

MINUTES

Regular Meeting
City Hall Council Chamber

August 18, 2014
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric 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 Andrea Leslie-Fite, Director of Finance Justin S. Merritt, MPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Utilities Brad R. Cornwell, PLS, EI, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Public Works Daniel C. (Danny) Darst, Jr., Director of Parks and Recreation Charlie Holtzclaw, Director of Planning and Development Services Walter (Walt) Scharer, AICP; and media representatives, Greg Tillman and Reporter Jessica N. Pickens of The Shelby Star

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 Mrs. Patterson led the *Pledge of Allegiance*.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

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

B. Special Presentations:

- 1) Mayor's presentation of *The Order of the Long Leaf Pine* awarded to Victor Maurice Haynes

Mayor Anthony called upon Sergeant Haynes, who was bestowed *The Order of the Long Leaf Pine*, which is among the most prestigious awards presented by North Carolina governors. On behalf of Governor McCrory, Mayor Anthony formally read and presented the honor to Sergeant Haynes for his faithful service to the state and his community as a retired law enforcement officer from the Shelby Police Department.

Sergeant Haynes expressed his appreciation to all, especially his family and friends in attendance.

2) Recognition of Shawn Ledbetter on the occasion of his retirement from employment with the City of Shelby: Resolution No. 43-2014

Mayor Anthony called upon Mr. Ledbetter who recognized his wife, youngest daughter, and Fire & Rescue Department family in attendance. The Mayor formally read and presented framed Resolution No. 43-2014 to Mr. Ledbetter. He then presented the key to the City, a City lapel pin, and plaque to Mr. Ledbetter in honor of and with heartfelt appreciation for 25 years of dedicated service to the City of Shelby in both the Public Works and Fire & Rescue Departments.

Humbled by the recognition, Mr. Ledbetter expressed his appreciation to all.

3) Recognition of Lisa Coleman Green on the occasion of her retirement from employment with the City of Shelby: Resolution No. 44-2014

Mayor Anthony called upon Captain Green. The Mayor formally read and presented framed Resolution No. 44-2014 to Captain Green. He then presented the key to the City, a City lapel pin, and plaque to Captain Green in honor of and with heartfelt appreciation for 30 years of dedicated service to the City of Shelby in both the Fire & Rescue and Police Departments.

Captain Green was also bestowed the *Cardinal Award*, which is among the most prestigious awards presented by North Carolina governors. On behalf of Governor McCrory, Mayor Anthony formally read and presented the honor to Captain Green in recognition of her dedication and outstanding service as an exemplary employee of the State of North Carolina.

Humbled by the recognition, Captain Green expressed her appreciation to the Mayor, City Council, and the citizens as she seeks to serve the community in a new role.

4) Recognition of the 2014 Shelby Girls 8 and Under All Stars as the Tar Heel Leagues, Inc. State Softball Champions

On behalf of the teams' players, coaches, families, and all those who represented the City of Shelby in a very positive way during the largest youth sports tournament ever played at City Park, Mr. Holtzclaw expressed his congratulations and gratitude, especially to City Council. This tournament would not have been possible without the resources, facilities, and amenities located at the Recreation and Sports Complex.

Next Mr. Holtzclaw recognized Parks and Recreation staff and in particular David Fisher, Recreation Programs Manager, and Doug Hull, Athletic Program Supervisor, as the dedicated professionals who manage the City's successful baseball and softball programs. They also did a great job hosting the Tar Heel League's 40-team Girls Fast Pitch Softball State Tournament held on July 17 through 20, 2014.

Mr. Holtzclaw stated since joining the Tar Heel Leagues in the early 1990s, the Shelby contingents have captured 18 combined boys baseball State Championships and have finished runner-up several times. For the second straight year, two of the host Shelby City Park League All-Star girls softball squads have captured State Championships while the Boys Junior Tar Heel team won the Tar Heel Leagues Boys State Championship held in Hickory, North Carolina on July 17 through 20, 2014.

Mr. Holtzclaw recommended all of these teams and appropriate staff be recognized for their outstanding seasons and the positive attention they gained for the City.

The Mayor, assisted by Mr. Fisher and Mr. Hull, presented framed certificates to the 2014 Girls 8 and Under Fast Pitch Softball State Champions as follows:

Team members: Molly Beam, Addie Beaver, Libby Canipe, Peyton Cook, Maggie Earl, Jaylen Ledbetter, Jourdan Martin, Elizabeth McIntyre, Preslee McMurry, Riley Parker, and Sara Warlick; and Coaches: Kyle Warrlick, Tracy Beaver, Eric Head, and Ronald Beaver

Absent: Team member Destiny Lambert

5) Recognition of the 2014 Shelby Girls 14 and Under All Stars as the Tar Heel Leagues, Inc. State Softball Champions

The Mayor, assisted by Mr. Fisher and Mr. Hull, presented framed certificates to the 2014 Girls 14 and Under Fast Pitch Softball State Champions as follows:

Team members: Gracie Brown, Taylor Canipe, Danielle Carter, Kaci Carter, McKayla Eaker, Mandy Hamrick, Taylor Newton, Carmen Pearson, Ashley Thomas, and Sierra Warren; and Coaches: Richie Canipe, Bo Hamrick, Banzen Warren, and Dean Brown

Absent: Team members Destiny Hamrick and Jennifer Hamrick

6) REMOVED; TO BE RESCHEDULED

Recognition of the 2014 Boys Junior Shelby All Stars as the Tar Heel Leagues, Inc. State Baseball Champions

7) REMOVED; TO BE RESCHEDULED

Cleveland County Economic Development Partnership update: Kristin H. Fletcher, Executive Vice President

C. Public Comment: None

D. Public Hearings:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina and granting a Conditional Use Permit for 514 West Dixon Boulevard: Ordinance No. 36-2014**

Prior to the public hearing, Mayor Anthony provided instructions as to the quasi-judicial process. To find facts, Council conducts a formal evidentiary hearing. Due process mandates that all parties must present factual evidence under sworn testimony. Each finding must be supported by competent, material, and substantial evidence, not unsupported allegations or lay opinions. Council must make findings of fact and then apply the existing laws and policies to those facts to arrive at a decision.

After taking his oath, Mr. Scharer presented the staff report for the proposed zoning map amendment of 514 East Dixon Boulevard. This parcel is located at the site of Huxley Village, a retail and service center. Utilizing a location map of the surrounding area, Mr. Scharer stated the subject property is currently zoned Neighborhood Business District and land uses include residential and residential-office. The applicant is requesting a General Business Conditional Use zoning district which includes all the permitted uses in the Neighborhood Business zoning district with the additional use of a used merchandise store.

Mayor Anthony reminded Council in considering whether to approve an application for a Conditional Use Permit, it shall proceed according to the following format:

- The City Council shall consider whether the application is complete.**
- The City Council shall consider whether the application complies with all of the applicable requirements of the UDO. If the City Council concludes that the application fails to comply with one or more**

requirements of the UDO, the application shall be denied.

- If the City Council concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

Staff certified the following:

- The requested permit is within the jurisdiction of the City of Shelby according to the Table of Permissible Uses (Table 9-3-1).
- The application is complete.
- If completed as proposed in the application, the proposed development will comply with all the requirements of the UDO.

According to the UDO, even if City Council finds that the application complies with all other provisions of this ordinance, it may still deny the permit if it concludes, based upon the information submitted at the hearing, which if completed as proposed, the development:

- Will materially endanger the public health or safety; or
- Will substantially injure the value of adjoining or abutting property; or
- Will not be in harmony with the area in which it is to be located; or
- Will not be in general conformity with the land development plan or other plans officially adopted by the City Council.

Mayor Anthony opened the public hearing at 6:25 p.m. and sworn testimony was given as follows:

Larry Elmore of Elmore Realty in Fallston, North Carolina spoke in support of the conditional use application to allow Crossroads Rescue Mission to operate its retail thrift store. Mr. Elmore, who leases and manages the Huxley Village property, provided the definition of a thrift store and requested favorable consideration of same.

James Bell, who is the General Director of Crossroads Rescue Mission, spoke in support of the proposed zoning map amendment and conditional use permit. Mr. Bell stated Crossroads Rescue Mission is a long-term residential shelter for men. Local churches provide support; however, the

thrift store produces approximately 63 percent of the total funding for the mission's recovery program which serves men from Cleveland County and surrounding counties. Mr. Bell also requested Council's favorable consideration of the proposal.

Mayor Anthony closed the public hearing at 6:30 p.m.

Having heard all of the evidence and arguments presented at the public hearing, Council discussed the findings of fact relative to the proposal and determined the application of Lone Star Equities, Inc. is complete and subject to the conditions imposed. The following conclusions were made:

- The owner of the property, Lone Star Equities, Inc., submitted the required application for a Conditional Use Permit.
- According to Article 9-3-1, Used Merchandise Stores are permitted in the GB Zoning District.
- The subject parcel lies within the City of Shelby fronting at 514 West Dixon Boulevard in the Neighborhood Business (NB) District.
- Land use in the surrounding area is a mixture of commercial and residential uses.
- The Comprehensive Land Use Plan designates this area as a corridor revitalization area.
- The petitioner has declared that the intended use of the property is for all uses permitted in the NB Zoning District and Used Merchandise Store.
- Other than what is shown on the site plan, no other changes to the site are planned.
- The current square footage of signage is non-conforming with Section 12-1.5B and C of the City of Shelby Unified Development Ordinance
- The current on-site landscaping is non-conforming with Section 14-5.1 and 5.2 of the City of Shelby Unified Development Ordinance.
- The use will not materially endanger the public health or safety if located where proposed and developed according to the plan.

- The use will not substantially injure the value of adjoining or abutting property.
- The location and character of the use, if developed according to the plan as submitted and approved and if developed with the condition one large maturing tree shall be planted on either side of the existing parking area in accordance with Section 14-5.2 of the City of Shelby Unified Development Ordinance, 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.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 36-2014 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA AND GRANTING A CONDITIONAL USE PERMIT FOR 514 WEST DIXON BOULEVARD”.

- 2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina and granting a Conditional Use Permit for 602 Polkville Road: Ordinance No. 37-2014

Prior to the public hearing, Mayor Anthony provided instructions as to the quasi-judicial process. To find facts, Council conducts a formal evidentiary hearing. Due process mandates that all parties must present factual evidence under sworn testimony. Each finding must be supported by competent, material, and substantial evidence, not unsupported allegations or lay opinions. Council must make findings of fact and then apply the existing laws and policies to those facts to arrive at a decision.

After taking his oath, Mr. Scharer presented the staff report for the proposed zoning map amendment of 602 Polkville Road. The parcel is the site of a former trophy shop. Utilizing a zoning map of the surrounding area, Mr. Scharer stated the subject property was zoned General Business Conditional Use sometime in the late 1980s. The applicant is proposing a change in the conditional use for a machine shop.

Mayor Anthony opened the public hearing at 6:34 p.m. and sworn testimony was given as follows:

Joann Beck who resides at 2408 Bramblewood Drive in Shelby, North Carolina spoke in support of the proposed conditional use permit. As the owner of the site and the previous trophy shop, Mrs. Beck provided a history of the property from 1980 to the present. She requested Council’s favorable consideration of the applicant’s request.

Joseph Hunt who resides at 2408 Bramblewood Drive in Shelby, North Carolina spoke in support of the proposed conditional use permit and in support of his mother, Mrs. Beck. Mr. Hunt confirmed the building meets all the requirements to function as a machine shop. He also requested Council's favorable consideration of the applicant's request.

Mayor Anthony closed the public hearing at 6:38 p.m.

Mayor Anthony reminded Council in considering whether to approve an application for a Conditional Use Permit, it shall proceed according to the following format:

- The City Council shall consider whether the application is complete.
- The City Council shall consider whether the application complies with all of the applicable requirements of the UDO. If the City Council concludes that the application fails to comply with one or more requirements of the UDO, the application shall be denied.
- If the City Council concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

Staff certified the following:

- The requested permit is within the jurisdiction of the City of Shelby according to the Table of Permissible Uses (Table 9-3-1).
- The application is complete.
- If completed as proposed in the application, the proposed development will comply with all the requirements of the UDO.

According to the UDO, even if City Council finds that the application complies with all other provisions of this ordinance, it may still deny the permit if it concludes, based upon the information submitted at the hearing, which if completed as proposed, the development:

- Will materially endanger the public health or safety; or
- Will substantially injure the value of adjoining or abutting property; or

- Will not be in harmony with the area in which it is to be located; or
- Will not be in general conformity with the land development plan or other plans officially adopted by the City Council.

Having heard all of the evidence and arguments presented at the public hearing, Council discussed the findings of fact relative to the proposal and determined the application of Kenneth D. Bagley is complete and subject to the conditions imposed. The following conclusions were made:

- The lessee of the property, Kenneth D. Bagley, submitted the required application for Conditional Use Permit.
- According to Article 9-3-1, Machine Shops are permitted in the GB Zoning District.
- The subject parcel lies within the City of Shelby fronting at 602 Polkville Road is in the General Business Conditional Use (GB-CU) Zoning District.
- Land Use in the surrounding area is a primarily residential uses.
- The Comprehensive Land Use Plan designates this area as Open Space; however, staff feels that this will be changed to a more commercial area with the completion of the small area plan for the Polkville Road Interchange at the new US 74 Bypass.
- The petitioner has declared that the intended use of the property is for a Machine Shop.
- Other than what is shown on the site plan, no other changes to the site are planned.
- To the best of staff's knowledge, no non-conformities currently exist on the property and none will be created by the requested special use permit.
- The use will not materially endanger the public health or safety if located where proposed and developed according to the plan.
- The use will not substantially injure the value of adjoining or abutting property.

- The location and character of the use, if developed according to the plan as submitted and approved, 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.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 37-2014 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA AND GRANTING A CONDITIONAL USE PERMIT FOR 602 POLKVILLE ROAD”.

E. Consent Agenda:

ACTION TAKEN: Mayor Anthony presented the consent agenda. Mrs. Patterson 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 August 4, 2014
- 2) Approval of Special Event Permit Application:
 - a. Back to School Gospel Festival, requested date: September 20, 2014
- 3) Approval a resolution authorizing submission of a loan application to the North Carolina Department of Environment and Natural Resources (NCDENR) Division of Water Infrastructure for funding related to the Shelby Wastewater Treatment Plant Composting Facility: Resolution No. 45-2014
- 4) Approval of Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council

END CONSENT AGENDA

F. Unfinished Business: None

G. New Business: None

H. City Manager’s Report:

- 1) Mr. Howell provided an update regarding the Brushy Creek Sewer Outfall Project, previously approved by Council for the design and permitting phase. The total project estimate is \$6.5 million and is intended to allow

for additional industrial development in the Washburn Switch corridor. With the design and permitting complete, it is much more likely the City could secure additional leverage and favorability in grant and/or loan funding. The funding plan is in process as staff continues to seek as much outside sourced capital as possible from the North Carolina Department of Commerce and the U S Economic Development Administration for the construction phase. The amount of any future rate increase would be dependent upon the final overall cost less any grant funding.

- 2) Mr. Howell reported all infrastructure projects associated with the Foothills Commerce Center and approved by Council are complete with the exception of the curb and guttering of Partnership Drive located in front of Shell Building No. 2. The Foothills Commerce Center Mass Grading Project is in the design process and moving forward toward Council's consideration and approval.
- 3) With regard to the City's Wayfinding Signage Program, the installation of wayfinding signs will take place in the coming weeks. Staff has been working with a sign fabrication company in Charlotte, North Carolina so as to produce high quality signs in a shorter period of time. An unveiling event is being planned. Initially 50 to 60 signs will be installed and evaluated for additional signs to be added.
- 4) Mr. Howell announced and congratulated Chief William Hunt, Assistant Chief Jake Whisnant and the entire Shelby Fire & Rescue Department, which received accredited agency status with the Commission on Fire Accreditation International (CFAI) for meeting the criteria established through the CFAI's accreditation program on August 14, 2014 in Dallas, Texas.

I. Council Announcements and Remarks:

- 1) Mayor Anthony commented he was impressed and pleased with the City's appearance during the American Legion World Series, thanking staff for their concentrated efforts. The Mayor shared and echoed comments he received from visitors about the need for improved signage directing them to Uptown Shelby as well as the need for additional hotel rooms.

Mayor Anthony also suggested Council and staff consider rescheduling the second meeting in August to the fourth Monday of that month in the future to allow for attendance at the American Legion World Series championship games.

- 2) Mr. Bailey strongly agreed with the Mayor about adjusting Council's

August meeting schedule for as long as Shelby is host to the American Legion World Series.

Mr. Bailey added he was interviewed today by a reporter from the North Carolina League of Municipalities publication, Southern City. He was able and pleased to take the reporter on an impromptu tour of Shelby made possible with staff's assistance on short notice.

- 3) Mr. Amaya mentioned his concern about the status of several traffic issues. Mr. Howell responded the traffic study is in progress.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Bailey, City Council voted unanimously to adjourn the meeting at 6:51 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of August 18, 2014