



**Mayor & City Council
Work Session Meeting Agenda**

Monday, September 26, 2022, 7:15 PM

Tucker City Hall

1975 Lakeside Pkwy, Ste 350B, Tucker, GA 30084

Members:

Frank Auman, Mayor
Roger W. Orlando, Council Member District 1, Post 1
Cara Schroeder, Council Member District 2, Post 1
Alexis Weaver, Council Member District 3, Post 1
Virginia Rece, Council Member District 1, Post 2
Noelle Monferdini, Council Member District 2, Post 2
Anne Lerner, Council Member District 3, Post 2

Zoom Link: <https://us02web.zoom.us/j/83307494382> or phone: 888 788 0099 (Toll Free) Webinar ID: 833 0749 4382

Pages

A. CALL TO ORDER

B. ROLL CALL

C. MAYOR'S OPENING REMARKS

D. APPROVAL OF THE AGENDA

- Motion to approve/amend agenda

E. NEW BUSINESS

E.1.	Presentation by KB Advisory Group on the Economic Development Strategic Plan Kick Off	3
E.2.	Presentation by Barge Design Solutions on Town Green Design	13
E.3.	Discussion on the 2023 Meeting Calendar and City Hall Holiday Closure Dates	14
E.4.	Non-Discrimination Ordinance Working Group Report: Councilmembers_Lerner, Rece, Schroeder	16

F. EXECUTIVE SESSION

- If required for personnel, real estate and litigation

G. ACTION AFTER EXECUTIVE SESSION

- As needed

H. ADJOURNMENT

- Motion to adjourn



MEMO

To: Honorable Mayor and City Council Members
From: Jackie Moffo
CC: Tami Hanlin, City Manager
Date: September 20, 2022
RE: Memo for City of Tucker Economic Development Strategic Plan Kick-Off Presentation and Discussion

Description for on Agenda:

The Economic Development Department is bringing forward the Economic Development Strategic Plan consultant, KB Advisory Group, to present, share project expectations, outreach plans, and future deliverables schedule for Economic Development Strategic Plan.

Issue:

The City of Tucker has hired KB Advisory Group for the development of its Economic Development Strategic Plan and is in need of an official start of the project.

Recommendation:

Staff recommendation is that the City Council review the KB Advisory Group presentation, including the Community Outreach Plan, and prepare questions.

Background:

Tucker's Comprehensive Plan, *Tucker Tomorrow*, calls for the creation of an economic development plan. The City of Tucker is now moving forward with the creation of its first Economic Development Strategic Plan to provide Tucker with a specific approach to economic development that will maintain our businesses, create jobs, and identify key sectors for growth.

Summary:

The City of Tucker shared RFP 2022-014 for bid on May 31, 2022 and received four proposals. Proposals were then scored by a team who included city staff, Tucker's DDA, Tucker Summit Community Improvement District (TSCID), Tucker-Northlake Community Improvement District (TNCID), and Decide DeKalb. Two consultants were chosen for interviews. On Monday, August 8, 2022, the Mayor and City Council approved and awarded the contract for the Economic Development Strategic Plan to KB Advisory Group.

Financial Impact:

As done in previous plans, the City of Tucker is working in partnership with TSCID and TNCID on this project. The City of Tucker budgeted \$65,000 from the City's Economic Development Budget, and \$10,000 from the DDA's Economic Development Budget and is receiving contributions of \$10,000 from TSCID and \$5,000 from TNCID to use for this plan.

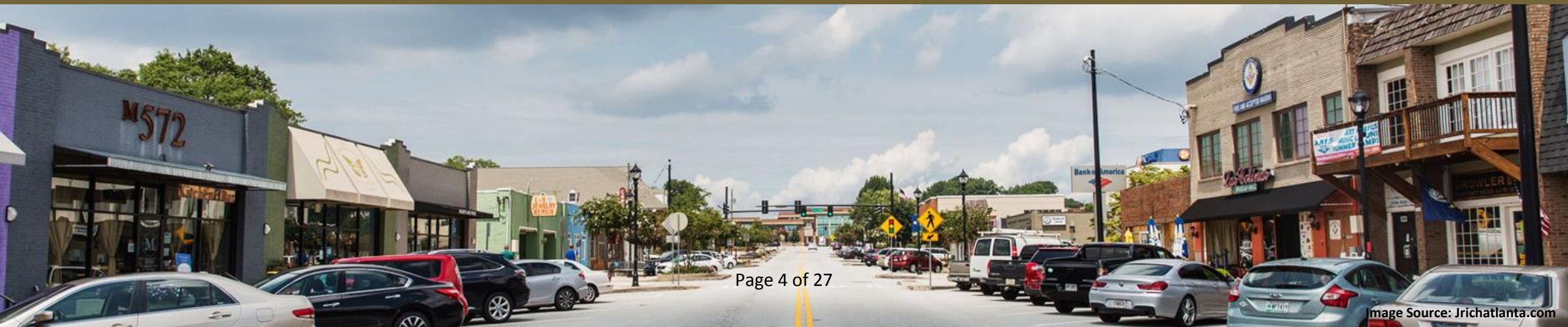


City of Tucker

Economic Development Strategic Plan

Consultant Team:

KB Advisory Group, Urban Pulse & Willdan



Meet the Team

Project
Lead:



KB | ADVISORY GROUP



Geoff Koski
Project Executive



Tate Davis (AICP Candidate)
Project Manager



Gabrielle Oliverio
Analyst

Public
Engagement:



URBAN PULSE
- COMMUNITY BUILDERS -



Christopher Pike (EDFP, CPM)
Public Engagement Director

Data Analysis:



Molly McKay (CECD, MA)
Technical Director

What is the Economic Development Strategic Plan (EDSP)?

- Guiding document to make visions set forth in *Tucker Tomorrow* a reality
- Will create the foundation for the City of Tucker's near-term economic development policies, programs and investments over the next five years



Why is the Economic Development Strategic Plan important?

The EDSP's community outreach, research and analysis will help the City to understand Tucker's competitive positioning by exploring:



What is the City of Tucker's "it" factor?
How can the City leverage the positive aspects of this community brand/identity to attract higher tax value business investment/operations?



What are the specific industries that should be targeted to diversify the economy and improve fiscal resiliency?



How can the City connect key infrastructure investments with the EDSP's economic development strategies to bolster Tucker's economic base?



How does the City's existing economic development program compare with cities of similar business and demographic characteristics?



What are best practices for new policies and programs that Tucker should explore for adoption?

Economic Development Strategic Plan Goals



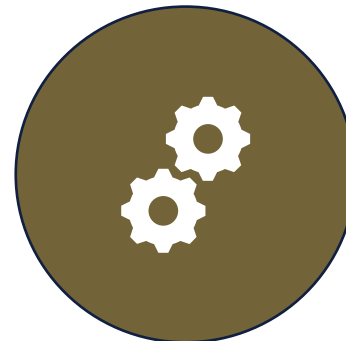
Empower the City to define its vision, mission, and values to guide planning, zoning and economic development priorities.



Help strategically shape the character of redevelopment according to a shared community vision of the future, established through a transparent process of consensus building and leadership.



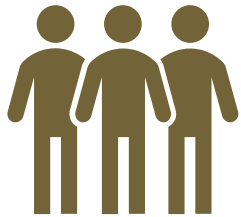
Attract high-quality investment and redevelopment activity.



Provide the specific implementation steps needed to guide Tucker's economic development policies, programs and investments over the next five years.

Economic Development Strategic Plan Expectations

With the visions set forth in *Tucker Tomorrow*, the EDSP will outline how the City can realize its economic potential and leverage its existing successes. This will include:



An economic-development focused community engagement process



A focus on business retention and expansion that will contribute to a thriving Tucker economy



An economic profile report and competitive benchmark assessment to ascertain opportunities

Economic Development Strategic Plan Timeline

Project Month – 2022-2023	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Public Input								
Demographic and Economic Profile Report								
Tucker and Regional Industry Evaluations								
SWOT* Assessment and Consensus Building Workshop								
Plan Creation and Presentations								

*Strengths, Weaknesses, Opportunities and Threats

Presentation of the EDSP to City Council for adoption is scheduled for Spring 2023.

Ways to Engage

Community Meetings

Tuesday, October 11, 2022

Time: 6:00pm – 8:00pm

Location: TBD

Tuesday, October 18, 2022

Time: 6:00pm – 8:00pm

Location: City Hall

Community SWOT Analysis Meetings

Tuesday, October 25, 2022

Time: 6:00pm – 8:00pm

Location: TBD

Tuesday, November 1, 2022

Time: 6:00pm – 8:00pm

Location: City Hall

Stakeholder Focus Groups and Interviews (October)

Community Survey (open through November 1, 2022)

We look forward to working with you and making the
visions outlined in *Tucker Tomorrow* the new
Tucker of Today.



MEMO

To: Honorable Mayor and City Council Members
From: Rip Robertson, Director, Parks and Recreation
CC: Tami Hanlin, City Manager
Date: September 26, 2022
RE: Memo for Town Green Design presentation – Barge Design Solutions

Description for on Agenda:

Town Green Design presentation – Barge Design Solutions

Issue:

With the City of Tucker's commitment to quality parks and outdoor activity and the desire to create a downtown activity space, the city acquired the old Cofer storage lot on Railroad Avenue.

Recommendation:

The staff and consultant are presenting options for the design of the downtown greenspace and are asking for direct feedback on the preferred options.

Background:

With the acquisition of the old Cofer storage lot, the city has committed to creating a downtown greenspace for multiple uses. This park will be a hub of activity throughout the year. This design phase has included both in-person and virtual park visitations, Mayor and Council, staff, and community input to create the space for the entire community.

Summary:

The downtown park will be the center for future events and activities to help create family fun for the community in the downtown area.

Financial Impact:

This planning and design project is funded through the General Fund CIP, 300-6211-54-12000 (PR2207).

January							July						
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February							August						
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19	20	21	22	23	24	25	17	18	19	20	21	22	23
26	27	28	29	30	31		24	25	26	27	28	29	30
April							October						
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May							November						
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June							December						
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18	19	20	21	22	23	24	17	18	19	20	21	22	23
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							31						

EXHIBIT A

2023 MEETING CALENDAR

(DRAFT)

- Council Mtgs – 7:00 PM
- Planning Commission – 7:00
- Zoning Board of Appeals – 7:00
- DDA – 6:30

2023 City Hall Closures for Holidays

- JAN 2 * New Year's Day (1st)
- JAN 16 MLK Day
- FEB 20 Presidents Day
- MAY 29 Memorial Day
- JUN 19 Juneteenth
- JUL 4 Independence Day
- SEP 4 Labor Day
- OCT 9 Columbus Day (move CC Mtg)
- NOV 10 * Veteran's Day (11th)
- NOV 23 Thanksgiving Day
- NOV 24 Day after Thanksgiving
- DEC 26 * Christmas Eve (24th)
- DEC 25 Christmas Day

* observed

Federal Holidays plus Day After Thanksgiving and Christmas Eve plus one Floating Holiday

DATA ON HOLIDAYS																		
	Federal Holidays 2023	DeKalb County Schools Holidays 2023		2022 State Holidays (per Governor)	TUCKER	DUNWOODY	BROOKHAVEN	CHAMBLEE	DORAVILLE	CLARKSTON	PINE LAKE	STONE MOUNTAIN	DECATUR	AVONDALE ESTATES	STONECREST	LITHONIA	2022 HOLIDAY CITY HALL CLOSURES	
New Years Day (Sunday)	1/2/2023*	1/2/2023*		1/3/2022*	X	X	X	X		X	X	X	X	X	X	X	December 31, 2021	New Year’s Day
MLK Jr’s Bday	1/16/2023	1/16/2023		1/16/2023	X	X	X	X	X	X	X	X	X	X	X	X	January 17, 2022	MLK JR Day
Presidents Day/Washington's Bday	2/20/2023	2/20/2023		observed 12/23	X	X	X	X	X	X			X				February 21, 2022	President’s Day
Memorial Day	5/29/2023	5/29/2023		5/29/2023	X	X	X	X	X	X	X	X	X	X	X	X	May 30, 2022	Memorial Day
Juneteenth	6/19/2023	SUMMER BREAK		6/19/2023	X	X	X	X	X	X			X	X		X	June 20, 2022	Juneteenth
Independence Day	7/4/2023	SUMMER BREAK		7/4/2023	X	X	X	X	X	X	X	X	X	X	X	X	July 4, 2022	Independence Day
Labor Day	9/4/2023	9/4/2023		9/4/2023	X	X	X	X	X	X	X	X	X	X	X	X	September 5, 2022	Labor Day
Columbus/Indigenous People Day	10/9/2023	10/9/2023		10/9/2023				X									October 11, 2022	Columbus/Indigenous People Day
Veterans Day (Saturday)	11/11/2023	no		11/10/2023*	X	X	X	X	X	X	X	X		X	X		November 11, 2022	Veteran's Day
Thanksgiving	11/23/2023	11/23/2023		11/23/2023	X	X	X	X	X	X	X	X	X	X	X	X	November 24, 2022	Thanksgiving Day
Christmas Day	12/25/2023	WINTER BREAK		12/25/2023	X	X	X	X	X	X	X	X	X	X	X	X	December 26, 2022	Christmas Day
Day after Thanksgiving (State Holiday 1/19 observed)	no	11/24/2023		11/24/2023	X	X	X	X	X	X	X	X	X	X	X	X	November 25, 2022	Day after Thanksgiving Day
Good Friday (State Holiday 4/25 observed)	no	SPRING BREAK		4/7/2023	X	X	X	X	X		X	X	X	X	X	X	December 23/27, 2022	Christmas Eve
Christmas Eve	no	WINTER BREAK		listed above	X		X					X		X				1 Floating Holiday
*observed										X					X		December 30, 2022	New Year's Eve
						X				X		X					April 15, 2022	Good Friday
Holiday Closures:	11			13	13	13	13	13	11	13	10	12	11	12	11	10		

Ad Hoc Non-Discrimination Working Group Report

September 26, 2022

Background

At its October 12, 2021 meeting, Tucker's prior City Council voted unanimously to adopt a resolution providing for an "Inclusive, Fair and Welcoming City". The resolution was introduced by Mayor Frank Auman and was distributed to all licensed businesses within the City of Tucker.

In addition to the resolution, Mayor Auman asked Councilmembers Anne Lerner, Matt Robbins and Pat Soltys to establish the framework for a working group of residents to further study the need for a non-discrimination ordinance for the City of Tucker. While initial work was begun, the election brought new council members also eager to support this effort.

At the April 11, 2022 city council meeting an ad hoc working group including Councilmembers Anne Lerner, Virginia Rece and Cara Schroeder was announced. The City's business outreach coordinator Angela Brooks provided support to the group. Other working group members include Tucker residents:

- Andrea Bennett, attorney, mediator and Tucker Zoning Board of Appeals member
- Don Cirino, retired U.S. Department of Labor, Office of Federal Contract Compliance, investigator and human resources manager
- Sandra Rice, Georgia Department of Behavioral Health and Developmental Disabilities and a volunteer with Peter and Paul's House in Tucker
- Thomas Walker, employment litigator
- Derik West, human resources manager, Tucker Planning Commission member and Tucker Charter Review Commission chair

Acknowledgements

We understand our work is the culmination of more than two years of conversations happening across the community in a variety of ways. We are humbled to have been entrusted to move those conversations forward in the form of a recommendation of an ordinance that addresses equitable and inclusive practices in Tucker.

The working group expresses its appreciation to:

- Mayor Frank Auman for leading the adoption of the Inclusive, Fair and Welcoming City Resolution in October 2021 and the opportunity and trust for the working group to form and bring forth a recommendation.
- Former Councilmembers Michelle Penkava, Matt Robbins and Pat Soltys for supporting the October 2021 resolution.
- City Councilmembers Noelle Monferdini, Roger Orlando and Alexis Weaver for sharing their ideas and concerns.
- City Manager Tami Hanlin and City Attorney Ted Baggett for their time and expertise.

- Business Outreach Coordinator Angela Brooks for her time keeping us organized and providing her experience working with our local businesses.
- Tucker Open Door leaders Katherine Atteberry, Damyon Claar-Pressley and George Wellborn for their forethought and patience.
- Tucker business owners, real estate professionals and faith leaders who engaged in candid conversations and ultimately made our recommendation better.
- Elected officials and staff members from other jurisdictions who shared learnings from their experiences drafting and adopting non-discrimination ordinances.
- Community members who over the last two years or more expressed their support and also shared their particular concerns reminding us it's important to listen to all perspectives.

Councilmembers Lerner, Rece and Schroeder are grateful for each of the working group members. Their experience and expertise were invaluable to the process. We are amazed to have such talented people in our community who are also willing to give freely of their time.

Process

The members of the working group met on average twice per month from May to September. During those meetings, different ideas and points-of-view were shared and issues were raised and discussed in a thorough and open manner.

In addition, members reached out to business owners, real estate professionals and faith-based leaders in the community to garner their insight and feedback, much of which was incorporated into the group's work and recommendation. The group also met twice with the Tucker Open Door leaders who first requested the City consider a non-discrimination ordinance. While we know this was not an exhaustive outreach, we tried to get a sampling of perspectives across the community. We understand more public input will be provided as the proposed ordinance works through the City's process.

The working group reviewed non-discrimination ordinances from surrounding municipalities in DeKalb County, other cities in Georgia and a few from across the country both at the local and state level. Members reached out to elected officials and staff from some of these cities to learn from their experiences.

Councilmembers Lerner, Rece and Schroeder met with City Manager Tami Hanlin and City Attorney Ted Baggett to discuss impacts to the City and incorporate their feedback into the working group's recommendation.

Discussion and Feedback

Below is a compilation of the discussion points and feedback the working group encountered most frequently and is not to be considered a comprehensive list.

Why?

- A way to show Tucker is a welcoming city for all.
- Provide a process for small businesses and complainants.
- Many good things happening in Tucker are overshadowed by this one concern.
- Public perception needs some polishing as we look to the future.

What is discrimination?

- Someone may feel they are being treated unfairly due to personal conflicts, disagreements over management style, personality differences or even favoritism, but this does not necessarily mean there is discrimination.
- Discrimination occurs when someone is treated differently or singled out because of things like actual or perceived sex, sexual orientation, gender identity, race, color, age, disability, national origin, religion, marital status, familial status, veteran or military status.

Is this happening in Tucker? How would we know?

- How do we know if we don't have a process?
- People go to social media or traditional media.
- No one can say for sure unless it has happened to them.
- No process now unless fits within federal or state laws or a lawsuit is filed.

Why is this needed if there are federal and state laws in place?

- Federal and state laws are varied and limited.
 - Title VII and other federal laws – 15 or more employees.
 - The Georgia Fair Employment Practices Act prohibits discrimination on the basis of race, color, disability, religion, sex, national origin, or age. Applies only to state agency with 15 or more employees.
 - Georgia's Equal Employment for Persons with Disabilities Code prohibits discrimination because of a disability. Applies to public and private employers with 15 or more employees.
 - Georgia's Equal Pay Act requires employers to pay employees of the opposite sex equal wages for equal work. Applies to all public employers and private employers with 10 or more employees.
- Proposed ordinance accounts for federal and state laws with hearing officer referring complaints to the proper agencies.
 - No double jeopardy.

Are Fair Housing Act exceptions included?

- Proposed ordinance accounts for these exceptions.
- Does not limit the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

Will this impede economic development or make businesses think twice about locating here?

- Most companies have their own non-discrimination policies.
- Companies are in a competitive environment for recruitment and retention.
- Important to new generation of employees.
- No exodus from surrounding cities who have such an ordinance.

Will this burden small businesses?

- Can be cost saving because there is a local process that does not require a lawyer (can if want to).
- Resolve conflict quicker than lawsuits.
- City recommends and pays for mediation.
- It's a complaint-driven process with a filing fee, sworn statement and hearing officer to protect against frivolous claims.
- Some small business owners welcome a process as now plays out on social media.
- Would like education and resources to share with employees.

Isn't Georgia a right-to-work state?

- In a right-to-work state it is not legal for an employer and a union to have a contract that requires each employee to join the union.
- Contracts can't require an employee to pay union dues.

Isn't Georgia an at-will employment state?

- Yes, meaning an employer can terminate an employee for any reason without warning.
- An employer cannot fire an employee if the reason for doing so is not allowed under the ordinance or other applicable laws.

How do we express the intent to be more about education and compliance versus punishment?

- The role of mediation with a registered mediator and paid by the City.
- Optional workshop/education at least once a year and provide resources on City website including FAQs, flow chart/outline of the process, forms, etc.
- State in ordinance fines "up to" and "in lieu of option" as a corrective action plan.

How do we address the variety of religious organizations located in Tucker?

- More inclusive definition of religious organizations as used by other jurisdictions and not limited to IRS definitions.

Concerns about past and upcoming Supreme Court rulings on whether applying a public-accommodation law to compel an artist to speak or stay silent violates the free speech clause of the First Amendment.

- Previous decisions have been narrow in focus.
- Just like any other ordinance, changes may need to be made based on rulings.

Myriad of scenarios posed by the working group, business owners and faith-based leaders.

- This is a complaint driven process.
- No certainty in any ordinance as nothing is pure.
- These are hypothetical and there are always additional circumstances.
- Does every ordinance go through such a process?

Recommendation

As provided above, the working group discussed the merits of recommending to the Mayor and City Council the adoption of a nondiscrimination ordinance. We wanted to be sure our recommendation focused on equity, inclusion and compliance as much as possible. It is our intention that whenever possible any complaints should be resolved by good faith discussion, mediation or other forms of voluntary dispute resolution. With that in mind, we ask for the Mayor and City Council's consideration of the below proposed draft ordinance "Equitable and Inclusive Practices".

PROPOSED DRAFT AS OF 9.26.2022

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF TUCKER, GEORGIA, BY ADOPTING A NEW ARTICLE VIII, "EQUITABLE AND INCLUSIVE PRACTICES" IN CHAPTER 30, "OFFENSES AND MISCELLANEOUS PROVISIONS" AND FOR ALL OTHER LAWFUL PURPOSES

Be it ordained and it is hereby ordained by the Mayor and City Council of Tucker, Georgia that the Code of Ordinances of the City of Tucker shall be amended as follows:

PART I:

A new Article VIII titled "Equitable and Inclusive Practices" shall be created in Chapter 30, "Offenses and Miscellaneous Provisions", which shall read as follows:

ARTICLE VIII – EQUITABLE AND INCLUSIVE PRACTICES

Sec. 30-301 - Purpose and Intent. It is the purpose and intent of the Mayor and City Council of Tucker to protect and safeguard the right and opportunity of all persons to be free from discrimination, including discrimination based on actual or perceived sex, sexual orientation, gender identity, race, color, age, disability, national origin, religion, marital status, familial status, veteran or military status. The Mayor and Council's purpose in enacting this ordinance is to promote the public health and welfare of all persons who live and work in the City of Tucker. It is important for the City to ensure that persons within the City have equal access to employment, housing, and public accommodations.

The City of Tucker hereby declares that it is intended that whenever possible any complaints arising under this Ordinance be resolved by good faith discussion, mediation or other forms of voluntary dispute resolution. The City of Tucker further expresses its desire that to the extent possible the parties to any complaint under this ordinance shall work to resolve the complaint with the goal of equity, inclusion and compliance.

Sec. 30-302- Definitions. For the purposes of this ordinance, the following terms shall have the following meanings:

- (1) **AGE.** An individual's status as having obtained forty or more years of age.
- (2) **BUSINESS.** Any person or entity conducting business within the city, which is required to obtain a license or occupational tax certificate. For purposes of the article, no department of any government agency, shall be considered to be a business (notwithstanding licensure by the City).
- (3) **DISCRIMINATE, DISCRIMINATION OR DISCRIMINATORY.** Any act, policy or practice that, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's actual or perceived sex, sexual orientation, gender identity, race, color, age, disability, national origin, religion, marital status, familial status, veteran or military status.
- (4) **EMPLOYEE.** Any individual employed by or seeking employment from an employer, excluding any individual employed by his or her parents, spouse or ex-spouse, or child.

- (5) EMPLOYER. A person who employs one or more employees in the City of Tucker, or any agent of such person.
- (6) FAMILIAL STATUS. Means an individual's past, current or prospective status as parent or legal guardian to a child or children below the age of eighteen (18) who may or may not reside with that individual.
- (7) GENDER IDENTITY. The actual or perceived gender-related identity, expression, appearance, or mannerisms, or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.
- (8) HEARING OFFICER. A person charged with determining the validity of alleged violations of this article, and upon determining that a violation has occurred, assessing appropriate damages, penalties, fines or costs. The hearing officer shall be a member of the State Bar of Georgia in good standing and have been a practicing attorney for at least five (5) years.
- (9) MARITAL STATUS. An individual's past, current, or prospective status as single, married, domestically partnered, in a civil union, divorced, or widowed.
- (10) MEDIATOR. A qualified neutral third party registered with the Georgia Office of Dispute Resolution that will attempt to assist the complainant and the respondent(s) to arrive at a mutual agreement to resolve a complaint.
- (11) MEDIATION. A process through which the parties seek to reach an agreed upon resolution of their differences, with the guidance of a neutral mediator. The mediator is not an arbitrator and does not render a ruling. Information provided to the mediator by the parties shall remain confidential unless otherwise consented to by the parties.
- (12) NATIONAL ORIGIN. An individual's, or an individual's ancestor's, place of origin.
- (13) PLACE OF PUBLIC RESORT, ACCOMMODATION, ASSEMBLAGE, OR AMUSEMENT. Any place, store, or other establishment, either licensed or unlicensed, that supplies accommodations, goods, or services to the general public, or that solicits or accepts the patronage or trade of the general public, or that is supported directly or indirectly by government funds. This term does not include any private club, bona fide membership organization or other establishment that is not in fact open to the public.
- (14) RELIGION. All aspects of religious belief and nonbelief, observance, and practice.
- (15) RELIGIOUS ORGANIZATION. An entity, which includes, but is not limited to churches, mosques, synagogues, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, religious schools and other entities whose principal purpose is the study, practice and advancement of religion.
- (15) RESPONDENT. The person alleged by the Complainant to have violated a provision of this Article.
- (16) SEXUAL ORIENTATION. Actual or perceived homosexuality, heterosexuality, bisexuality or asexuality.

(17) VERIFIABLE DELIVERY means hand delivery, electronic mail, certified mail, or statutory overnight delivery, provided that the means of delivery allows for verification of the delivery of such notice.

(18) VETERAN/MILITARY STATUS. An individual's status as one who serves or served in the United States uniformed services, Army, Navy, Marine Corps, Air Force, Space Force, Coast Guard, the Army National Guard, Air National Guard and Reserve components of federal military service, and the Commissioned Public Health Service, and who was discharged or released under conditions other than dishonorable.

Sec. 30-303 - Civil Rights Declared. The right of an otherwise qualified person to be free from discrimination because of that person's actual or perceived sex, sexual orientation, gender identity, race, color, age, disability, national origin, religion, marital status, familial status, veteran or military status, is recognized as and declared to be a civil right to the extent of the following:

- (1) The right to obtain and hold employment and the benefits associated therewith without discrimination.
- (2) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement without discrimination.
- (3) The right to engage in property transactions, including obtaining housing for rental or sale and credit therefor, without discrimination.
- (4) The right to participate as a witness, testify, and exercise any right granted under this ordinance without suffering coercion or retaliation.

Sec. 30-304 - Exceptions.

- (1) A religious organization that employs an individual to perform work connected with the organization that insists that the employee adhere to the tenets of the religious organization as a condition of employment.
- (2) This ordinance does not prohibit a religious organization from limiting its accommodations, advantages, facilities, membership, and privileges.
- (3) An employer who observes the conditions of a bona fide affirmative action plan, and/or a bona fide seniority system which is not a pretext to evade the purposes of this ordinance.
- (4) A business is not required to employ unqualified or incompetent personnel.
- (5) This ordinance does not prohibit an employer from requiring an employee, during the employee's hours at work, to adhere to reasonable and equitable dress or grooming standards not prohibited by other provisions of federal, state or local law, provided that all employees are permitted to dress in a manner consistent with their gender identity.
- (6) This ordinance does not prohibit a private club in fact not open to the public, which as an incident to its primary purpose provides accommodations and facilities, which it owns or operates for other than a commercial purpose, from limiting the rental or

- occupancy to its members or from giving preference to its members.
- (7) A business is not required to make changes to any existing facility that would require a building permit, except as otherwise required by the Americans with Disabilities Act or other provisions of law.
 - (8) Housing designated for senior living or for individuals with disabilities, or as otherwise designated or directed by the United States Department of Housing and Urban Development or the State of Georgia and other exceptions included under the Fair Housing Act.
 - (9) A place of public accommodation to afford beneficial pricing or policies to senior citizens, veterans, students or individuals with disabilities.
 - (10) A place of public accommodation that includes single-sex designated areas within the place of public accommodations, as long as the place of public accommodation does not discriminate against any other protected group identified in this ordinance.
 - (11) The right of a place of public accommodation to remove or cause to be removed from such place any person under the influence of alcohol or other drugs, or who is engaged in boisterous conduct or conduct that would constitute criminal activity under any state or federal criminal law, or who violates any regulation of any place of public accommodation that applies to all persons, regardless of sex, sexual orientation, gender identity, race, color, age, disability, national origin, religion, marital status, familial status, veteran or military status.

Sec. 30-305 - Enforcement. Subject to the procedures developed by the City of Tucker, the City shall receive, investigate, seek to conciliate, hold hearings on and/or pass upon complaints alleging violations of this ordinance. Nothing in this chapter shall preclude the Hearing Officer from seeking voluntary compliance with the provisions of this Chapter, or from enforcing this Chapter through notices or warnings of violations or through other informal means designed to achieve compliance in the most efficient and effective manner under the circumstances.

- (1) Any person aggrieved by a potential violation of this ordinance may file a complaint with the City Clerk on a form to be provided by the city. The complaint form shall include, but is not limited to, the full name of the complainant, the identity and address of the alleged respondent and a description of the actions alleged to constitute a violation of this article. The complainant shall verify the complaint by providing a sworn statement that the allegations of the complaint are true to the best of the complainant's knowledge and belief. The City Clerk shall not accept for filing any complaint that fails to comply with the foregoing requirements. Any such complaint must be filed within ninety (90) calendar days after the alleged act of discrimination. A filing fee of \$50 shall be paid by the complainant at the time of filing.
- (2) To avoid multiple legal actions, if the complainant has filed a complaint with a state or federal agency or court alleging the same facts, the Hearing Officer will dismiss the City of Tucker complaint to allow the appropriate state or federal agency or court to address the allegations.
- (3) If the complaint states a claim that would be a violation of existing state or federal law

or is within the jurisdiction of a state or federal agency, the Hearing Officer shall refer the complainant to the appropriate agency for action and dismiss the complaint.

- (4) The City Clerk shall cause the complaint to be served to the respondent within seven (7) business days of receipt of properly filed complaint via verifiable delivery. The respondent named in the complaint shall have thirty (30) business days to file an answer to the complaint provided, however, the alleged violator shall have no obligation to file an answer to any complaint. The City will provide a form for the respondent but its use will not be mandatory. The respondent shall verify the answer to the complaint by providing a sworn statement that the answer to the complaint is true to the best of the respondent's knowledge and belief.
- (5) The City Clerk shall cause a copy of the complaint to be served upon the Hearing Officer three (3) business days of receipt of properly filed complaint, via electronic mail.
- (6) The Hearing Officer shall have fifteen (15) business days to review the complaint and answer, if any, to determine if the complaint is in conformity of the requirements, is unjustified, frivolous, or patently unfounded, or demonstrates facts sufficient enough to invoke disciplinary jurisdiction as set forth in this ordinance. Should the Hearing Officer determine that the complaint does not meet requirements, he/she may dismiss, however must state the reasons for dismissal in his/her written report.
- (7) The Hearing Officer shall have the authority to request and share information on referred complaints under this ordinance with the applicable state and/or federal agency(ies) for the purpose determining if the respondent was found in violation or refuses to comply with this ordinance and applicable state and/or federal laws and regulations.
- (8) Upon determination that the complaint should not be dismissed, the Hearing Officer shall refer the complaint to a mediator for non-binding mediation. Notice of mediation will be sent to the complainant and respondent not less than ten (10) business days in advance. Participation is voluntary; however, the case shall be dismissed should the complainant not attend or not show just cause for not participating.
- (9) The mediator shall be selected by the Hearing Officer from a list of state registered mediators approved by the City Manager and City Attorney. Such mediation services shall be paid by the City, up to a maximum of six (6) hours. The complainant and respondent may agree to obtain additional time with the mediator at their own cost, to be split equally, or as they otherwise agree.
- (10) The mediation shall be completed within thirty (30) days, and the Hearing Officer shall be notified by the mediator whether or not the mediation was successful within ten (10) business days of completion.
- (11) Within ten (10) business days after the mediator has notified the Hearing Officer that mediation was not successful or if the respondent elects not to participate in mediation, the complaint shall be referred to the Hearing Officer.
- (12) In all hearing officer proceedings, the initial burden of proof shall be placed upon the complaining party. Further, the quantum of proof required to establish a violation under this ordinance shall be based upon a preponderance of the evidence.

- (13) The Hearing Officer shall be able to advise parties on acceptable evidence and rules for submitting such evidence.
- (14) Either party may call a witness by submitting a request in writing to the Hearing Officer, ten (10) business days in advance of the hearing. The request must explain the importance of the witness. Either party may choose to be represented by legal counsel or to not testify.
- (15) Within ten (10) business days of conclusion of the hearing, the Hearing Officer shall either:
 - A) Dismiss the complaint on the grounds that it is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke the disciplinary jurisdiction of the City of Tucker, or
 - B) Find that a violation of this ordinance has occurred, and thus the Hearing Officer may apply a civil penalty. A person or business found to have violated any provisions of this article shall be subject to a civil penalty up to \$500 for the first violation and up to \$1,000 for each subsequent violation.
 - C) In addition to or in lieu of a civil penalty, the Hearing Officer may impose or request a corrective action plan for future compliance.
- (16) The Hearing Officer must submit all documentation of his/her decisions to the City Attorney and City Manager within ten (10) business days of the conclusion and determination of the claim.
- (17) Any party adversely affected by the final decision regarding the complaint may appeal within thirty (30) days to the Superior Court of DeKalb County pursuant to a writ of certiorari.

Sec. 30-306 - Other Remedies. This ordinance shall not be construed to limit any other remedies available under local, state or federal law.

PART II

The City of Tucker shall not discriminate in matters of employment on the basis of actual or perceived sex, sexual orientation, gender identity, race, color, age disability, national origin, religion, marital status, familial status, veteran or military status.

PART III

Part I of this ordinance shall take effect **XX** days after passage. Part II of this ordinance shall take effect immediately upon its adoption.

PART IV

The City Manager and City Attorney are authorized to develop administrative procedures as are necessary to give effect to this ordinance.

PART V

The Economic Development Department in conjunction with the Communications Department shall create and implement a plan to inform businesses and residents in the City of Tucker of this ordinance. Plan to include educational opportunities at least once per year.

PART VI

The City's Finance Director will ensure that a copy of this ordinance be distributed to every holder of an Occupational Tax Certificate within the City of Tucker at least once per year.

PART VII

It is hereby declared to be the intention of the Mayor and City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.