

MINUTES

Regular Meeting
City Hall Council Chamber

November 16, 2015
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David W. White, Jeanette D. Patterson, Dennis C. Bailey, Ben Kittrell, Dicky Amaya; City Manager Rick Howell, City Clerk Bernadette A. Parduski, NCCMC, MMC, City Attorney Robert W. (Bob) Yelton, Director of Finance Justin S. Merritt, MPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Energy Services Julie R. McMurry, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Public Works Daniel C. (Danny) Darst, Jr., Director of Planning and Development Services Walter (Walt) Scharer, AICP; Reporter Casey White of The Shelby Star, and Director of Cable Programming Greg Tillman of Cleveland Community College

Mayor Anthony called the meeting to order at 6:00 p.m. and welcomed all who were in attendance. The Mayor gave the invocation and Mr. Amaya led the *Pledge of Allegiance*.

A. Approval of agenda:

1) Motion to adopt the proposed agenda

Mr. Bailey requested Item D-7 (a) under the Consent Agenda be removed and placed under New Business as Item F-1 for discussion purposes, as follows:

- Consideration of a resolution ratifying the purchase of real property located on Randolph Road: Resolution No. 74-2015

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve the agenda as amended.

B. Public Comment: None

C. Public Hearings:

- 1) Consideration of an ordinance to extend the corporate limits of the City of Shelby, North Carolina (.644 acres of land near College Avenue abutting Shelby-Cleveland County Regional Airport): Ordinance No. 56-2015

Utilizing a location map of the area, Mr. Scharer pointed to the subject property of .644 acres of land located on College Avenue abutting the Shelby-Cleveland County Regional Airport (SCCRA). It is owned by the City of Shelby and is contiguous to the City's corporate limits. He stated this parcel is one of several acquisitions by the City over the past several years, which is funded by the North Carolina Department of Transportation Division of Aviation for the SCCRA Land Acquisition and Easement Project, as part of the effort to maintain the integrity of the airport and its approaches.

Mayor Anthony opened the public hearing at 6:05 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:06 p.m.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 56-2015 entitled, "AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF SHELBY, NORTH CAROLINA (*.644 acres of land near College Avenue abutting Shelby-Cleveland County Regional Airport*)".

- 2) Consideration of an ordinance to extend the corporate limits of the City of Shelby, North Carolina (*4.657 acres of land near Poplar Springs Church Road abutting Shelby-Cleveland County Regional Airport*): Ordinance No. 57-2015

Utilizing a location map of the area, Mr. Scharer pointed to the subject property of 4.657 acres of land located on Poplar Springs Church Road, which is adjacent to the runway at the Shelby-Cleveland County Regional Airport (SCCRA) to the northwest. The property is owned by the City of Shelby and is contiguous to the City's satellite boundary at the SCCRA. As with the previous annexation on College Avenue, this parcel is also one of several acquisitions by the City over the past several years, which is funded by the North Carolina Department of Transportation Division of Aviation for the SCCRA Land Acquisition and Easement Project.

Mayor Anthony opened the public hearing at 6:07 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:08 p.m.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 57-2015 entitled, "AN

ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF SHELBY, NORTH CAROLINA (4.657 acres of land near Poplar Springs Church Road abutting Shelby-Cleveland County Regional Airport)".

- 3) Consideration of an ordinance to extend the corporate limits of the City of Shelby, North Carolina (1.257 acres of land at the intersection of East Marion Street and Kemper Road): Ordinance No. 58-2015

Mr. Scharer stated the City of Shelby acquired 1.257 acres of land from Cleveland County, which is located on East Marion Street and Kemper Road. This property is contiguous with the eastern boundaries of the City of Shelby on Post Road. He added the property is the site of the future East Side Elevated Water Tank.

Mayor Anthony opened the public hearing at 6:09 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:10 p.m.

ACTION TAKEN: Upon a motion made by Mr. Bailey, City Council voted unanimously to approve and adopt Ordinance No. 58-2015 entitled, "AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF SHELBY, NORTH CAROLINA (4.657 acres of land near Poplar Springs Church Road abutting Shelby-Cleveland County Regional Airport)".

- 4) Consideration of a resolution and order permanently closing an unopened right-of-way at the southeast end of Greene Drive: Resolution No. 69-2015

Utilizing a location map of the area, Mr. Scharer pointed to an unopened right-of-way at the east end of Greene Drive. The property owners, Shelby Land Partners, LLC, requested and petitioned for the abandonment of a portion of the Greene Drive right-of-way as shown on their plat. He added the City's resolution of intent was published, which scheduled this public hearing. Mr. Scharer stated the applicant's intent is to develop the adjacent property.

Mayor Anthony opened the public hearing at 6:11 p.m. and invited comments from the public:

Jerry Allen who resides at 1021 County Home Road in Shelby, North Carolina spoke on behalf of his father, David Wayne Allen. Mr. Allen, Sr. stated he was opposed to the request to close the unopened right-of-way at the end of Greene Drive. He owns approximately three acres of land adjoining Greene

Drive and expressed his concerns about the potential impact of the proposed development on his property.

Mayor Anthony closed the public hearing at 6:16 p.m.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 69-2015 entitled, “A RESOLUTION AND ORDER PERMANENTLY CLOSING AN UNOPENED RIGHT OF WAY AT THE SOUTHEAST END OF GREENE DRIVE”.

5) Consideration of an ordinance to update the City of Shelby Unified Development Ordinance (UDO) Article 4.7: Ordinance No. 59-2015

Mr. Scharer introduced Ordinance No. 59-2015 for Council’s consideration. In previous discussions, Council had expressed concerns and an interest in making amendments to the Conditional Use and Special Use Permit application process.

Mr. Scharer stated currently Council approves a requested permit unless it concludes, based upon the information submitted at the public hearing, that a development, completed as proposed in the application, will not comply with one or more requirements of the UDO. Also, currently, there is a 25 day deadline for Conditional Use Permits and Special Use Permits. Council expressed a desire to increase this time period in an effort to provide adequate time for citizens to prepare for the resulting public hearing. Additionally, Council expressed an interest in adding standards in which applicants have a burden of persuasion before Council.

Mr. Scharer explained the proposed amendment establishes a 45 day application deadline. This deadline will enable staff to issue a 30 day minimum notification to neighboring property owners. This 30 day notice will be an additional notice to the State of North Carolina’s required 25 to 10 day notice as established by the General Statutes. In addition, the proposed amendment eliminates the Notice of Public Hearing that is published in the local newspaper. However, a sign may still be posted on any subject property.

Mr. Scharer said, most importantly, this proposed amendment adds to and broadens the standards for which an applicant has the burden to persuade Council that a proposal will meet. The additional standards include:

- Will not materially endanger the public health or safety; and

- Will not substantially injure the value of adjoining or abutting property; and
- Will be in harmony with the area in which it is to be located; and
- Will be in general conformity with the Comprehensive Land Use Plan or other plans officially adopted by the City Council.

Upon questioning, Mr. Scharer clarified the publication of a Notice of Public Hearing in the local newspaper still applies to the rezoning component.

Mayor Anthony opened the public hearing at 6:19 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:20 p.m.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 59-2015 entitled, “AN ORDINANCE TO UPDATE THE CITY OF SHELBY UNIFIED DEVELOPMENT ORDINANCE (UDO) ARTICLE 4.7”.

D. Consent Agenda:

ACTION TAKEN: Mayor Anthony presented the consent agenda. Mr. White made a motion to approve the consent agenda and each item as presented. The consent agenda and following items were unanimously approved:

- 1) Approval of the Minutes of the Regular Meeting of November 2, 2015
- 2) Approval of Special Event Permit Application:
 - a. 6th Annual Broad River European Classic Car Show, requested date: April 30, 2016
- 3) Approval of a resolution honoring Jeanette Duncan Patterson for her service to City of Shelby: Resolution No. 70-2015
- 4) Approval of a resolution designating HomeTrust Bank an official depository: Resolution No. 71-2015
- 5) Approval of a resolution stating the intent of the City of Shelby to annex non-contiguous property owned by the City of Shelby: Resolution No. 72-2015

- 6) Approval of a resolution declaring the intent of the City Council of the City of Shelby to consider the permanent closure of Frontage Road at 1005 East Dixon Boulevard: Resolution No. 73-2015
- 7) Purchase of real property located on Randolph Road:
 - a. REMOVED AND PLACED UNDER NEW BUSINESS AS ITEM F-1:

Approval of a resolution ratifying the purchase of real property located on Randolph Road: Resolution No. 74-2015
 - b. Adoption of Fiscal Year (FY) 2015-2016 Budget Ordinance Amendment No. 8: Ordinance No. 60-2015
- 8) Purchase of real property located on West Warren Street:
 - a. Approval of a resolution ratifying the purchase of real property located on West Warren Street: Resolution No. 75-2015
 - b. Adoption of Fiscal Year (FY) 2015-2016 Budget Ordinance Amendment No. 9: Ordinance No. 61-2015
- 9) Approval of a resolution authorizing selection of Dodd Studio, LLC based on qualifications for the engineering and design of streetscape and pedestrian improvements: Resolution No. 76-2015
- 10) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Huesker Sewer Extension Project: Ordinance No. 62-2015

END CONSENT AGENDA

E. Unfinished Business:

- 1) Consideration of a resolution approving a lease agreement between the City of Shelby and Destination Cleveland County, Inc. for property located on South Washington Street: Resolution No. 77-2015

Mr. Howell introduced Resolution No. 77-2015 and the proposed lease agreement with Destination Cleveland County, due for renewal, for Council's consideration. He stated a recently adopted statute which became effective in September 2015 requires that local governments give a 30-day notice to the public when leasing public property. The public has been properly

notified. Mr. Howell further stated the proposed lease agreement for the Don Gibson Theatre property provides for a five-year term with an option to extend for an additional five years, noting the lease has not considerably changed from its original version.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 77-2015 entitled, “A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF SHELBY AND DESTINATION CLEVELAND COUNTY, INC. FOR PROPERTY LOCATED ON SOUTH WASHINGTON STREET”.

F. New Business:

- 1) Consideration of a resolution ratifying the purchase of real property located on Randolph Road: Resolution No. 74-2015

Mr. Howell introduced Resolution No. 74-2015 for Council’s consideration. If approved, this resolution would authorize the purchase of a 64-acre property located on Randolph Road in partnership with Cleveland County for future economic development purposes with the intent of building a new business park. As discussed with Council, negotiations were conducted over a period of time and a reasonable price was agreed upon with the Bowen Sisters, LLC for the purchase of the parcel. Mr. Howell was seeking ratification and appropriation of funding to complete the sale as proposed.

In the spirit of full disclosure, Mr. Bailey stated he and immediate members of his family own the property at 408 Washburn Switch Road which is adjacent to the property being purchased by the City. His mother lives in the home. Mr. Bailey further stated the City’s purchase may impact the values of all of the adjacent residential properties along Washburn Switch Road, either positively or negatively, because the intended use will require a zoning change. He inquired if he should be allowed to recuse himself.

Mr. Yelton advised the purchase of the property at this point in time does not have a positive or negative effect on Mr. Bailey. He stated Mr. Bailey has an obligation to vote since the current matter presents no conflict of interest and does not have a direct financial impact on him.

Council discussed the recusal and by consensus, agreed to allow Mr. Bailey to vote as a Council member.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Resolution No. 74-2015 entitled, “A

RESOLUTION RATIFYING THE PURCHASE OF REAL PROPERTY LOCATED ON RANDOLPH ROAD”.

G. City Manager’s Report:

- 1) Mr. Howell mentioned scheduling the City Council Annual Planning Retreat, requesting potential dates in January or February 2016, as well as providing a retreat update. He also mentioned scheduling the joint meeting with the Cleveland County Board of Commissioners; however, no dates have been set.**
- 2) Mr. Howell mentioned Deb Jolly and Beth Beam are working on the City Volunteer Appreciation Event to be scheduled in January 2016.**
- 3) Mr. Howell informed Council the engineers and designers of the Eastern Gateway Project will present a conceptual design on December 9, 2015 to the Keep Shelby Beautiful (KSB) Commission in order to obtain feedback for Council’s consideration.**
- 4) Mr. Howell stated there are ongoing discussions and negotiations with Tristan Lynn of Norfolk Southern Corporation regarding the future use of the rail corridor proposed for abandonment as a public rail-trail utilizing the rail banking process. Norfolk Southern is in the process of conducting its appraisal of the corridor. The City and Norfolk Southern have agreed to a six-month extension to be obtained from the Surface Transportation Board. A final resolution on the Rail-Trail Project is anticipated during the first half of 2016.**
- 5) Recognizing the generosity of the City’s employees, Mr. Howell proudly announced Shelby’s United Way Campaign just closed and the total contribution was \$76,592.96, which represents a 29 percent increase over last year’s campaign.**

H. Council Announcements and Remarks:

- 1) Mayor Anthony invited all to attend Uptown Shelby Association’s Christmas Tree Lighting and first night of the carriage rides in Uptown Shelby on November 27, 2015.**
- 2) Referring to the terrorist attacks in Paris, France on November 13, 2015, Mr. Amaya expressed his condolences for the loss of life in the city he has visited.**

I. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to adjourn the meeting at 6:43 p.m.

Respectfully submitted,

**Bernadette A. Parduski, NCCMC, MMC
City Clerk**

**O. Stanhope Anthony III
Mayor**

Minutes of November 16, 2015