion carried unanimously.

A. Budget Revision Number 24. (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.

Alderwoman Patton moved, seconded by Alderwoman Williams approval of the Consent Agenda. The motion carried unanimously.

- A. Approved a Resolution Supporting the Grant Applications to the Greater Hickory Metropolitan Planning Organization (MPO) and Committing to the 20% Match in the Amount of \$2,750,000.

Staff requests approval of the STBG-DA/CMAQ/CR Grant Submittals to the Greater Hickory MPO. The City plans to submit three grant applications to the Greater Hickory Metropolitan Planning Organization: OLLE Art Walk Multi-Use Trail Supplemental – Additional construction funding to supplement EB-5911 to create a connection between City Walk, Aviation Walk and River Walk along Old Lenoir Road. Estimated Total Supplemental Cost \$8,750,000; 80% Federal Funding - \$7,000,000, 20% Local Match - \$1,750,000. Historic Ridgeview Walk Multi-Use Trail Supplemental – Additional construction funding to supplement EB-5938 to create a connection between City Walk and the Ridgeview Community and to US 70. Estimated Total Supplemental Cost \$2,000,000; 80% Federal Funding - \$1,600,000, 20% Local Match - \$400,000. Aviation Museum Connector Multi-Use Trail – Project funding to create a connection between the Aviation Walk Connector and Aviation Museum along Clement Boulevard 21st Street NW. Estimated Cost \$3,000,000; 80% Federal Funding - \$2,400,000, 20% Local Match - \$600,000. Staff requests Council's approval of the Resolution supporting the grant applications and committing the 20% match in the amount of \$2,750,000.

RESOLUTION NO. 23-36

RESOLUTION AUTHORIZING THE CITY OF HICKORY TO SUBMIT APPLICATIONS TO THE GREATER HICKORY METROPOLITAN PLANNING ORGANIZATION IN THE AMOUNT OF \$11,000,000 AND PROVIDE A MATCH OF \$2,750,000 FOR SURFACE TRANSPORTATION BLOCK GRANT – DIRECT ATTRIBUTABLE FUNDS FOR
OLLE Art Walk (Old Lenoir Road) Supplemental - EB-5911
Historic Ridgeview Walk (Book Walk South) Supplemental – EB-5938
Aviation Museum Connector

WHEREAS, On April 19, 2023 the Greater Hickory Metropolitan Planning Organization (GHMPO) issued a call for projects to agencies in its jurisdiction for Surface Transportation Block Grant-Direct Attributable Funding (STBG-DA), Congestion Mitigation Air Quality Funding (CMAQ), and Carbon Reduction Funding (CR). Funds are available to award among four different transportation modals: bicycle and pedestrian, intersections, roadway, and transit. Each agency may submit no more than three (3) projects of not less than \$200,000 each for possible reward. The funding requires a minimum 20 percent local match.

The City of Hickory is applying for funding for the following three projects:

- OLLE Art Walk Multi-Use Trail Supplemental – Additional construction funding to supplement EB-5911 to create a connection between City Walk, Aviation Walk and River Walk along Old Lenoir Road.

Estimated Total Supplemental Cost \$8,750,000
○ 80% Federal Funding - \$7,000,000
○ 20% Local Match - \$1,750,000

- Historic Ridgeview Walk Multi-Use Trail Supplemental – Additional construction funding to supplement EB-5938 to create a connection between City Walk and the Ridgeview Community and to US 70.

Estimated Total Supplemental Cost \$2,000,000
○ 80% Federal Funding - \$1,600,000
○ 20% Local Match - \$400,000

- Aviation Museum Connector Multi-Use Trail – Project funding to create a connection between the Aviation Walk Connector and Aviation Museum along Clement Blvd and 21st Street NW.

Estimated Cost \$3,000,000
○ 80% Federal Funding - \$2,400,000
○ 20% Local Match - \$600,000

NOW, THEREFORE BE IT RESOLVED, that the City of Hickory is hereby authorized to submit grant applications in the amount of \$11,000,000 and will commit \$2,750,000 as a match for the three projects.

- B. Approved the Building Resilient Infrastructure and Communities Planning Grant Agreement in the Amount of \$486,736.95 and the Designation of Applicant Agent for the Snow Creek Pump Station Planning Project.

Staff requests Council's approval of the grant agreement and designation of applicant agent for the Snow Creek Pump Station planning project funded through a FEMA Building Resilient Infrastructure and Communities (BRIC) Grant. Staff has identified opportunities to seek Federal funding to assist in making improvements to provide resiliency to critical infrastructure. The Federal Government provides funding through the FEMA Building Resilient Infrastructure and Communities (BRIC) program. The BRIC grant program requires a 25% local match and provides funding to mitigate risks to infrastructure to better protect public investment and the environment. Due to the significant damage and environmental impact resulting from flooding events over the past several years, these projects qualify for grant funding. In February 2021, Council approved a Resolution authorizing Public Utilities to apply for a FEMA BRIC grant. FEMA approved this application and awarded the City of Hickory, through the North Carolina Department of Public Safety, a Phase 1 planning grant in the amount of \$486,736.95 on June 23, 2023 for pump station relocation and streambank restoration along Snow Creek. The City of Hickory will utilize Phase 1 funds to complete the design, surveying, and permitting required to move forward with Phase 2. This grant requires the designated applicant agent be the same individual who submitted the grant application as well as an agreement between NCDPS and the City of Hickory to disburse funds and administer the grant. Staff recommends approval of the grant agreement in the amount of \$486,736.95 and the designation of an applicant agent for the Snow Creek Pump Station planning project funded through a FEMA BRIC Grant.

- C. Approved a Contract with KCI Technologies, Inc. in the Amount of \$1,090,910 for Construction Project Administration for the FEMA BRIC Grant Project for Flood Mitigation at the Snow Creek Pump Station.

Staff requests Council's approval of the contract with KCI Technologies Inc. in the amount of \$1,090,910 for the design, permitting, bidding, grant administration, and construction project administration for the FEMA BRIC grant project for flood mitigation at the Snow Creek Pump Station. Staff has applied for and received FEMA grant assistance for a flood mitigation project at the Snow Creek Pump Station. The Federal Government provides funding through the FEMA Building Resilient Infrastructure and Communities (BRIC) program. The BRIC grant program provides funding to mitigate risks to infrastructure to better protect public investment and the environment. The City of Hickory was awarded a grant for flood mitigation efforts at the Snow Creek Pump Station on March 16, 2022. This project will require the completion of the preliminary design that was part of the grant application as well as grant and project administration. Statement of Qualifications (SOQs) were solicited and accepted on April 1, 2022. KCI Technologies Inc. was the only respondent but their familiarity with the project due to their assistance with developing the grant application makes them the best qualified firm. Staff recommends Council's approval of the contract with KCI Technologies Inc. in the amount of \$1,090,910 for the design, permitting, bidding, grant administration, and construction project administration for FEMA BRIC grant project for flood mitigation at the Snow Creek Pump Station.

- D. Approved the Final Adjusting Change Orders with Neill Grading and Construction Co., Inc. in the Amounts of -\$19,178.01 and -\$93,412.01 of the Contract for Construction of the Trivium Corporate Center Roadways Projects.

Staff requests Council's approval of the final adjusting change orders of the contract for construction of the Trivium Corporate Center Roadways Projects, TIP# U-6238 & NCDOT 48962 project with Neill Grading and Construction Co. Inc., in the amount of -\$19,178.01 and -\$93,412.01. This phase of the Trivium project consisted of the construction of the turn lanes on Robinwood Road to Lutetium Circle, the completion of Trivium Court, water lines, curb and gutter, street trees, sidewalk, and park signage. Neill Grading and Construction Co., Inc. bid \$1,102,657. Quantities have been reconciled and the total project has finished under budget by a total of \$112,590.02. Staff recommends Council's acceptance of the final adjusting change orders of the contract for construction of the Trivium Corporate Center Roadways Projects, TIP# U-6238 & NCDOT 48962 project with Neill Grading and Construction Co. Inc., in the amount of -\$19,178.01 and -\$93,412.01.

- E. Approved on First Reading an Ordinance Amending Chapter 2, Article II, Division 2, Section 2-52 Regular Meetings of the City of Hickory Code of Ordinances.

Consideration of amending Chapter 2, Article II, Division 2, Section 2-52 of the City of Hickory Code of Ordinance amending the City Council meeting times from 7:00 p.m. to 6:00 p.m., effective August 15, 2023.

ORDINANCE NO. 23-18

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE II, DIVISION 2, SECTION 2-52 REGULAR MEETINGS OF THE CITY OF HICKORY CODE OF ORDINANCES

WHEREAS, Chapter 2, Article II, Division 2, Section 2-52 of the City of Hickory Code of Ordinance provides that council shall hold a regular meeting on the first and third Tuesday of each month, except that if a regular meeting date is a legal holiday, other than Election Day, the meeting may be held on the next business day, and that such regular meetings shall be held at the city hall at 76 North Center Street and shall begin at 7:00 p.m.; and

WHEREAS, City Council desires to amend Chapter 2, Article II, Division 2, Section 2-52 of the City of Hickory Code of Ordinances such that regular meetings shall begin at 6:00 p.m. rather than 7:00 p.m.

NOW, THEREFORE, IN ACCORDANCE WITH SECTION 1-8 OF THE CITY OF HICKORY CODE OF ORDINANCES, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA, THAT CHAPTER 2, ARTICLE II, DIVISION 2, SECTION 2-52 OF THE HICKORY CODE OF ORDINANCES IS HEREBY AMENDED TO READ AS FOLLOWS:

Section 1: Amended

Chapter 2, Article II, Division 2, Section 2-52 of the Hickory Code of Ordinances is hereby amended to read as follows:

Sec. 2-52. – Regular meetings.

The council shall hold a regular meeting on the first and third Tuesday of each month, except that if a regular meeting date is a legal holiday, other than Election Day, the meeting may be held on the next business day. Meetings shall be held at the city hall at 76 North Center Street and shall begin at 6:00 p.m.

Section 2: Severability.

If any portion of this Section is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed severable, and such holding shall not affect the validity of the remaining portions hereof.

Section 3: Repealed.

All ordinance provisions of the City of Hickory Code of Ordinances which are not in conformance with the provisions of this Amendment occurring herein are repealed as of the effective date of this Ordinance.

Section 4: Effective Date.

The amendments to this Ordinance shall become effective immediately upon adoption.

- F. Approved the Issuance of a Pyrotechnic Display Permit to PyroStar Entertainment for a Fireworks Display at Hickory Motor Speedway.

Staff requests approval to issue a pyrotechnic display permit to PyroStar Entertainment for fireworks display at the Hickory Motor Speedway for Saturday, July 29, 2023, (Rain Date: Saturday, September 16, 2023). 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 Council's approval of the pyrotechnics displays.

- G. Approved on First Reading Budget Revision Number 23 EC.

ORDINANCE NO. 23-14
BUDGET REVISION NUMBER 23EC

BE IT ORDAINED by the Governing Board of the City of Hickory that, pursuant to N.C. General Statutes 159.15 and 159.13.2, the following revision be made to the annual budget ordinance for the fiscal year ending June 30, 2023, and for the duration of the Project Ordinance noted herein.

SECTION 1. To amend the General Fund within the FY 2022-23 Budget Ordinance, the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
General Government	554,081	-
TOTAL	554,081	-

To provide funding for the above, the General Fund revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Miscellaneous	554,081	-
TOTAL	554,081	-

SECTION 2. Copies of the budget revision shall be furnished to the Clerk of the Governing Board, and to the City Manager (Budget Officer) and the Finance Officer for their direction.

H. Approved on First Reading Budget Revision Number 1.

**ORDINANCE NO. 23-19
BUDGET REVISION NUMBER 1**

BE IT ORDAINED by the Governing Board of the City of Hickory that, pursuant to N.C. General Statutes 159.15 and 159.13.2, the following revision be made to the annual budget ordinance for the fiscal year ending June 30, 2024, and for the duration of the Project Ordinance noted herein.

SECTION 1. To amend the General Fund within the FY 2023-24 Budget Ordinance, the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Culture & Recreation	66,985	-
Public Safety	12,789	16,846
Other Financing Uses	16,846	112,590
TOTAL	96,620	129,436

To provide funding for the above, the General Fund revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	79,774	112,590
TOTAL	79,774	112,590

SECTION 2. To amend the Water/Sewer Fund within the FY 2023-24 Budget Ordinance the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Uses	2,247,189	-
TOTAL	2,247,189	-

To provide funding for the above, the Water/Sewer Fund revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	2,247,189	-
TOTAL	2,247,189	-

SECTION 3. To amend the Sludge Compost Fund within the FY 2023-24 Budget Ordinance the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Environmental Protection	122,500	-
TOTAL	122,500	-

To provide funding for the above, the Sludge Composting Fund revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	122,500	-
TOTAL	122,500	-

SECTION 4. To amend the Justice Assistance 2022 (#G51107) Capital Project Ordinance the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
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Public Safety	50,595	-
TOTAL	50,595	-

To provide funding for the above the Justice Assistance 2022 (#G51107) revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	16,846	-
Restricted Intergovernmental	33,749	-
TOTAL	50,595	-

SECTION 5. To amend the Trivium Corporate Center Project Enzyme (#B1B003) Capital Project Ordinance the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
General Capital Projects	-	112,590
TOTAL	-	112,590

To provide funding for the above the Trivium Corporate Center Project Enzyme (#B1B003) revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	-	122,590
TOTAL	-	122,590

SECTION 6. To amend the Hickory-Catawba WWTF (#802101) Capital Project Ordinance the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Water & Sewer Capital Projects	1,400,000	-
TOTAL	1,400,000	-

To provide funding for the above, the Hickory-Catawba WWTF (#802101) revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	1,400,000	-
TOTAL	1,400,000	-

SECTION 7. To establish the Snow Creek Pump Station FEMA Grant (#803312) Grant Project, the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Water & Sewer Capital Projects	1,090,910	-
TOTAL	1,090,910	-

To provide funding for the above the Snow Creek Pump Station FEMA Grant (#803312) revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	1,090,910	-
TOTAL	1,090,910	-

SECTION 8. Copies of the budget revision shall be furnished to the Clerk of the Governing Board, and to the City Manager (Budget Officer) and the Finance Officer for their direction.

IX. Items Removed from Consent Agenda – None

X. Informational Item

XI. New Business:

A. Public Hearings

1. Approved Closing a Portion of Southgate Corporate Parkway SW – Presented by Public Works Director Steve Miller.

Staff requests Council's consideration of closing a portion of Southgate Corporate Parkway SW as petitioned by R.H. Barringer Distributing Company, Inc. The City Clerk received a petition from R.H. Barringer Distributing Company, Inc., owner of the property abutting Southgate Corporate Parkway SW. The petition requests the City to close a portion of Southgate Corporate Parkway SW,

as per NCGS § 160A-299. The portion of the street is bounded by the tract owned by the Petitioner R.H. Barringer Distributing Company, Inc. The signature on the petition represents the owner of the property abutting this portion of the right-of-way. The petition fee of \$800 has been paid. A memo was sent to various departments for their input on the street closing. Public Utilities responded that "1155 Corporate Park SW is connected to the sewer line that is inside this portion of the street that is petitioned to be closed. The petitioner must relay an easement to the City of Hickory for this sewer line or make accommodations for the service to 1155. A waterline and two fire hydrants are in this street as well. Petitioner can abandon this section of the line but is responsible for fire protection to any new structures." The comments were also made that the City needs to make sure there is some type of sewer easement for city access, and it places a viable business in the business park. Staff recommends Council conduct the public hearing to consider closing a portion of Southgate Corporate Parkway SW, as petitioned by R.H. Barringer Distributing Company, Inc.

The public hearing was advertised in a newspaper having general circulation in the Hickory area on June 24, July 1, July 8, July 15, 2023.

City Manager Warren Wood asked Public Works Director Steve Miller to the podium to present Council with a request to close a portion of Southgate Corporate Parkway SW.

Public Works Director Steve Miller gave a PowerPoint presentation. He discussed the request to close a portion of Southgate Corporate Parkway SW. A it was a single party petition. The street was bounded on all sides by the track owned by the Petitioner RH Barringer Company Incorporated. He relayed that from all of the comments from staff, the only one that had had a caveat to the petitioner was they must relay an easement to the City of Hickory for an existing sewer line or make accommodations to the joint property, which they agreed to do. He said the petitioner was also responsible for any changes to the water service on their property as they develop it. He referred to the PowerPoint and displayed a photo of the property to be closed showing a U shape around that cul de sac and showing 321 running beside it. He conveyed what was proposed to be closed was the street in the area off the little hook to the cul de sac and then install a new cul de sac to the right at the entrance to where the new facility will be. He said the property owner's property will have a new headquarters and distribution center. Based upon the findings Staff recommended acceptance and approval of the resolution and order closing the portion of Southgate Parkway Southwest. He asked for any questions.

Mayor Guess asked if all they were doing was moving the cul de sac up so they can make better use of the land?

Public Works Director Steve Miller replied yes.

Alderman Wood questioned the major power lines and infrastructure running at the back of that property. He asked was that on their property or was there an easement going through there?

Public Works Director Steve Miller replied yes, the power lines run through their property and they will work with Duke Energy with the development of the property.

Mayor Guess explained the rules for conducting the public hearing. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. Mayor Guess asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Guess closed the public hearing.

Alderman Patton moved, seconded by Alderman Seaver approval of closing a portion of Southgate Corporate Parkway SW. The motion carried unanimously.

RESOLUTION NO. 23-37
RESOLUTION AND ORDER

WHEREAS, R.H. Barringer Distributing Company, Inc. owns properties adjoining the following described area, in the City of Hickory, County of Catawba, which is further described as follows:

A Portion of Southgate Corporate Parkway SW

Lying and being situate in the City of Hickory, Hickory Township, Catawba County, North Carolina, and being more particularly described as follows:

Being located in Hickory Township, Catawba County, North Carolina and more particularly described as:

Commencing at a point in the western right-of-way line of Southgate Corporate Parkway SW, located on Parcel No. 370213144561, in Catawba County Records; said point having North Carolina Grid Coordinates of N:724,406.68 usft, E: 1,301,356.51 usft; thence running from said point the next nine calls, N 45°54'49" E, 68.42 feet, Arc Length: 72.80 feet, Radius: 60.00 feet; thence, S 26°54'29" E, 160.06 feet, Arc Length: 161.84 feet, Radius: 315.06 feet; thence, S 41°32'56" E, 75.00 feet; thence, S 56°53'46" E, 61.27 feet, Arc Length: 65.95 feet, Radius: 50.00 feet; thence, S 10°55'12" W, 50.06 feet, Arc Length: 52.43 feet, Radius: 50.00 feet; thence, S 69°24'42" W, 47.64 feet, Arc Length: 49.65 feet, Radius: 50.00 feet; thence, N 35°16'51" W, 72.97 feet, Arc Length: 81.79 feet, Radius: 50.00 feet; thence, N 41°32'56" W, 75.00 feet; thence, N 29°36'28" W, 155.20 feet, Arc Length: 156.33 feet, Radius: 375.06 feet, to the POINT AND PLACE OF BEGINNING, containing 20,971 square feet more or less, according to a survey, for the partial right-of-way closure of Southgate Corporate Parkway SW, for RH Barringer Distributing Company, Inc., prepared by David Alley, Allied Associates, PA, Winston-Salem, NC, Job No. PA230110, dated May 17, 2023.

WHEREAS, following the filing of said petition with the City Council, a notice of public hearing upon the question of closing and abandoning said area for public roadway purposes was advertised in *The Hickory Daily Record* in the issues of June 24, July 1, July 8, and July 15, 2023.

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

THAT, the above-described area be and the same is hereby ordered to be closed and abandoned for roadway or street purposes, in accordance with the provisions of Chapter 160A, Section 299, of the General Statutes of North Carolina, and the Charter of the City of Hickory;

BE IT FURTHER RESOLVED that the City of Hickory reserves the right, title and interest in any utility improvement or easement within the above-described street or roadway to be closed, pursuant to the provisions of 160A, Section 299, of the General Statutes of North Carolina; and

RESOLVED, FURTHER, that all rights, title, and interest of the City of Hickory in and to the area covered by said street shall vest in the respective owners of the land adjoining said area, all in accordance with the provision of the abovementioned section of the General Statutes of North Carolina.

BY ORDER OF THE HICKORY CITY COUNCIL.

ADOPTED ON THIS 18TH DAY OF JULY, 2023.

2. Approved on First Reading Rezoning Text Amendment 23-01 to the Hickory Land Development Code, Article 4, Section 4.6 Airport Overlay – Presented by Planning Director Brian Frazier.

The City of Hickory staff requests Council's consideration of amendments to the Hickory Land Development Code, Article 4, Section 4.6 Airport Overlay. The proposed amendments are intended to strengthen the current Airport Overlay District. The current overlay primarily regulates height and lighting in one of the specific protection zones as identified in the Hickory Regional Airport Master Plan. The proposed amendments strengthen the existing overlay district by better defining protection zones, permitting responsibilities, and enacting new land-use development regulations on surrounding private properties. The Hickory Regional Planning Commission conducted a public hearing on June 28, 2023, to consider the proposed amendments. The Planning Commission recommended two changes to the amendments as presented. It was recommended to include in Section 4.6.3 the FAA could require heights lesser than those contained within the current ordinance; and to modify Section 4.6.10 to allow the Airport Director opportunity to give oral testimony at any required public hearing, rather than written comments, as quasi-judicial hearings require comments be presented under oath. Upon closing the public hearing, the Hickory Regional Planning Commission acknowledged the amendments consistency with the Hickory by Choice 2030 Comprehensive Plan and voted unanimously (8-0) to recommend approval of the amendments. Staff concurs with the recommendation of the Hickory Regional Planning Commission.

The public hearing was advertised in a newspaper having general circulation in the Hickory area on July 8, and July 15, 2023.

City Manager Warren Wood asked Planning Director Brian Frazier to the podium to present Council with Rezoning Text Amendment 23-01 to the Hickory Land Development Code, Article 4, Section 4.6 Airport Overlay.

Planning Director Brian Frazier gave a PowerPoint presentation. He discussed Rezoning Text Amendment 23-01 to the Hickory Land Development Code, Article 4, Section 4.6 Airport Overlay.

Planning Director Brian Frazier advised the amendment was something that couldn't wait until the annual round up later this summer or fall. He said the whole reasoning behind this was to improve safety on and around the regional airport. He said the impacts would increase, regulatory land use control of adjacent properties because all we have now basically is the Runway Protection Zone and all we're looking at was height and feet. He said they are not looking at the surrounding use and the regulatory process. He said the outcome would be improved safety for air traffic and surrounding development through the text amendment.

Mr. Frazier advised Section 4.6.2 was to make a general reference to the airport master plan rather than a specific iteration. Also, he said Section 4.6.2 amendment was to define what constitutes a runway protection zone where there was never a true definition before based on the A trapezoidal area off the end of the runway that serves to enhance the protection of people and property on the ground and air traffic and airport operations. Section 4.6.3 was to amend and establish the 50 ft. maximum height limit in the Runway Protection Zone. He advised Section 4.6.4 was being amended to further regulate permissible and prohibited uses within the Runway Protection Zone. Section 4.6.5 and 4.6.9 was to amend the reference that the Planning Director rather than the Zoning Administrator as no position exists. He advised Section 4.6.5 was amended lowering the threshold for reconstructing of damaged non-conforming structures and land-uses. The Airport Overlay states 80% of the tax value, while the section pertaining to the remainder of the code states 50%. He stated to provide greater authority over non-conforming structures and uses. He stated if a non-conforming building or use is destroyed 50% or more of its success tax value, then it can be rebuilt or reestablished if conformity with the current zoning regulations. Section 4.6.7 amendment was to add language related specifically to the Airport Overlay. The current language was extremely vague and needs to be more specific for legal enforcement purposes. Another amendment to Section 4.6.7 was to clearly state that a permit is needed for any change of use, new development or redevelopment within the Runway Protection Zone. The amendment for Section 4.6.10 was to allow the Airport Director to review applications for permits and provide written comments regarding the permit application. It would also allow the Airport Director who was the expert, not necessarily him or his office to allow review of the petitions for rezoning variances, special use permits prior to those public hearings and to provide oral comments or testimony at the hearings regarding such petitions. He stated that the Airport Director should have a more well-defined role in that process. He also referenced amending the code overall to correct cross-referencing, formatting, typographical areas, and redundancies that don't impact the intent or the enforcement of these regulations.

Mr. Frazier referred to the PowerPoint of the airport area map, the municipal jurisdiction, what was owned by the city for the airport. He referenced the ETJ, that was the runway to the northeast. The Runway Protection Zone to the northeast and the Runway Protection Zone to the southwest. He stated most of the area is within the Town of Longview. He stated upon advice of Council and city management he contacted two members of the Town of Longview administration, one elected official and one administrator. He asked if they would consider such a text amendment to their version of the Land Development Code.

Mr. Frazier referred to the PowerPoint showing the current zoning of an industrial area, an R-4 residential area and some planned development towards the bridge, the Lake and the area of West Hickory. He referred to a PowerPoint showing the Burke County and Catawba County line. He stated the northeastern zone of the runway was the protection area.

Mr. Frazier stated the Planning Commission conducted a hearing last month to consider the proposed amendments. No one spoke in favor or in opposition to the proposed text amendment to the Land Development Code. He said the Planning Commission did recommend two changes to the staff report which was

concurrent with. The first recommendation was to include in Section 4.6.3 that the FAA could require heights lesser than those contained within the current ordinance. The second recommendation was to modify Section 4.6.10 to allow the Airport Director an opportunity to give oral testimony at any required hearing rather than written comments as quasi-judicial hearing requires comments be presented under oath.

Planning Director Brian Frazier acknowledged the amendments was consistent with the Comprehensive Plan and based upon the findings, the Planning Commission voted unanimously in this case 8 to 0. Staff concurred with the recommendation of the City's Planning Commission. He asked for any questions.

Alderwoman Patton asked if the Town of Longview would be changing their Land Development Code to be in-line with the City's as suggested to them?

Planning Director Brian Frazier responded he hoped they would but did not know for certain.

Mayor Guess asked would there be any ramifications if the Town of Longview does not change their codes?

Planning Director responded it would be helpful to have it more unified with the Airport being a Regional Airport but there were no consequences if the Town of Longview does not change their code.

Mayor Guess asked if this precluded the City from doing anything?

Planning Director Brian Frazier responded no it does not preclude the City from doing anything.

Alderman Seaver asked were these amendments being requested from the FAA?

Planning Director Brian Frazier responded there were some FAA basis to the amendments wanting to make sure that the language was consistent with theirs. They haven't really looked at the Runway Protection Zone language in some time. He stated they did last year when Council approved the suggested staff and planning commission amendments to the Land Development Code. He expressed this just is a little bit more regulatory in nature, and it would protect the city's investment in the Airport and the Pedestrian Bridge, the River Walk area, the Aviation Walk, the coming Museum and the CVCC building and to protect their interest as well. He stated we're putting quite a bit of taxpayer dollars into that area we want to make sure it has some further protections.

Alderman Wood stated the protection purposes are paramount and asked if these amendments were for the purposes of helping to protect the federal funding that we may receive in the future?

Planning Director Brian Frazier responded that would definitely help. He stated the FAA hasn't requested any changes but theoretically it would help.

Alderman Wood asked for nonconforming use or a dangerous use that could jeopardize funding from the FAA?

Planning Director Brian Frazier responded yes that very well could happen in certain instances.

Mayor Guess explained the rules for conducting the public hearing. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. Mayor Guess asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Guess closed the public hearing.

Alderwoman Patton moved, seconded by Alderwoman Williams approval of Rezoning Text Amendment 23-01. The motion carried unanimously.

ORDINANCE NO. 23-20

AN ORDINANCE OF THE HICKORY CITY COUNCIL AMENDING ARTICLE 4, SECTION 4.6, AIRPORT OVERLAY DISTRICT.

WHEREAS, Article 2, Section 2.2 of the Hickory Land Development Code provides for amendments to the Hickory Land Development Code; and

WHEREAS, the City of Hickory has updated its comprehensive plan and where such updates necessitates revisions to the City's Land Development Code to ensure consistency between the two; and

WHEREAS, the Hickory Regional Planning Commission considered the proposed amendments during a public hearing on June 28, 2023 and forwarded a recommendation of approval to the City Council; and

WHEREAS, Article 2 of the Hickory Land Development Code requires findings the proposed amendments are in response to changing conditions and is reasonably necessary to promote the public health, safety, and general welfare, and comply with applicable state statutes; and

WHEREAS, the City Council has found Text Amendment 23-01 to be in conformance with the Hickory by Choice 2030 Comprehensive Plan,

NOW, THEREFORE, BE IT ORDAINED by the City Council of Hickory, North Carolina, THAT THE PROPOSED AMENDMENTS TO THE HICKORY LAND DEVELOPMENT CODE AS DESCRIBED IN EXHIBIT A are approved.

SECTION 1. Findings of fact.

- a) Whether the proposed amendment corrects an error or inconsistency in the Land Development Code or meets the challenge of a changing condition.

The amendments reflect updates found necessary to protect the safety and vitality of the Hickory Regional Airport.

- b) Whether the proposed amendment is consistent with the Hickory by Choice Comprehensive Land Use and Transportation Plan, and the stated purpose of the Land Development Code.

The proposed amendments work to further implement the Hickory by Choice 2030 Comprehensive Plan.

- c) Whether the proposed amendments will protect public health, safety and general welfare.

The amendments further the City's efforts to protect the health, safety, and general welfare of the public.

SECTION 2. All ordinances or provisions of the Hickory City Code which are not in conformance with the provisions of the Amendment occurring herein are repealed as of the effective date of this Ordinance.

SECTION 3. Technical Corrections. City Staff is authorized to correct any typographical, cross-reference, numbering, formatting, or other errors which may hereafter be discovered and to publish or distribute correction sheets as may be necessary. This section shall not be construed as authorizing City Staff to make any substantive changes to the provisions of the code without presenting the same to Council for consideration and approval as required by law.

Based upon these findings, the Hickory City Council has found Rezoning Petition 23-01 to be reasonable and consistent with the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.

SECTION 4. This Ordinance shall become effective upon adoption.

B. Departmental Reports

- 1. Appointments to Boards and Commissions

BUSINESS DEVELOPMENT COMMITTEE

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

At-Large (Council Appoints)

VACANT

At-Large (Council Appoints)

VACANT

CITIZENS ADVISORY COMMITTEE

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

At-Large (Council Appoints) Steven Kiger

Eligible for Reappointment/Willing to Serve Again

Small Cities Project Area (Council Appoints) Mark Huggins

Eligible for Reappointment/Willing to Serve Again

COMMUNITY APPEARANCE COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
 Ward 1 (Wood Appoints) VACANT
 At-Large (Outside City but within HRP) (Council Appoints) VACANT

COMMUNITY RELATIONS COUNCIL

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
 African American (Council Appoints) VACANT
 Caucasian (Council Appoints) VACANT
 Other Minority (Council Appoints) Leslie Mancilla
 Eligible for Reappointment/Willing to Serve Again
 Other Minority (Council Appoints) VACANT
 Other Minority (Council Appoints) VACANT

 Other Minority (Council Appoints) VACANT

Alderwoman Williams Nominated MacGregor Vanbeurden as a Caucasian Representative on the Community Relations Council.

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) VACANT

HISTORIC PRESERVATION COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
 Historic Properties Owner VACANT
 Building Trades Profession Simon Lucas
 Eligible for Reappointment/Willing to Serve Again

LIBRARY ADVISORY BOARD

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
 Ward 3 (Seaver Appoints) VACANT
 Ward 4 (Freeman Appoints) Allison Little
 Eligible for Reappointment/Willing to Serve Again
 At-Large (1) (Mayor Appoints) VACANT
 At Large (2) (Mayor Appoints) Michael McLamb
 Eligible for Reappointment/Willing to Serve Again

Alderman Freeman Nominated Allison Little as Ward 4 Representative on the Library Advisory Board

Mayor Guess Nominated Michael McLamb as At-Large(2) Representative on the Library Advisory Board

PARKS RECREATION AND SPORTS TOURISM

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
 Ward 4 (Freeman Appoints) Timothy Shuford
 Eligible for Reappointment/Willing to Serve Again

Alderman Freeman Nominated Timothy Shuford as Ward 4 Representative on the Parks Recreation and Sports Tourism Board

PUBLIC ART COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
 Ward 3 (Seaver Appoints) VACANT
 Ward 4 (Freeman Appoints) Wesley Christopher
 Eligible for Reappointment/Willing to Serve Again
 Ward 5 (Zagaroli Appoints) Brittany Marinelli Moved Out of Ward 5 VACANT
 Ward 6 (Patton Appoints) VACANT

Alderman Freeman Nominated Wesley Christopher as Ward 4 Representative on Public Art Commission Board

Alderwoman Patton Nominated Clise Plant as Ward 6 Representative on the Public Art Commission Board

PUBLIC HOUSING AUTHORITY BOARD

(Terms Expiring 6-30; 5-Year Terms) (Appointed by Mayor)
 Position (4) Dr. Michael Wimberly Eligible for Reappointment
 Tenant Representative Velecia Wynette Hackett Eligible for Reappointment

Mayor Guess Nominated Michael Wimberly as Position 4 Representative on the Public Housing Authority Board

RECYCLING ADVISORY BOARD

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Ward 4 (Freeman Appoints) Deborah Hollingsworth Eligible for Reappointment
Ward 6 (Patton Appoints) VACANT
At-Large (Council Appoints) William Bost Eligible for Reappointment
At-Large (Council Appoints) Tawana Thomas Eligible for Reappointment
At-Large (Council Appoints) Bill Garrard Resigned Effective 7-1-2023 VACANT

Alderman Freeman Nominated Deborah Hollingsworth as Ward 4 Representative on the Recycling Advisory Board

TOURISM DEVELOPMENT AUTHORITY

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Demonstrates Interest VACANT

Mayor Guess Nominated Kimberly George as the Demonstrates Interest Representative for the Tourism Development Authority.

Mayor Guess moved seconded by Alderwoman Patton approval of the above nomination(s). The motion carried unanimously.

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. Closed Session Per NC General Statutes 143-318.11(a)(1)(6) to consult with the attorneys regarding the following: (Action on these items, if any, will occur in Open Session)

Mayor Guess moved that Council go into closed session to consult with the attorneys to discuss the items below, seconded by Alderwoman Patton. The motion carried unanimously.

1. Approval of Closed Session Minutes of March 7, 2023 - NCGS §143-318.11(a)(1)
2. Discussion of Personnel Matter - NCGS §143-318.11(a)(6)

No action was taken upon return to open session.

XV. There being no further business, the meeting adjourned at 8:21 p.m.

Mayor

Deputy City Clerk