

MINUTES

Regular Meeting
City Hall Council Chamber

May 15, 2017
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David W. White, David Causby, 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, Civil Engineer/Stormwater Coordinator Layne Owen, PE, Fire Chief William P. Hunt, MPA, EFO, Director of Public Works Daniel C. (Danny) Darst, Jr., Director of Parks and Recreation Charlie Holtzclaw, and Director of Planning and Development Services Walter (Walt) Scharer, AICP; Reporter Casey White of The Shelby Star, and Tim Foster, Broadcast Production Technician 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. Hendrick led the *Pledge of Allegiance*.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

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

B. Special Presentation:

- 1) Introduction and recognition of Miss Shelby, Andrea Marie Jhant, and Miss Shelby's Outstanding Teen, Ashlyn Kate Stoker – Danyel Phelps, Executive Director, Miss Shelby/Miss Shelby Outstanding Teen

Ms. Phelps stated the Miss America-affiliated Miss Shelby pageant returned in February 2014 with 2017 being the fourth pageant under her direction. She added the Miss America Organization is a not-for-profit organization that has maintained a tradition for many decades of empowering American women to achieve their personal and professional goals while providing a forum in which to express their opinions, talents, and intelligence. As an official state preliminary associated with the Miss America Organization, the Miss North Carolina Scholarship Pageant is a part of the largest scholarship-

providing organization to women in the world and largest corporate funder of the Children's Miracle Network Hospitals. Ms. Phelps acknowledged the work of her committee and those present. She then announced the Miss Shelby Organization is coordinating appearances of Miss America Savvy Shields at the American Legion World Series games in August 2017.

Next, Ms. Phelps introduced Ashlyn Kate Stoker as Miss Shelby's Outstanding Teen of 2017. Miss Stoker explained she will advance to the Miss North Carolina's Outstanding Teen pageant in June 2017. The Miss North Carolina's Outstanding Teen wins scholarships and cash prizes. Miss North Carolina's Outstanding Teen then advances to the Miss America's Outstanding Teen competition in Florida in July 2017 and wins scholarship opportunities from across the United States. Miss Stoker shared the specifics of her platform, "Bags of Wonder", along with endorsing Miss America's charity partnership with Children's Miracle Network Hospitals.

Ms. Phelps said the Miss Shelby Organization also has a princess program and currently has 15 princesses who are mentored by the queens. Carolina princesses are encouraged to join their mentor in as many appearances, volunteer opportunities, and other events as possible. Carolina princesses are present the week of the Miss North Carolina and Miss North Carolina Outstanding Teen pageants, participating in the production as well as attending promotional events with their mentor. The main goal of the Carolina Princess Program is to enable Carolina princesses to have better insight to the Miss North Carolina and Miss North Carolina Outstanding Teen pageants and to learn what the Miss America program is all about. Ms. Phelps introduced Carolina princesses, Jensyn Gunnon, Kaylann Pond, and AnnaLee Sibley, in attendance.

Miss Shelby's Outstanding Teen Ashlyn Kate Stoker introduced Miss Shelby 2017, Andrea Marie Jhant.

Miss Jhant explained she will advance to compete for the Miss North Carolina title in June 2017. The winner of Miss North Carolina advances to the Miss America pageant in September 2017. Miss Jhant shared the specifics of her platform, "Beautifully Restored", a voice of advocacy for children in crisis.

Ms. Phelps announced the public can vote for the Miss North Carolina People's Choice contender while Miss Jhant made an impromptu appeal for her votes by informing all to visit and vote at abc11.com/missnc on or before June 23, 2017.

On behalf of the City of Shelby and City Council, Mayor Anthony extended congratulations and good luck to Miss Jhant and Miss Stoker as they continue with their competitive endeavors at the State level.

The presentation concluded with the queens and princesses posing for photographs with Mayor Anthony and Council members.

C. Public Comment:

- 1) Jamie Coulter who resides at 401 Edgewood Drive in Shelby, North Carolina is the owner of Dragonfly Wine Market located 101 West Warren Street in Uptown Shelby. Mr. Coulter requested Council consider amending a City ordinance to allow him to serve malt beverages at his wine shop. He stated he has been in business for almost five years and would like to add this feature at his business with an on-premises malt beverage permit.
- 2) Sam Walker who resides at 1323 Clairmont Drive in Shelby, North Carolina stated he is the Program Director of the Cleveland County Seminoles. Mr. Walker wanted to introduce the organization to the community as a faith-based youth regular season football program with an emphasis on mentoring young men and women. Mr. Walker introduced Coach Rodney Smith, Coach Jawon Brooks, Coach Jarrett Linder, and Booster Club President Annie Brown in attendance.

D. Public Hearing:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 36-2017

Mr. Hendrick requested to be excused from voting on this rezoning matter due to direct financial impact. Mr. Yelton advised the matter involves a legislative land use matter and the standard is a board member shall not vote where the outcome of the matter is reasonably likely to have a direct, substantial, and readily identifiable financial impact.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to excuse Mr. Hendrick from voting on Ordinance No. 36-2017.

Mr. Scharer introduced a proposed map amendment to the Unified Development Ordinance (UDO) for 2319 Kings Road Extension. Utilizing both location and zoning maps of the area, Mr. Scharer pointed to the subject property, which is currently vacant, in close proximity to the LeGrand Center and Cleveland Community College. He stated the site is currently zoned Residential-Office Conditional Use (RO-CU) District. The conditional use associated with this Conditional Use District is multi-family residential. The applicant, Byron Hendrick, has requested a zoning amendment to General Business 2 (GB2) District. Mr. Scharer further stated the zoning amendment

is consistent with the Shelby Comprehensive Land Use Plan as the proposed zoning classification of GB2 is compatible with the Medium Density Residential and Corridor Revitalization classifications. He concluded by stating the Planning and Zoning Board recommended approval of the proposed zoning map amendment for the property.

Mayor Anthony opened the public hearing at 6:23 p.m. and invited comments from the public:

Bill McCarter who resides at 107 Plantation Court in Shelby, North Carolina spoke in support of the application, stating the request is to expand an existing zoning district. Mr. McCarter stated he is a commercial real estate agent representing the owner/applicant who builds commercial real estate.

Mayor Anthony closed the public hearing at 6:24 p.m.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 36-2017 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

E. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of May 1, 2017
- 2) Approval of the Minutes and General Account of the Closed Session of January 9, 2017
- 3) Approval of a Special Event Permit Application:
 - a. Official Liver Mush Festival of North Carolina locally known as Mush, Music & Mutts Festival, requested dates: October 20-21, 2017
- 4) Acceptance of the Certificate of Sufficiency regarding Petition for Annexation of applicant, Glenn Taylor, for Clearwater Paper Corporation
- 5) Acceptance of the Certificate of Sufficiency regarding Petition for Annexation of applicant, James D. Hamilton, for Mafic USA LLC

- 6) Adoption of an ordinance authorizing demolition of a dwelling at 414 Clegg Street: Ordinance No. 37-2017
- 7) Adoption of an ordinance authorizing demolition of a dwelling at 2102 Randolph Road: Ordinance No. 38-2017
- 8) Adoption of an ordinance establishing City of Shelby petty cash funds: Ordinance No. 39-2017
- 9) Approval of a resolution awarding the contract for the City of Shelby Fiscal Year (FY) 2016-2017 Street Resurfacing Program: Resolution No. 37-2017

END CONSENT AGENDA

F. Unfinished Business:

- 1) **City of Shelby Hanna Property Multi-purpose Recreation Complex Project**

Mr. Howell introduced Ordinance No. 40-2017 for Council's consideration. If approved, this ordinance would recognize and appropriate \$7.7 million in proceeds from financing secured through a loan from B B & T to construct the Hanna Park project.

Next, Mr. Howell introduced Resolution No. 38-2017 for Council's consideration. If approved, this resolution would formally award the construction contract to Morrison Construction Company, Inc. of Shelby, North Carolina and authorize City staff to execute the applicable documents associated with the Hanna Park project. Mr. Howell added the City's consultant firm, Woolpert, Inc., recommended the City proceed with entering into a contract with Morrison as the low bidder, and the only bid within budget.

Mr. Bailey requested these actions be delayed in order for the City of Shelby to pursue alternative assistance in paying for the Hanna Property Multi-purpose Recreation Complex Project obligation totaling \$9.4 million over 15 years.

For clarification purposes, Mayor Anthony stated costs are going up. The City does run some risk of giving the contractor the ability to increase costs beyond the bid date. Mr. Howell further stated the contractor would not be bound to honor this bid once it expires on May 27, 2017.

Mr. Bailey countered by stating if the City is able to secure some additional funding, it could be significantly better than any potential increase because

of materials. Delaying a couple of weeks to find out if something may be a big benefit to the City would be a very wise endeavor. Mr. Bailey said Council acts as stewards of the taxpayers' dollars.

ACTION TAKEN: Upon a motion made by Mr. Bailey to table the matter until June 5, 2017, City Council voted 4 (Hendrick, White, Causby, and Amaya) to 2 (Bailey and Kittrell) to deny the delay.

Mr. Bailey registered his protest that Council is hindering the negotiating process if the project is approved now because the City will have already committed to it. Therefore, negotiating to get another party to assist the City will be difficult if approved as proposed.

- a. Consideration of a budget ordinance amendment for the City of Shelby's Hanna Property Multi-purpose Recreation Complex Project: Ordinance No. 40-2017

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted 4 (Hendrick, White, Causby, and Amaya) to 2 (Bailey and Kittrell) to approve and adopt Ordinance No. 40-2017 entitled, "A BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY'S HANNA PROPERTY MULTI-PURPOSE RECREATION COMPLEX PROJECT".

- b. Consideration of a resolution awarding the construction contract for the City of Shelby Hanna Property Multi-purpose Recreation Project: Resolution No. 38-2017

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted 4 (Hendrick, White, Causby, and Amaya) to 2 (Bailey and Kittrell) to approve and adopt Resolution No. 38-2017 entitled, "A RESOLUTION AWARDDING THE CONSTRUCTION CONTRACT FOR THE CITY OF SHELBY HANNA PROPERTY MULTI-PURPOSE RECREATION PROJECT".

- 2) Consideration of a resolution awarding the bid for the City of Shelby's Uptown Electric Utility Upgrade Project: Resolution No. 39-2017

Mr. Howell introduced Resolution No. 39-2017 for Council's consideration. If approved, this resolution would award the contract for construction of a project to place much of the overhead power lines in the Uptown Shelby area underground to Carl Grigg Electric & Supply Company of Shelby, North Carolina, submitting the lowest cost proposal in the amount of \$472,075.00. Mr. Howell noted the project is funded by Electric Fund reserves and a map of the electric upgrades project area was also provided.

ACTION TAKEN: Upon a motion made by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 39-2017 entitled, “A RESOLUTION AWARDDING THE BID FOR THE CITY OF SHELBY’S UPTOWN ELECTRIC UTILITY UPGRADE PROJECT”.

- 3) Consideration a resolution awarding the construction contract for the City of Shelby Police Department Communications Center Addition Project:
Resolution No. 40-2017

Mr. Howell introduced Resolution No. 40-2017 for Council’s consideration. If approved, this resolution would award the contract for construction of a communications center project to add approximately 3,000 square feet to the Shelby Police Department building at 130 West Warren Street. He stated Talley & Smith Architecture conducted the bidding process and recommended awarding the contract to Morrison Construction Company Inc. of Shelby, North Carolina, the responsive low bidder within the project budget of \$1,340,000.00. The addition is funded with a North Carolina 911 Board grant, a Cleveland County contribution, and the City’s General Fund reserves.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 40-2017 entitled, “A RESOLUTION AWARDDING THE CONSTRUCTION CONTRACT FOR THE CITY OF SHELBY POLICE DEPARTMENT COMMUNICATIONS CENTER ADDITION PROJECT”.

F. New Business: None

G. City Manager’s Report:

- 1) Mr. Howell informed Council about municipal utility relocation costs related to State transportation projects, specifically the US 74 Bypass Section C that begins east of NC 226 and continues west of NC 150 heading northeast of Shelby. Since this particular section was funded prior to General Assembly House Bill 771, which provided relief for small municipalities from the costs of municipal utility relocation related to Department of Transportation (DOT) projects, the City will be responsible for 100 percent of the Natural Gas System relocation costs under the old formula. The project engineer notified City staff the initial estimate for those City relocation costs is \$1.187 million. Mr. Howell will provide an update when the construction contract for this section is awarded by DOT.
- 2) Acknowledging the efforts of Public Works Director Danny Darst and Assistant Public Works Director Scott Black, Mr. Howell announced the

City has secured a \$14,000 grant from the North Carolina Department of Environmental Quality, Division of Environmental Assistance and Customer Service which administers the Community Waste Reduction and Recycling Grant Program through the Solid Waste Management Outreach Program. The City will expand its recycling efforts in the Uptown business district with the City of Shelby Uptown Pedestrian Recycling Program. The Public Works Department proposes to purchase and install lids with dividers, plastic liners, and new receptacles and initiate recycling services. The Uptown recycling receptacles will provide the public with more opportunities to recycle as well as create greater visibility for the City's recycling efforts. Mr. Howell said Council can anticipate consideration and approval of a contract and budget amendment regarding this project in the near future.

3) Mr. Howell discussed updates on pending legislation in the General Assembly with issues of importance to municipalities:

- House Bill 310 – Wireless communications infrastructure siting

Eliminates most municipal zoning authority related to small cell wireless installations. Forces cities to undertake an expedited wireless application review process. Limits the amounts a city may charge applicants for application reviews and use of the right of way. Reduces a city's control of access to the public's right of way, among numerous other restrictions. The latest draft included authority for cities to apply zoning standards to this technology, including for reasons like public safety, aesthetics, and spacing between facilities. The draft also spelled out the permitting process and associated fees for allowing small cell facilities in the public right of way. These facilities typically consist of an antenna, utility pole, and ground-mounted equipment box.

Mr. Bailey offered to contact the bill's sponsor, Jason Saine, to further express Shelby's concerns.

- House Bill 718 – Study Rates and Transfers/Public Enterprises

Prohibits publicly-owned water and sewer systems from charging differential rates to customers inside and outside municipal boundaries unless approved by the Local Government Commission. Restricts transfers of funds from a public enterprise fund to a local government's general fund, with certain allowances. Authorizes an interim legislative study that includes consultation with the North Carolina League of Municipalities and examines rate-setting practices for public enterprises; accounting controls for interfund transfers between a public enterprise

and the local government's general fund; possible legislation to ensure proper funding of water system infrastructure, including consideration of the benefits of regionalization; and possible legislation to ensure proper maintenance and repair of water and sewer systems, and how that responsibility impacts the financial health of the public enterprise.

HB 718 now calls for a study of how public enterprises provide those services and that study would be in consultation with parties including the North Carolina League of Municipalities.

- 4) Mr. Howell shared a snapshot of Shelby's history from a pamphlet printed in 1909 provided courtesy of Mayor Max Hopper of Earl, North Carolina.
- 5) Mr. Howell reminded Council an informational meeting is scheduled for May 24, 2017 at 7:30 a.m. at the Don Gibson Theatre to discuss the Uptown Shelby streetscape improvements and utility upgrades with interested parties prior to the start of construction.

H. Council Announcements and Remarks:

- 1) Mayor Anthony reminded Council members to attend the baseball game between Wake Forest University and Appalachian State University on May 16, 2017 at 6:00 p.m., Keeter Stadium, Shelby High School.

The Mayor also reminded Council members to attend the plant tour and luncheon on May 16, 2017 at 11:00 a.m. at Clearwater Paper Corporation.

- 2) With regard to Mr. Coulter's request, Council, by consensus, directed staff to prepare a text amendment to the City's Unified Development Ordinance (UDO) for development standards required for bars, night clubs, and taverns in the Uptown District.

I. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to adjourn the meeting at 7:02 p.m.

Respectfully submitted,

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

**O. Stanhope Anthony III
Mayor**

Minutes of May 15, 2017