WORKSESSION AGENDA

Please be advised that the regular meeting location is the City Hall Training Room, located at 125 3rd Avenue North, South St. Paul. Pursuant to Minn. Stat. 13D021, under the current emergency declaration due to the COVID-19 health pandemic, some or all of the council members may participate in remote locations using WebEx. Any member of the public wishing to monitor the meeting may do so electronically by logging in as follows:

WebEx Meeting - Login for the Public:
Join by Phone: 1-312-535-8110
Access Code: 133 160 7452

Monday, September 28, 2020
7:00 pm

AGENDA:

1. Doug Woog Arena Ice Rental Agreement Update

2. Police Department Hiring and Staffing Discussion – No Attachment

3. Discussion on SHIP Grant Application for North Concord Mixed-Use (NCMU) Zoning District Study

4. Discussion on the City’s Cap on the Number of Chicken Licenses

5. CARES Act Update

6. Council Questions & Comments
AGENDA ITEM:  Doug Woog Arena ice rental agreement update

DESIRED MEETING OUTCOMES: Resolve any concerns prior to drafting and approving ice rental agreements with South St Paul Youth Hockey Association, South St Paul High School, and the Woodbury Area Hockey Club.

OVERVIEW:

South St Paul Youth Hockey would like to renegotiate the contract between the City of South St Paul and South St Paul Youth Hockey Association. Arena staff is working with South St Paul Youth Hockey Association, South St Paul High School and Woodbury Area Hockey Club on long term ice rental agreements.

In order to secure long-term stability for the arena and City of South St Paul, staff is working toward a large ice purchase agreement for prime season ice time. From a priority standpoint, South St. Paul High School would be first, SSPYHA would be second, and WAHC would be third. SSPYHA and the WAHC would purchase between 1,800 to 2,200 hours of prime season ice time. The ice times range between 3:00 p.m. until 9:30 p.m. Monday through Friday and Saturday and Sunday from 8:00 a.m. until 9:00 p.m.

Staff would like to review some of the details of negotiations to ensure we are meeting the Council’s objectives.

SOURCE OF FUNDS:

N/A
AGENDA ITEM: Discussion on SHIP Grant Application for North Concord Mixed-Use (NCMU) Zoning District Study

DESIRED OUTCOMES:

- Discuss the North Concord Mixed-Use District
- Discuss the potential for a grant-funded project to improve this zoning district and implement the City’s comprehensive plan goals.

OVERVIEW:

Background

Planning/Zoning Staff facilitated a review of the community’s mixed-use zoning districts and the future of the Concord Street corridor at a worksession meeting in April. The City’s comprehensive plan calls for substantial redevelopment on this corridor but much of this redevelopment will not be able to occur without extensive changes to the City’s zoning code. Some parts of the corridor have zoning that is inconsistent with the comprehensive plan (South Concord) and other parts of the corridor have zoning that has not “worked” in terms of what the market will support (North Concord).

In April, Staff proposed breaking up the corridor into four different planning/zoning studies with each one intended to “fix” a different part of the corridor to help the community implement its comprehensive plan goals. At the time, Staff did not make any firm recommendations as to whether these studies should be handled in-house, as consultant projects, or as a hybrid where City Staff is assisted by a knowledgeable consultant team.

Staff has become aware of an opportunity to potentially use a Dakota County Statewide Health Improvement Program (SHIP) grant for a consultant-assisted study of the “North Concord Mixed Use” (NCMU) zoning district. SHIP grants must support health and “active living” projects and the County views mixed-use development (neighborhoods where people can walk to things) as active living. The goal of the project would be to “fix” the NCMU district standards so that they are more user-friendly and supportive of new mixed-use development. The existing standards have been in place since 2004 and there has not been any new development on the North Concord corridor since the implementation. The existing standards appear to be out of alignment with what the real estate market will support and additionally do not take into consideration the substantial challenges brought on by the topography and narrowness of this part of the corridor.

Scope of the Grant

The SHIP grants are for up to $30,000 and require the City to provide a 10% match (can be money or an in-kind contribution such as Staff time). Staff is confident that a good study which
includes technical analysis, public engagement, and implementation of zoning changes can be completed for $30,000 so long as City Staff is heavily involved in the project and the consultant team is a “partner” in completing the project.

Grant applications must be submitted by October 15th, 2020. If the grant is awarded, the City will need to start the project by January 1st, 2021 and complete the project by October 31, 2021.

City Council Input Sought

Staff is seeking feedback on whether the City Council is comfortable with this project and with Staff moving forward with the grant application. Part of the 10% match requirement would need to be a financial contribution but much of it would likely be “labor” provided by the City Planner/Zoning Administrator as an in-kind contribution.

Attachments

A- Excerpt from April 13th Worksession Memo Analyzing the North Concord Mixed Use (NCMU) Zoning District
B- Zoning Map
C- Comprehensive Plan Future Land Use Map
North Concord Mixed-Use (NCMU) Zoning District

In March of 2004, City leaders imposed a 6-month moratorium on all new development activity along North Concord Street and the part of Concord Exchange north of Grand Avenue. These were primarily areas that were zoned “GB-General Business” which allows both commercial and industrial uses. Council had concerns regarding land use in the corridor (especially the proliferation of used car sales lots) as well as concerns regarding the quality of any new development that might occur due to the absence of strong architectural controls. The moratorium was intended to give the City time to study the corridor and make appropriate zoning changes to adequately control development.

The City did not undertake a full planning/zoning study during the moratorium. Per archival staff memos, City Staff was directed to work with “an ad-hoc committee of South St. Paul citizens and business owners” in order to find a zoning solution to address Council’s concerns. The solution that was selected was to:

- Treat the entirety of Concord Street North as an extension of “main street” and have almost all of the same requirements as in the CGMU downtown area along Concord Exchange.

- Create another mixed-use zoning district, the North Concord Mixed Use district (NCMU) which would have rules that are almost identical to the existing CGMU district rules.
  - All of the site design and architectural standards are almost identical to the CGMU district standards.
  - There are 2 significant differences in the use standards
    - “Construction Contractors (with no exterior storage)” are allowed in the NCMU district while they are prohibited in the CGMU districts.
    - The NCMU district does not allow car sales or car rentals. These uses are also prohibited in the main downtown “CGMU-1” subdistrict BUT they are allowed with CUP’s in the CGMU-2 ‘car-oriented’ subdistrict located south of Bridgepoint Drive.

- All of the existing uses along Concord Street North which are not allowed in the NCMU district became “grandfathered” lawful nonconforming uses. In accordance with State Statute, they are permitted to be “maintained, repaired, improved, and replaced” but cannot be expanded in any way.
  - This includes all of the car sales lots. They cannot be expanded and no new car sales operations may be allowed along Concord Street North.

- The City has a rule in all of its commercial and mixed-use zoning districts that existing houses and other residential uses are considered “conforming” even if they aren’t a permitted use. This allows the owners to continue to build additions and expand their homes, something that would not normally be allowed for a “grandfathered” use.
There has not been any new development on Concord Street North in the years since the NCMU zoning was adopted beyond the repurposing of existing buildings and minor additions to existing businesses (such as outdoor dining at Bugg’s Place). In hindsight, the planning/zoning approach that was selected had some fairly significant shortcomings and likely was not the right fit for the street. Concord Street North (the roadway itself) was not configured in a way that would support “main street” style walkable mixed-use development. Many parts of the street lack sidewalks, the street is overly wide, and the street design is very utilitarian without any flourishes (street trees, pavers, public art, benches, etc.) that would attract traditional commercial/residential “main-street” mixed-use development.

In the years since the NCMU zoning rules were first adopted, the Planning Commission has made several requests for additional study and revisions to the NCMU zoning rules to set more realistic standards. Their most recent formal request was in January 2013 when they passed a motion (7-0) to request that the City Council look into funding to do a study. As of this time, no study has been completed.

Interestingly, Concord Street North is now slated to receive a full reconstruct with design enhancements that could potentially make it much more appealing setting for developers seeking to do mixed-use projects. It remains unclear whether the existing standards are completely the “right fit” but a mixed-use vision of some sort will definitely be more achievable once the road has been rebuilt. Other cities have had success with ‘fun and funky’ mixed-use districts that include a mixture of commercial, industrial, and light industrial uses with more relaxed design standards than what one would find in a “main street” downtown area. That may potentially be something that could be explored along North Concord?
The Future Land Use map is a representation of various maps and ordinances that make up the City of South St.Paul Land Use code.Percentage of Acreage is calculated from county parcel data. Results are representational and not to be used for purposes other than Land Use. For detail information pertaining to a specific property or Land Use district, please contact the City of South St.Paul Planning Department at http://www.southstpaul.org/
AGENDA ITEM: Discussion on City’s Cap on the Number of Chicken Licenses

DESIRED OUTCOMES:

- Discuss the status of the chicken ordinance
- Discuss the existing rule that no more than 20 chicken licenses can be issued citywide
- Get direction regarding whether Council wants to adjust the cap on the number of licenses

OVERVIEW:

Background

The City adopted an urban chicken ordinance in 2015. This ordinance allows single-family homeowners to keep a small number of chickens in their back yards if they obtain a license from the City Clerk. The ordinance contains numerous rules such as:

- Design standards for chicken coops
- Limit on the number of chickens
- Sanitation and noise rules
- Rules for the license itself:
  - Property only eligible for a license if there haven’t been too many recent code violations
  - 75% of neighbors must give written consent
  - Fee must be paid
  - License is good for a lifetime
  - No more than 20 licenses can be issued citywide.

Since its adoption, this ordinance has been amended twice:

1. In 2016, the ordinance was amended to let residents living on lots that are larger than a ½ acre to have extra chickens (8 instead of 4). Also, design standards were established for poultry netting fences.

2. In 2019, the ordinance was amended to turn the chicken licenses into lifetime licenses. Previously, they needed to be renewed every two (2) years. The City continues to request chicken ownership verification every two years.

Reason for Discussion

As previously stated, the City currently does not allow more than twenty (20) chicken licenses to be granted citywide at any one time. The City currently has eighteen (18) active chicken licenses.
There has been an uptick in interest in chicken-keeping during the COVID pandemic, possibly because many individuals are spending more time at home and looking for educational opportunities to give their children.

It seems likely that the City will issue its 19th and 20th chicken licenses either during 2020 or during the beginning of 2021. At that time, City Staff will no longer be able to process chicken licenses and will need to tell residents contacting City Hall that they are ineligible for a license. The way the Code is currently written, they will remain ineligible indefinitely unless someone who currently has chickens chooses to stop and surrenders their chicken license.

Staff would note the following regarding the impending freeze on new licenses:

1. Chicken licenses do not turn over very frequently. According to the City Clerk, there have only been three (3) properties that have chosen to give up their chicken licenses since the licensing program began in 2015.

2. Unfortunately, it is very common for individuals to acquire chickens and/or build a chicken coop before obtaining a license. Many of the individuals who reach out to City Hall are looking to “legalize” their existing unlicensed chicken-keeping. As part of the legalization process, they may need to make upgrades to their coop, move their coop, or take other steps to comply with the ordinance. They are also required to talk to their neighbors and get on the same page regarding the chickens. If new licenses are not available, it seems likely that some aspiring chicken-keepers may acquire chickens anyways but will do so without a site plan review and without talking to their neighbors.

3. People who are interested in chicken-keeping tend to be extremely passionate and willing to self-advocate for their cause. Many communities see a very high level of public engagement regarding their chicken ordinances. Staff anticipates that once the 20-license cap is reached, the City Council may start hearing from the chicken-keeping community via email and at open forum.

4. The 20-license cap made a lot of sense for the “test phase” of the urban chicken ordinance. It allowed the City to observe the effects of urban chicken-keeping for several years without any danger of things getting out of control if there was too much interest. At this point, the City has had urban chickens for over five (5) years. The City Council has more information now if they want to consider expanding the licensing program.

**Have There Been Complaints?**

According to the City Clerk, the City has only received one code enforcement complaint regarding chickens that were being kept legally by someone with a chicken license. She says that all of the other complaints have been about households that have not obtained a chicken license and are keeping chickens illegally without following the ordinance.
City Council Options

Option 1: Direct Staff to bring forward an ordinance that would eliminate the cap on the number of chicken licenses.

Option 2: Direct Staff to bring forward an ordinance that would raise the cap on the number of chicken licenses but continue to have a cap. This likely will lead to this same conversation coming up again in the future if the new cap is reached.

Option 3: Direct Staff to leave the Code as-is and enforce the 20-license cap. Once the cap is reached, Staff can maintain a waitlist for chicken licenses and contact interested parties if any licenses become available.

Attachments

Attachment A- Existing Chicken Ordinance
ATTACHMENT A
EXISTING CHICKEN ORDINANCE

Sec. 15-9. - Keeping of certain animals permitted.

(a) Keeping of chickens on urban residential lots.
   (1) License required. No person shall keep chickens on any residentially zoned property within the city without first obtaining a license from the city. The keeping of chickens on a residential property shall be limited to single-family lots.
   (2) Application. An application for a license to keep chickens shall be made to the city clerk on the form prescribed by the city. The applicant must provide all the information required on the form, including, but not limited to:
      a. The name and address of the owner(s) where the chickens will be kept;
      b. The number of chickens to be kept on the property;
      c. A scaled site plan or property survey showing the proposed location of the building and enclosed outdoor area to house the chickens on the subject property along with the dimensions of the building and enclosure;
      d. A drawing or picture of the proposed building to house the chickens along with a list of the exterior materials for the building;
      e. The applicant must pay the fee for the license to keep chickens as set forth in the city fee schedule.

(b) Consent from surrounding property owners. The applicant shall be required to obtain consent from 75 percent of the abutting property owners on a form provided by the city clerk. The city will notify abutting property owners of the pending application.

(c) Granting issuance of license. The city clerk may administratively grant a new or renewal license under this subsection provided all of the following have been met:
   (1) All required submittal information is submitted and complete.
   (2) Appropriate fee is paid.
   (3) The application filed demonstrates compliance with the requirements of this subsection and any other applicable regulations of this code.
   (4) At least 75 percent of the abutting property owners have consented in writing.
   (5) The applicant has had no more than two property maintenance violations within the preceding 12-month period.
   (6) A maximum of 20 licenses may be issued.

(d) Reserved.

(e) Standards. Any person keeping chickens in residential areas of the city as noted in this section, shall comply with the following:
   (1) No person shall keep more than four total hen chickens on the property that is one-half acre or less. No person shall keep more than eight total hen chickens on a property that is larger than one-half acre.
   (2) No person shall keep roosters or adult male chickens on the property.
   (3) The slaughter of chickens on residentially used or zoned properties is prohibited.
   (4) The owner of the chickens shall live in the dwelling on the property.
   (5) The raising of chickens for breeding purposes is prohibited.
   (6) Chickens more than four months old shall not be kept inside the dwelling.
(7) Raising of chickens shall not be for commercial purposes and there shall be no selling of eggs on the premises.

(f) Shelter and enclosure requirements. Every person who owns, controls, keeps, maintains or harbors hen chickens must keep them confined on the premises at all times and provide them a building to shelter the chickens and an enclosed outdoor area. Buildings to house the chickens and enclosed outdoor areas for the chickens shall comply with the following standards:

(1) Only one building to house the chickens and one enclosed outdoor area shall be allowed per lot.
(2) No building to house the chickens or enclosed outdoor area to contain the chickens shall be constructed on a lot prior to the time of occupancy of the principal structure.
(3) Buildings to house the chickens and enclosed outdoor areas for the chickens shall not be located in the front or side yards and shall not be placed within any drainage and utility easements.
(4) Any building to house chickens and enclosed outdoor area for the chickens shall be set back at least 25 feet from any principal structure on an adjacent lot and ten feet from all property lines.
(5) Any buildings to house the chickens and enclosed outdoor areas must be consistent with applicable zoning codes.
   a. Exterior materials for the building to house the chickens shall be consistent with the requirements for accessory buildings; in particular they must have finished exterior surfaces (painted, stained, sealed, etc.).
   b. The maximum height for a building to house the chickens is 12 feet from ground to the peak of the roof.
   c. The maximum size for the building to house the chickens is 120 square feet.
   d. A floor is not required for a building housing the chickens.
   e. Fencing for the enclosed outdoor area for the chickens may utilize poultry netting fence. Fencing may be galvanized or earth tone but shall not be bright colors and in no case can the fence be electrified. Fencing for the enclosed outdoor area should be six feet high to better protect the chickens from predators.

(6) Chickens shall be provided a secure well ventilated roofed structure in compliance with applicable zoning codes.

(7) The floors and walls of the roofed structure shall be kept clean, sanitary and in a healthy condition.

(8) Chickens shall be contained within the building to house the chickens or the enclosed outdoor area for the chickens at all times.

(9) The enclosed outdoor area shall be well drained so there is no accumulation of moisture.

(10) If the license to have chickens is not renewed the building to house the chickens does not need to be removed provided the building meets the accessory building requirements (including the maximum number of accessory buildings).

(g) License modification. The license may be reasonably modified by animal control authority if necessary to respond to changed circumstances. Any modification shall be effective ten days after the mailing of a written notice by certified mail to the license holder. The license holder may challenge the modification by contacting the city clerk and requesting a hearing within ten days after receipt of written notice. A hearing regarding the proposed modification shall be held before the city council.

(h) Duration of license. A license to keep chickens shall be issued for the lifetime of the owner of the property, so long as the owner continues to own the property and continues to own chickens. If property ownership is transferred or changes, the new owner must apply for a new license. If the property owner does not own chickens for a period of six months, the license automatically terminates. The city will request ownership verification of the chickens every two years.
(i) **Conditions/maintenance and inspections.** No person who owns, controls, keeps, maintains or harbors chickens shall permit the premises where the chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors to be carried to adjacent public or private property. Any building to house chickens or enclosed outdoor area for the chickens authorized under this section may be inspected at any reasonable time by authorized city staff to inspect for compliance with this chapter and other relevant laws and regulations.

(j) **Revocation of license.** A license may be revoked by the city council for a violation of any condition of this section following notice and a hearing as provided for in this code.

(k) **Penalty.** Violation of this section shall be addressed through the administrative citation process.

(Ord. No. 1297, § 1, 4-20-2015; Ord. No. 1301, § 1, 2-16-2016; Ord. No. 1342, § 4, 5-20-2019)
AGENDA ITEM: CARES Act Relief Funds Update

DESIRED MEETING OUTCOMES:

Discuss the latest Federal Guidance on “eligible expenditures” and provide direction on the final proposed allocation of CARES Act Relief Funds.

OVERVIEW:

On September 21st, the Department of the Treasury’s Office of Inspector General provided additional guidance on the expenditure of CARES Act funds. One of the key aspects of this guidance related to the presumption that public safety costs payroll costs were for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Here are the key points of the newest guidance:

63. **According to Treasury’s FAQs, for administrative convenience, a State can presume that all payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency and, thus, can be covered by CRF. Will Treasury OIG or the PRAC ever question the applicability of this presumption in the audit context? If so, under what circumstances?**

During its reviews and audits, Treasury OIG will allow the use of the administrative accommodation made in accordance Treasury’s FAQs. See responses to related questions 69, 70, and 71. (Note: Question #69 was not critical to this issue from SSP’s standpoint.)

70. **To what level of documentation will a government be held to support the reimbursement of public health and safety payroll that was "presumed" to be substantially dedicated to mitigating the emergency?**

The recipient of CRF payments must maintain and make available to Treasury OIG upon request, all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended (42 U.S.C. 801(d)). Documents/records include payroll records for the covered period March 1 through December 30, 2020. Records include, but are not limited to (1) general and subsidiary ledgers used to account for the receipt of CRF payments and subsequent disbursements; and (2) payroll, time, and human resource records to support costs...
incurred for payroll expenses. Please refer to the Treasury OIG memorandum, Coronavirus Relief Fund Reporting and Record Retention Requirements (OIG-20-021; July 2, 2020). These document requirements apply to supporting payroll reimbursement amounts using CRF proceeds and not to support the presumption that public health and safety payroll is substantially dedicated to mitigating the emergency.

a. Will a government have to demonstrate/substantiate that a public health or public safety employee's function/duties were in fact substantially dedicated to mitigating the emergency?

No, the government will not have to demonstrate/substantiate that a public health or public safety employee’s function/duties were substantially dedicated to mitigating the emergency but must maintain records and documentation supporting payroll amounts reimbursed using CRF proceeds. As indicated in Treasury’s Guidance, as an administrative accommodation, governments may presume that public health and public safety employees meet the substantially dedicated test, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. Treasury’s FAQs add that entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020.

b. For payroll that was accounted for in the FY2020 budget but was then "presumed" to be substantially dedicated to mitigating the emergency, will the government have to demonstrate/substantiate that a public health or public safety employee's function was a substantially different use?

No, the government will not have to demonstrate/substantiate that a budgeted public health or public safety employee’s function was a substantially different use. As stated in Treasury’s Guidance, within the category of substantially different uses, Treasury has included payroll and benefits expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. The Treasury OIG does require the government to maintain budgetary records to support the fiscal years 2019 and 2020 budgets.

71. Is the government required to perform any analysis or maintain documentation of the “substantially dedicated” conclusion for payroll expenses of public safety, public health, health care, and human service employees?

No, the government is not required to perform an analysis or maintain documentation of the substantially dedicated conclusion for payroll expenses of public safety, public health, health care, and human service employees. As indicated in Treasury’s Guidance, as an administrative accommodation, governments may presume that public health and public safety employees meet the substantially dedicated test, unless the chief executive (or
equivalent) of the relevant government determines that specific circumstances indicate otherwise. Please refer to response to question 69.

As stated in earlier memos on this topic and based on the clarified guidance noted above, we are justified to claim public safety expenses for the allowed period to meet expenditure requirements for our CARES Act allotment of $1,572,954. With this approach, those funds would offset a portion of public safety expenditures in the 2020 Budget and effectively become surplus dollars that we could use for any public purpose expenditure in the future. This is also the most straightforward method to document our expenditures and would make reporting/auditing requirements easier.

It should also be noted that we have had additional expenditures related to COVID-19 that would also meet Federal Guidelines. They include:

- Business Grant Program - $150,000
- Liquor License Fee Rebate - $26,050
- AV System Upgrade - $11,206
- Increased Election Administrative Costs - $20,000 to $25,000
- Re-allocation of IT & HR staff to deal with pandemic issues - $40,000

Staff would like your input on how you want us to report expenses (all public safety or public safety plus the above list). We would also like to discuss if there are additional expenditures you feel we should make.

**SOURCE OF FUNDS:**

CARES Act Relief Funds