

MINUTES

Regular Meeting
City Hall Council Chamber

July 16, 2018
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David W. White, David Causby, Violet Arth Dukes, Ben Kittrell, Jr., and Dicky Amaya; City Manager Rick Howell, ICMA-CM, City Clerk Bernadette A. Parduski, NCCMC, MMC, City Attorney Lacey Beam, Director of Finance Justin S. Merritt, MPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Energy Resources Julie R. McMurry, Director of Engineering Services Benjamin (Ben) Yarboro, 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 Director of Cable Programming Greg Tillman of Cleveland Community College and The Video Factory

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. White requested that Item F-1 under New Business be moved to Item A-2 after the approval of the agenda as follows:

- Consideration of a resolution naming a new park facility in honor of the Hanna family: Resolution No. 36-2018

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

2) Consideration of a resolution naming a new park facility in honor of the Hanna family: Resolution No. 36-2018

Mr. Howell introduced Resolution No. 36-2018 for Council's consideration. He recalled the property donation of approximately 85 acres located on McBrayer Springs Road for recreational use by Boyce Hanna and his family in April 2007. The completion of the park project is anticipated in the fall of this year and has often been referred to as Hanna Park although Council has

taken no action to date to officially name the facility. Mr. Howell further stated it has been agreed to between the City and the Hannas that the park would be known as Hanna Park. It was noted a more formal dedication and celebration is in the planning stages for a yet to be determined date.

Mayor Anthony formally read the resolution.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Resolution No. 36-2018 entitled, "A RESOLUTION NAMING A NEW PARK FACILITY IN HONOR OF THE HANNA FAMILY".

Next, the Mayor presented a shadow box, which displays the key to the City, to Mrs. Joan Hanna with gratitude for the generous donation by Mr. Hanna and the Hanna family.

B. Public Comment:

ACTION TAKEN: By consensus, City Council agreed to extend the public comment period to 30 minutes at this meeting of July 16, 2018.

Carol Watson who resides at 617 North Morgan Street in Shelby, North Carolina spoke against the closing of Royster Memorial Golf Course. Mrs. Watson stated she has two grandchildren who participate in the Junior Golf Program, which is recognized by the US Kids Golf Association. She wishes to have the golf course remain alive and operational since the youth curriculum has been a positive experience and program for her grandchildren.

Betsy Taylor Knauff who resides in Salisbury, North Carolina spoke against the closing of Royster Memorial Golf Course. Mrs. Knauff reiterated she wishes to have the golf course remain alive and operational since the Junior Golf Program has been a positive experience and program for youth.

Sally Royster who resides at 212 Fairway Drive in Shelby, North Carolina spoke against the closing of Royster Memorial Golf Course. Mrs. Royster requested Council reconsider the closure until the City's Parks and Recreation Master Plan is updated again. She suggested the new master plan should include the best usage for all parks in all neighborhoods in the City's recreational system.

Linda Ware who resides 1203 Brookwood Road in Shelby, North Carolina spoke against the closing of Royster Memorial Golf Course. Speaking as President of the Friends of the Parks, Mrs. Ware reminded Council the Friends group exists for the betterment of the City's recreational programs

and facilities, noting several examples of their outreach. If the Royster Memorial Golf Course is closed, it will impact other recreational programs within the parks system. She expressed her concern if the annual fundraising Friends of the Parks Golf Tournament which was held at Royster Memorial Golf Course can continue to provide funding to projects, scholarships, special events, and other costs.

Peggy Webb who resides at 400 Country Club Circle in Shelby, North Carolina spoke against the closing of Royster Memorial Golf Course. Mrs. Webb stated that she, her family members, and friends all play golf. They enjoy and know the value of having this golf course. She requested Council reconsider the closing date for one more year.

Jann Pittman who resides at 3110 Suffolk Drive in Shelby, North Carolina spoke against the closing of Royster Memorial Golf Course. Mrs. Pittman stated she has been playing golf since 2007 for many reasons including the affordability. It was noted the Royster Memorial Golf Course in City Park is a special amenity in this region. She requested Council reconsider its closure.

Yongni Guo who resides at 801 Hamrick Road in Shelby, North Carolina spoke against the closing of Royster Memorial Golf Course. Mrs. Guo moved to Shelby four years ago and her young children play golf regularly. She stated this golf course is the perfect size for her children to practice the game.

Steve Hines who resides at 1505 Parrish Drive in Shelby, North Carolina spoke against the closing of Royster Memorial Golf Course. Mr. Hines has played golf at this golf course for 30 years, beginning as a hacker. He still enjoys playing for many reasons and urged Council to reconsider their decision. Mr. Hines suggested the City should add on or charge a little more in fees to cover the maintenance expenses to keep it like it is. He said if you play at Royster Memorial Golf Course, you do not want it to close.

C. Public Hearings:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 38-2018

Mr. Scharer introduced this proposed zoning map amendment for the property located at 919 Earl Road from Residential 20 (R20) District to Neighborhood Business (NB) District as submitted by the applicant, Robert Crawford. Utilizing both location and zoning maps, he pointed to the subject property near Lanier Pointe I and II apartments at the corner of County Home Road and Earl Road. Currently a single-family dwelling is located on this .68

acre site. Land uses in the area include single-family dwellings, multi-family dwellings, and various commercial uses.

Mr. Scharer noted the Shelby Comprehensive Land Use Plan for this area designates the site as Corridor Revitalization and Mixed Use. Land uses in such areas could include a mix of retail, office, and residential with higher density uses close to the intersection of major roads. He stated the proposed zoning map amendment is consistent with the Shelby Comprehensive Land Use Plan. The Planning and Zoning Board also recommended this proposed zoning amendment.

Mayor Anthony opened the public hearing at 6:26 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:27 p.m.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 38-2018 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

2) Consideration of a resolution and order permanently closing a section of County Home Road: Resolution No. 31-2018

Mr. Scharer introduced Resolution No. 31-2018 for Council's consideration. This item allows Council to hear public comment on a petition for road closure from property owners on both sides of a section of County Home Road located between the frontage road of US Highway 74 and Kings Road. Mr. Scharer stated the public was previously notified via public notice over a four-week period that it is the City's intent to consider permanent closure of this road section based upon the petition submitted by the property owners. He further stated although Council may pass this resolution recommending the closure of this section of County Home Road, it is a North Carolina State road. Therefore, the final closing authority rests with the North Carolina Board of Transportation. Utilizing the plat of said property, Mr. Scharer noted the City does have a waterline located within this North Carolina Department of Transportation street right-of-way and the petitioning owners have agreed to grant the City an easement so that it can remain in place.

Mayor Anthony opened the public hearing at 6:30 p.m. and invited comments from the public:

Steve Padgett who resides at 105 Monteith Lane in Shelby, North Carolina as part of Magnolia Plantation spoke in support of the County Home Road

closure. Mr. Padgett has an interest in economic development matters. This closure may encourage small businesses to locate in the area. He also mentioned the traffic safety issue made risky by the angled intersections with the potential to cause accidents.

Jerry Baumbaugh who resides 210 Kenwood Road in Shelby, North Carolina spoke against the closure of County Home Road. Mr. Baumbaugh stated the road closure would make travel inconvenient and cause traffic congestion through residential areas. He suggested a new cut-through for traffic on County Home Road should be considered as an effective solution.

Mayor Anthony closed the public hearing at 6:34 p.m.

Mr. Howell reminded Council the City had contracted a traffic engineering firm for the County Home Road Traffic Impact Study which was prepared for the site located along County Home Road between US 74 (East Dixon Boulevard) and Kings Drive. He explained there was some degradation to level of service and a minor reduction of efficiency in traffic at NC 180 (Post Road) and East Main Street. Mr. Howell recommended Council table the matter to allow staff to work with NCDOT and both property owners, Shelby Hospitality Group LLC and the State Employees' Credit Union, to work out a better, long-term solution. At a subsequent date, Council can re-consider the future of County Home Road.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to table Resolution No. 31-2018 entitled, "A RESOLUTION AND ORDER PERMANENTLY CLOSING A SECTION OF COUNTY HOME ROAD".

3) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 39-2018

Mr. Scharer introduced this proposed zoning map amendment for the properties located at 500-506 West Dixon Boulevard and 718 Eastview Drive from Neighborhood Business (NB) District to General Business-Conditional Use (GB-CU) District as submitted by the applicant, Cleveland Contractors Inc. Utilizing both location and zoning maps, he pointed to the subject properties adjacent to Huxley Village, a retail and service center. Land uses in the area include single-family dwellings, commercial uses, and churches. He stated the subject property has been zoned Neighborhood Business (NB) since zoning was first enacted in Shelby in the early 1950s. This property was likely zoned NB due to its direct proximity with single-family dwellings. Mr. Scharer further stated the Shelby Comprehensive Land Use Plan currently has this area depicted as a commercial corridor revitalization area. This proposed zoning map amendment is consistent with the plan. He added the Planning and Zoning Board recommended approval of the proposed

zoning map amendment for the properties located at 500-506 West Dixon Boulevard and 718 Eastview Drive.

Mayor Anthony opened the public hearing at 6:39 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:40 p.m.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 39-2018 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

- 4) Consideration of a resolution granting a Special Use Permit to Katherine Inc. and Cleveland Contractors Inc. for 500-506 West Dixon Boulevard and 718 Eastview Drive: Resolution No. 32-2018

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, requested to be stated by the speaker, must be supported by competent, material, and substantial evidence, not unsupported allegations, inadmissible hearsay, 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. The information provided by Mr. Scharer within the agenda packet is to be considered evidence to be factored in as part of the decision-making policy.

Mayor Anthony opened the public hearing at 6:44 p.m. and sworn testimony was given as follows:

Mr. Scharer introduced Resolution No. 32-2018 and the Special Use Permit request by Will Rucker of Cleveland Contractors, Inc. He stated this proposed special use permit is consistent with the Shelby Comprehensive Land Use Plan. The applicant proposes all the permitted uses in the Neighborhood Business (NB) Zoning District in addition to automobile rental or leasing as the conditional uses.

Will Rucker who resides at 110 Edgewater Road in Shelby, North Carolina spoke in support of the proposed Special Use Permit. Mr. Rucker's company owns these properties and has an opportunity to rent to a family business from Forest City, North Carolina, wishing to expand in Shelby. He

further stated the incoming business will blend with the existing uses in the area and be a good fit for the community, adding to the tax base.

Mayor Anthony closed the public hearing at 6:45 p.m.

Having heard all of the evidence and arguments presented at the hearing, Council found and determined the application is complete. Council was presented with no evidence as to the following findings as read by Mrs. Arth Dukes:

- The development will materially endanger the public health or safety
- The development will substantially injure the value of adjoining or abutting property
- Will not be in harmony with the area in which it is to be located
- Will not be in general conformity with the Comprehensive Land Use Plan or other plans officially adopted by Council

ACTION TAKEN: Upon a motion made by Mrs. Arth Dukes, City Council voted unanimously to approve and adopt Resolution No. 32-2018 entitled, “A RESOLUTION GRANTING A SPECIAL USE PERMIT TO KATHERINE INC. AND CLEVELAND CONTRACTORS INC. FOR 500-506 WEST DIXON BOULEVARD AND 718 EASTVIEW DRIVE”.

D. Consent Agenda:

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

- 1) Approval of the Minutes of the Special Meeting of May 29, 2018
- 2) Approval of the Minutes of the Regular Meeting of June 18, 2018
- 3) Approval of Special Event Permit Applications:
 - a. Tucker’s Run and Ride, requested date: September 8, 2018
 - b. 9th Annual Rhythm & Roots Run & Walk 5K & 10K, requested date: October 13, 2018
 - c. The Official Liver Mush Festival of North Carolina locally known as the Mush, Music & Mutts Festival, requested dates: October 19 – 20, 2018

- 4) Approval of a resolution accepting the infrastructure constructed within the right-of-way for the extension of T. R. Harris Drive into the City of Shelby Street System: Resolution No. 33-2018
- 5) Approval of a resolution of intent to de-obligate funds for Building Reuse Community Development Block Grant: Resolution No. 34-2018
- 6) Approval of a resolution awarding the contract for the interior renovations to the Utilities Operations Center Project: Resolution No. 35-2018
- 7) Adoption of an ordinance authorizing demolition of a dwelling (301 Willow Lane): Ordinance No. 40-2018
- 8) Adoption of an ordinance authorizing demolition of a dwelling (508 Oakland Drive): Ordinance No. 41-2018
- 9) Adoption of an ordinance authorizing demolition of a dwelling (807 Tenda Place): Ordinance No. 42-2018
- 10) Adoption of an ordinance authorizing demolition of a dwelling (619 Lineberger Street): Ordinance No. 43-2018
- 11) Approval of a Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council

END CONSENT AGENDA

E. Unfinished Business:

- 1) Consideration of appointments to City advisory boards and commissions:
 - a. Zoning Board of Adjustment

Mrs. Parduski reported the term of one incumbent, Morris Hudson, will conclude July 2018. Mr. Hudson is seeking reappointment to this board. Currently there are no applications on file in the Clerk's Office. There are remaining vacancies for two alternative positions. The Cleveland County Commissioners have recently reappointed both Noel MacArthur and Roger Holland to new terms concluding July 2021.

Mr. White nominated Morris Hudson for reappointment.

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to close the nominations and accept the nominee by acclamation.

2) Discussion of City Council action closing Royster Memorial Golf Course at City Park no later than November 1, 2018

For discussion purposes, Mayor Anthony recalled City Council previously voted to close the Royster Memorial Golf Course no later than November 1, 2018. Mr. Causby requested the item be placed on the agenda for further discussion at this meeting. He proposed that the golf course closure be delayed until April 30, 2019 and in agreement with the original closure motion, directed the City Manager to provide a more detailed plan for how the property would be used by that date.

Mr. Causby explained his position and merely suggested to extend the closure of Royster Memorial Golf Course to April 30, 2019.

Mr. Howell responded if the golf course closes as the spring season approaches and if staff follows routine protocol in place for the management and maintenance to keep it open and playable, then additional costs will be incurred. If the closure date is in November 2018, then staff will continue maintenance but with less grass cutting. The golf course would open for walking purposes and signage could be added. The first year plan might include a tree replanting plan and action may include initiating some of the recreational elements of interest. However, Mr. Howell cautioned the significant net loss of approximately between \$150,000 and \$160,000 is real. Any new recreational elements implemented would be incremental and based upon Council's discretion as heard from their constituents, including greater utilization. He reiterated the Alternative Use Plan was intended as a big idea plan and is not budgeted.

Mrs. Arth Dukes questioned whether a motion to reconsider or a new motion in which she would move not to close the Royster Memorial Golf Course until an updated Parks and Recreation Master Plan is completed was appropriate at this time. Miss Beam advised that a new motion can be made if substantially different from the previous motion. It was noted Council may not take up a motion that presents essentially the same issue at the same meeting unless it first adopts a motion to reconsider.

Mayor Anthony reminded Council a substantive motion is not in order if made while another motion is pending.

Mr. Causby made his motion to delay the closure of the Royster Golf Course from November 1, 2018 to April 30, 2019, directing the City Manager to come back with specific plans for future use and that staff be directed to bring a resolution for Council's consideration. He also requested the City Manager to bring a budget amendment to cover the cost of that six-month extension.

ACTION TAKEN: Upon a motion made by Mr. Causby to close the Royster Memorial Golf Course on April 30, 2019, City Council voted 3 (White, Causby, and Arth Dukes) to 3 (Hendrick, Kittrell, and Amaya). Mayor Anthony explained his position not to vote to break the tie. The motion failed for lack of a majority.

G. New Business:

1) REMOVED AND PLACED UNDER APPROVAL OF AGENDA AS ITEM A-2:

Consideration of a resolution naming a new park facility in honor of the Hanna family: Resolution No. 36-2018

2) Consideration of a resolution authorizing disbursement of travel and tourism funding for Fiscal Year 2018-2019: Resolution No. 37-2018

Mr. Howell introduced Resolution No. 37-2018 for Council's consideration. He has reviewed the applications submitted by the eligible organizations for travel and tourism grant funding. Each year past grant recipients and other organizations that have expressed an interest are eligible to submit grant applications for these funds generated through the 3 percent room occupancy tax levied by City Council. Each is reviewed to determine if the purpose for use of funds is eligible under the statutes and City policy, the economic impact of the event, past use of funds, success of past events, and financial participation by the entity, as well as other relevant criteria. He stated receipts for Fiscal Year 2018-2019 were approximately \$168,500.

Mr. Howell noted a separate resolution was prepared for the Cleveland County Arts Council's Art of Sound Festival award of \$15,000.00. Council Member Violet Arth Dukes is an employee of the Cleveland County Arts Council and as such, it could be perceived that she has a conflict of interest when voting on this matter given it awards her employer a grant.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Resolution No. 37-2018 entitled, "A RESOLUTION AUTHORIZING DISBURSEMENT OF TRAVEL AND TOURISM FUNDING FOR FISCAL YEAR 2018-2019".

3) Consideration of a resolution authorizing disbursement of travel and tourism funding to the Cleveland County Arts Council for Fiscal Year 2018-2019: Resolution No. 38-2018

Mr. Howell introduced Resolution No. 38-2018 for Council's consideration.

Mrs. Arth Dukes requested to be excused from voting on this matter because she is an employee of the Cleveland County Arts Council and as such wishes to avoid the perception of a conflict of interest.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to excuse Mrs. Arth Dukes from voting on Resolution No. 38-2018.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Resolution No. 38-2018 entitled, "A RESOLUTION AUTHORIZING DISBURSEMENT OF TRAVEL AND TOURISM FUNDING TO THE CLEVELAND COUNTY ARTS COUNCIL FOR FISCAL YEAR 2018-2019".

H. City Manager's Report:

1) Mr. Howell provided the following updates:

- **The Shelby Cleveland County Regional Airport Runway Overlay Project bid has been awarded and work is ongoing and set to be complete on August 8, 2018.**
- **Regarding the construction of Shell Building No. 3 at Foothills Commerce Center, a recommendation of the architectural firm selection will be presented for consideration at the Council meeting of August 6, 2018.**
- **The City has been notified by Senator Warren Daniel's office that funding was appropriated to Shelby in the 2018-2019 State budget in the sum of \$100,000 through the Rural Economic Development Division as a grant-in-aid for downtown revitalization efforts. The process of soliciting feedback from City staff and the Uptown Shelby Association as to proposed uses has begun and will be considered by City Council.**
- **The City's Disaster Preparedness Plan is under review for an update. Once a draft update is completed, it will be brought to Council for formal adoption.**
- **The Shelby Fire and Rescue Department is currently dispatched by Cleveland County and has been for many years. The City is transitioning the Fire and Rescue Department dispatch services from the County 911 Center to the City 911 Center. The process is ongoing but ultimately a single dispatch entity will serve the City's customers best through reduced dispatch and response time. At some point in**

the future, City Council will be requested to authorize and initiate the change.

- The City's Fallen Heroes Memorial Park Project at Raper Roark Plaza is still under development and will honor all Cleveland County public safety personnel who lost their lives in the line of duty.

I. Council Announcements and Remarks: None

J. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to adjourn the meeting at 7:09 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of July 16, 2018