

MINUTES

Regular Meeting
City Hall Council Chamber

September 17, 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, and Dicky Amaya; City Manager Rick Howell, ICMA-CM, 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 Resources Julie R. McMurry, Director of Water Resources David W. Hux, Director of Engineering Services Benjamin (Ben) Yarboro, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Assistant Fire Chief – Logistics and Enforcement Services Todd McMurry, 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

Clerk's note: There is a vacancy for the unexpired term of the Ward 5 seat on City Council, which exists due to the resignation of Mr. Kittrell on July 30, 2018.

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. Arth Dukes 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. Public Comment:

- 1) Stephen Barker who resides at 929 Huntington Park Drive in Charlotte, North Carolina spoke as developer and part owner of the Fairfield Inn & Suites by Marriott. He is the applicant on behalf of Shelby Hospitality Group LLC in support of the right-of-way abandonment of County Home Road.

C. Public Hearings:

1) Consideration of a resolution approving a Downtown Development Agreement between the City of Shelby and Thompson-Gordon-Shook (TGS) Engineers Incorporated: Resolution No. 44-2018

Mr. Howell introduced Resolution No. 44-2018 for Council's consideration. The required public hearing has been advertised and will be conducted by Council in accordance with North Carolina General Statutes to solicit comments regarding the sale of real property for redevelopment in the Uptown Shelby Municipal Service District. If approved, the resolution will authorize and approve an agreement between the City of Shelby and TGS Engineers, Incorporated, summarized as follows:

- The City agrees to sell the property located at 201 West Marion Street (formerly the Marion Mall) to TGS Engineers by private sale for the amount of \$300,000 to be paid in full at closing.
- The developer agrees to redevelop the existing building in two phases with the first phase being completed within 24 months of closing and the second phase to be completed as the developer secures tenants for the space. The City shall have the right to repurchase the property should the developer fail to meet this deadline.
- The City agrees to make sidewalk and streetscape improvements from the intersection of Pere Street to the existing Norfolk Southern Railroad tracks.
- The parties agree that the City will retain the right to retain by long term lease at no cost twenty (20) parking spaces for use by the City.
- The City agrees to grant the developer an easement/encroachment permit within the existing Norfolk Southern right of way should it obtain the legal right to do so in the future.

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 Resolution No. 44-2018 entitled, "A RESOLUTION APPROVING A DOWNTOWN DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SHELBY AND THOMPSON-GORDON-SHOOK (TGS) ENGINEERS INCORPORATED".

2) 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 941 Wyke Road from Residential Office (RO) District to Neighborhood Business (NB) District as submitted by the applicant, Yves Boudreau/Gencent LLC. Utilizing both location and zoning maps, he pointed to the subject property along Wyke Road near the CSX Rail Line. Currently, a commercial structure is located on this 5.26 acre site. Land uses in the area include single-family dwellings, multi-family dwellings, institutional uses, and neighborhood business uses.

Mr. Scharer stated the Comprehensive Land Use Plan for this area designates the site as a Low Density Residential Area. A low-density residential area is intended for single family residential land uses at a density of two units per acre. Normally, this type of land use typology associates with areas that are not served by sewer. This area is served by sewer with the Hickory Creek outfall. Mr. Scharer explained this designation to be an error in the Comprehensive Land Use Plan. The Plan calls for much higher densities nearby that are also served by the Hickory Creek outfall.

Mr. Scharer further stated the proposed zoning map amendment is inconsistent with the Shelby Comprehensive Land Use Plan. He added the Planning and Zoning Board recommended approval of this proposed zoning amendment for the property located at 941 Wyke Road from Residential Office (RO) zoning district to Neighborhood Business (NB) zoning district.

Mayor Anthony opened the public hearing at 6:08 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:09 p.m.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 49-2018 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

D. 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 August 6, 2018
- 2) Approval of Special Event Permit Applications:

- a. Don Gibson Theatre 4th Annual Fundraiser, requested date: November 2, 2018
- b. Cleveland County Veterans Day Parade, requested date: November 10, 2018
- 3) Approval of a resolution approving the local Alcohol Beverage Control (ABC) Board's use of the Appointing Authority's Travel Policy: Resolution No. 45-2018
- 4) Approval of a resolution honoring Timothy Milson Walker on the occasion of his retirement from employment with the City of Shelby: Resolution No. 46-2018
- 5) Adoption of Fiscal Year (FY) 2018-2019 Budget Ordinance Amendment No. 1: Ordinance No. 50-2018
- 6) Approval of a resolution approving supporting the City of Shelby's Application for North Carolina Department of Transportation State Planning and Research Program Funds: Resolution No. 47-2018
- 7) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Highway 74 Sections D and E Natural Gas Infrastructure Relocation Project: Ordinance No. 51-2018
- 8) City of Shelby's Foothills Commerce Center Job Ready Shell Building No. 3 Project
 - a. Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Foothills Commerce Center Job Ready Shell Building No. 3 Project: Ordinance No. 52-2018
 - b. Approval of a reimbursement resolution with regard to Job Ready Shell Building No. 3: Resolution No. 48-2018
- 9) Adoption of Fiscal Year (FY) 2018-2019 Budget Ordinance Amendment No. 2: Ordinance No. 53-2018
- 10) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Holly Oak Park Playground Project: Ordinance No. 54-2018

END CONSENT AGENDA

E. Unfinished Business:

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

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to reconsider the closing of Royster Memorial Golf Course.

Mr. Hendrick moved to keep Royster Memorial Golf Course open for the remainder of the current fiscal year ending June 30, 2019 and further directed the City Manager to prepare a budget amendment for City Council's consideration appropriating funding from the General Fund reserve to be presented at the October 1, 2018 regular meeting.

In addition, the City Manager is directed to develop and implement a plan, in consultation with City staff, Parks and Recreation Advisory Board, Friends of the Park, and the Royster family, if they so wish to be included, to develop a viable plan to increase user play at Royster Memorial Golf Course over a recommended period of time that gives the effort a chance at success. If user play can be sustained and increased then Council will consider continuing operation of the course.

Lastly, the City Manager is to report regularly to City Council on these efforts.

Mr. Amaya read the following statement:

"I would like to remind Council that we took a $\frac{3}{4}$ cent tax reduction when we were voting on the budget last June and that this $\frac{3}{4}$ cent was directly connected to the closure of the golf course. I think if, at some point we decide to close the golf course, we should be willing to proceed with the revert clause and take the bondage off future Councils."

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to approve the proposal as stated above.

To sum up, Mayor Anthony read the following statement:

"I commend each of you Council Members on the decision you made tonight. I know each of you has gone through agonizing, gut-wrenching experiences since Council's action of June 4 concerning the golf course status at City Park. For that I am deeply sorry because I know each of you vote your conscious, in good faith, for the betterment of the City and not for any personal, political, or financial gain. So, I hope this begins a time of rebuilding trust among our Council and the entire community.

My hope is this will also begin a broader dialogue within the community about recreational priorities and needs. All of us here know, Shelby has a proud history of providing affordable public recreation amenities to the citizens of Shelby and our community at large. However, facilities with diminishing public usage, increasing operating and capital costs, cannot and should not be indefinitely sustained entirely by the taxpayers of Shelby.

So, as we look ahead to the upcoming Parks and Recreation Master Plan process soon to begin, I hope we will have serious dialogue within our community about changing recreational needs with these guiding principles:

- 1. Value recreational amenities that improve Shelby's livability, thus becoming an even more attractive place to live.**
- 2. Prioritize park assets that are accessible and used by the greatest number of people, of all ages.**

If we can come to consensus on these objectives, I am confident our community will prosper and benefit from your vision and generous spirit. Thank you again, Council, for your willingness to serve your community and how you conducted yourself during the last few months."

- 2) Consideration of a resolution and order permanently closing a section of County Home Road: Resolution No. 49-2018**

Mr. Howell reminded Council that a public hearing was held on July 16, 2018 regarding the 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 Bypass and Kings Road. The matter was tabled in order to allow for further discussions with State Employees' Credit Union and the North Carolina Department of Transportation (NCDOT) regarding the future of County Home Road.

Mr. Howell reported representatives of the State Employees' Credit Union indicated they do in fact have intentions to build a new facility but there is no definite schedule to do so. They are willing to work with the City to plan for a new connector road in the future through a portion of their property but cannot commit to that until they have firmer plans.

Mr. Howell recommended Council deny the resolution and order and allow him to work with NCDOT to work out a long-term solution in which the City of Shelby takes over the control and ownership of this section of County Home Road with the intent of constructing a new connector road. He reiterated County Home Road is a North Carolina State road and the final authority rests with the North Carolina Board of Transportation.

Discussion continued regarding traffic safety issues, the potential for new development, possible traffic congestion through residential areas, and the County Home Road Traffic Impact Study.

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to deny Resolution No. 49-2018 entitled, "A RESOLUTION AND ORDER PERMANENTLY CLOSING A SECTION OF COUNTY HOME ROAD" and to direct City staff to approach North Carolina Department of Transportation about turning over control of County Home Road to the City of Shelby.

3) Consideration of appointment to City Council Ward 5 Seat

Mayor Anthony stated the successful application process for the vacant Ward 5 seat concluded on September 6, 2018. Mrs. Parduski verified seven applicants who met the requirements.

ACTION TAKEN: Upon a motion by Mr. Amaya, City Council voted unanimously to appoint, by acclamation, Charles Webber to Shelby City Council, representing Ward 5 for the unexpired term concluding December 3, 2019.

F. New Business:

- 1) Consideration of a resolution of the City Council of the City of Shelby, North Carolina, authorizing the purchase of natural gas from the Black Belt Energy Gas District; approving the execution and delivery of a gas supply agreement and other documents relating to said purchase; consenting to the assignment of certain obligations under the gas supply agreement in connection with the issuance of bonds by the Black Belt Energy Gas District; and addressing related matters: Resolution No. 50-2018**

Mr. Howell introduced Resolution No. 50-2018 for Council's consideration. If approved, it will authorize a natural gas prepayment agreement with Black Belt Energy. The agreement essentially will allow the City to participate with a group of other cities leveraging tax exempt financing to pre-purchase natural gas at a significant discount. The current deal could provide annual savings in the range of \$290,000 annually.

He introduced Scott Heath of Heath and Associates, Inc., who will explain this natural gas prepay opportunity for the City of Shelby.

Next, Mr. Heath expressed his appreciation to the City as Heath and Associates has provided its natural gas consulting services for 58 years.

Mr. Heath explained the basic premise of the transaction which begins with a joint action agency, a municipal entity that issues municipal bonds and pays a gas supplier for 30 years of gas supply upfront with the bond money. A third party bank takes that discount and translates it into a real time discount. He stated there is no fixed price just a discount on top of the buying price.

The Black Belt Energy Gas District will be issuing the bonds and the City will not have any liability. The City's contract is strictly a gas purchase contract. The contract is almost identical to the current contract except for the discount with it.

Mr. Heath further explained the concept was introduced back in the early 2000s. The City had an arrangement completed and was waiting for the deal to close. Then, Bear Stearnes and Wachovia failed in 2008 as part of the global financial crises and recession. All of the benefit between municipal bonds interest rates and investor-owned financing collapsed as interest rates collapsed.

Mr. Heath stated the City purchases and arranges through a gas supplier to purchase at Transco Pipeline's published index at Station 65 or Station 85. The published index is an average of all the purchases and transactions that have occurred. At that point, the buyer and the seller feel this is a fair price, the average price. With Black Belt Energy, the City will buy at the same index price less the discount.

Mr. Heath provided background information that Black Belt Energy Gas District is inviting select municipal utilities to participate in a 30 year natural gas pre-payment transaction targeting an early fall close with the first gas deliveries beginning April 2019. Black Belt Energy Gas District is an Alabama gas supply district formed under the provisions of the Alabama Gas Districts Act and is the leading natural gas pre-payment structurer and issuer. Black Belt has a strong management and legal team, including gas supplier, J. Aron & Company, a division of Goldman Sachs.

Mr. Heath provided the specifics of the economic terms as follows:

- 30 year term
- Initial period priced at closing and establish the discount, the relative interest rates, and the price of gas
- Savings threshold – 35 cents/Decatherm or just more than 10 percent discount
- On average, from the initial period through the reset period, a minimum net savings of no less than 25 cents

- Every 5 to 7 years, it will be repriced
- Once the discount is established and the natural gas is sold to the purchasers in the initial rate period, Black Belt Energy will take an administrative fee of 3 cents up to 7 cents

Citing Black Belt Energy's most recent transaction, Mr. Heath shared that the discount was 46 cents with an administrative fee of 3 cents for a savings of \$293,000 per year. He added the amount of pre-purchased gas will be 30 percent of the City's purchase volumes for a 30-year period. Both the City's legal counsel on natural gas matters, Mr. Byrd, and Mr. Yelton have reviewed and advised on the Black Belt Energy project. Mr. Heath felt there was no financial risk to the City except for an opportunity risk that a better opportunity may present itself.

Mr. Heath concluded by informing Council that Black Belt Energy is actively managing three projects: One for itself, one for Lower Alabama Gas District and one for Louisiana Municipal Gas Authority. Depending on circumstances and which project goes first, one of these three will be issuing the bonds and the City of Shelby will be entering into the gas supply contract accordingly.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to adopt Resolution No. 50-2018 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA, AUTHORIZING THE PURCHASE OF NATURAL GAS FROM THE BLACK BELT ENERGY GAS DISTRICT; APPROVING THE EXECUTION AND DELIVERY OF A GAS SUPPLY AGREEMENT AND OTHER DOCUMENTS RELATING TO SAID PURCHASE; CONSENTING TO THE ASSIGNMENT OF CERTAIN OBLIGATIONS UNDER THE GAS SUPPLY AGREEMENT IN CONNECTION WITH THE ISSUANCE OF BONDS BY THE BLACK BELT ENERGY GAS DISTRICT; AND ADDRESSING RELATED MATTERS".

G. City Manager's Report:

- 1) Mr. Howell stated bids have been received for the Fallen Heroes Memorial Project and he will provide his recommendation to Council at the next meeting of October 1, 2018.
- 2) Mr. Howell provided an update on a previously reported environmental issue involving an oil spill on Ruth Street near Lineberger Street. City crews initially responded. The matter was reported to both state and federal environmental agencies for investigation and assessment.
- 3) Mr. Howell informed Council the Shelby Fire and Rescue Department sent a crew including Captain Gene Stinchcomb, Engineer Willie Williams, and Firefighters Ethan Winkler and Gideon Kahn to Brunswick County on

September 16, 2018 to provide their services to the Winnabow Fire Department and Winnabow, North Carolina in relief of Hurricane Florence.

- 4) Mr. Howell reported the intent to redevelop a brownfields property in Shelby at the site of the Sackville Mill by Ella Mill Properties LLC located between Lafayette Street and Dekalb Street is nearing the end of its public comment period this month. The development of this project is anticipated to begin in the near future.
- 5) Mr. Howell acknowledged today, September 17, as Constitution Day, an observance to recognize the adoption of the US Constitution. He encouraged all to read it, to become familiar with it, and to gain an understanding what the Founding Fathers intended for our country.
- 6) Mr. Howell mentioned the City's Volunteer Recognition Event is scheduled for Thursday, October 18, 2018, beginning at 6:00 p.m., City Pavilion.

H. Council Announcements and Remarks:

- 1) Mayor Anthony announced the City's Employee Picnic has been rescheduled to Thursday, September 20, 2018, between 11:00 a.m. and 2:00 p.m. at Shelby City Park. The Mayor encouraged Council members to attend.

I. Closed Session:

- 1) To approve the Minutes and General Account of the Closed Session of May 14, 2018
- 2) To approve the Minutes and General Account of the Closed Session of July 19, 2018
- 3) To establish or instruct staff in negotiating the terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease pursuant to North Carolina General Statute 143-318.11 (a) (5)

ACTION TAKEN: Mr. White made a motion to enter into a closed session pursuant to the appropriate North Carolina General Statutes as cited. Mayor Anthony consulted with Mr. Yelton who advised the topics met the statutory requirements for a closed session. The Mayor invited all Council members present along with Mr. Howell, Mr. Yelton, and Mrs. Parduski to attend. The motion passed unanimously and Council moved into closed session at 7:05 p.m.

Council returned to the regular session at 7:31 p.m.

J. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to adjourn the meeting at 7:32 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of September 17, 2018