

MINUTES

Regular Meeting
City Hall Council Chamber

July 15, 2019
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 Charles Webber; City Manager Rick Howell, ICMA-CM, City Clerk Bernadette A. Parduski, City Attorney Robert W. (Bob) Yelton, Assistant City Manager/Director of Finance Justin S. Merritt, MPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Energy Services Julie R. McMurry, Director of Engineering Services Benjamin (Ben) Yarboro, Fire Chief William P. Hunt, MPA, EFO, and 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

Absent: Council Member Dicky Amaya

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. White, City Council voted unanimously to approve the agenda as presented.

B. Public Comment: None

C. Second Reading:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 42-2019

Mayor Anthony summarized this proposed zoning map amendment for the property located at 2324 Kings Road Extension, which passed by Council's vote of 3 to 2 on June 17, 2019. However, according to North Carolina General Statute 160A-75, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced

except by an affirmative vote equal to or greater than two-thirds of the actual membership of the Council. An ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by Council. Therefore, this ordinance must be approved by Council at a second reading before it may take effect. Accordingly, approval of this ordinance now only requires a simple majority of the members present for adoption.

Mr. Hendrick requested to be excused from voting on this rezoning matter due to his financial interest in the subject property. 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. Causby, City Council voted unanimously to excuse Mr. Hendrick from voting on Ordinance No. 42-2019.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 42-2019 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

D. Public Hearings:

- 1) Consideration of the City of Shelby's submittal of a Community Development Block Grant (CDBG) application to the North Carolina Department of Environmental Quality (NCDEQ) Division of Water Infrastructure (DWI)**

Mayor Anthony introduced the matter and the public hearing as a requirement of the CDBG application process.

Mr. Scharer stated the North Carolina Department of Commerce has notified local communities of the latest round of CDBG funding assistance for infrastructure. He further stated the City of Shelby may be eligible for CDBG funds for sewer improvements. The hearing allows the public to provide input on projects to be considered by City Council. City staff will give this input consideration and review prior to a specific project recommendation. Should the City choose to apply for any CDBG funds, a second public hearing will be held directly concerning that specific project and application.

Mayor Anthony opened the public hearing at 6:06 p.m. and invited comments from the public:

Rev. James Williams who resides at 1410 Vantage Drive in Shelby, North Carolina spoke in support of the City's CDBG grant application. Rev. Williams was pleased to hear the promising news that sometime in the future there is a possibility of sewer service being provided to the Clearbrook subdivision with its failing septic systems.

Rev. Frankie Smith who resides at 303 East Ross Grove Road in Shelby, North Carolina also spoke in support of the City's CDBG grant application. Rev. Smith was appreciative for the City's consideration of a project to bring sewer service to the long-time residents of Clearbrook subdivision.

Mayor Anthony closed the public hearing at 6:09 p.m.

Council received the information and no action was required at this time.

2) Consideration of a proposed ordinance to amend the Unified Development Ordinance (UDO) of the City of Shelby: Ordinance No. 45-2019

Mr. Scharer introduced the proposed textual amendment to the City's UDO for landscaping and horticultural services. He stated that currently the City's UDO permits landscaping and horticultural services as a use by right with no development standards in General Business (GB) and General Business 2 (GB2) zoning districts. The proposal permits landscaping and horticultural services with development standards in the Corridor Protection Zoning District. These development standards include requirements for setbacks and screening requirements.

Mr. Scharer explained the Corridor Protection District (CPD) has as its major objectives to promote sensitive conversion of vacant land to more urban uses; support development that is compatible with and enhance the visual attractiveness of the area; promote well-planned, economically viable development; ensure safe and efficient traffic flow; and avoid uncoordinated, strip development patterns.

Mr. Scharer concluded by stating the Planning and Zoning Board has reviewed this proposal and recommended the ordinance as proposed.

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

The public offered no comments. Mayor Anthony closed the public hearing at 6:12 p.m.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 45-2019 entitled, “A PROPOSED ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF SHELBY”.

3) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 46-2019

Mr. Scharer introduced this zoning map amendment for properties located at 410 Cherryville Road from Residential 20 (R20) zoning district to the Corridor Protection District (CPD). Utilizing a location map, a zoning map, a local future land use map, and an area future land use map, he pointed to the site currently adjacent to the Paradise Garden Center. The Shelby Comprehensive Land Use Plan designates this area as Medium Density Residential. Mr. Scharer stated the proposed zoning map amendment is inconsistent with Comprehensive Land Use Plan. However, the proposed zoning map amendment is consistent with the development patterns in the area as land uses include single-family dwellings, professional services, and institutional uses.

Mr. Scharer concluded by stating the Planning and Zoning Board recommended approval of the proposed zoning map amendment for the property located at 410 Cherryville Road from Residential 20 (R20) zoning district to Corridor Protection District (CPD).

Mayor Anthony opened the public hearing at 6:14 p.m. and invited comments from the public:

Michael Harden who owns the business, Paradise Garden Center, located at 460 Cherryville Road in Shelby, North Carolina spoke in support of the application requesting the zoning map amendment at 410 Cherryville Road.

Mayor Anthony closed the public hearing at 6:15 p.m.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 46-2019 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. Hendrick 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 June 17, 2019
- 2) Approval of Special Event Permit Applications:
 - a. Mt. Calvary Baptist Church Community Explosion, requested date: July 27, 2019
 - b. Veterans Awareness Walk, requested dates: August 16, 2019
 - c. 10th Annual Rhythm and Roots Run and Walk, 5K, and 10K, requested date: October 12, 2019
- 3) Approval of a resolution supporting the City of Shelby entering into a contract with Toole Design for the creation of a Bicycle and Pedestrian Comprehensive Plan: Resolution No. 46-2019
- 4) Adoption of an ordinance authorizing demolition of a dwelling (229 Chestnut Street): Ordinance No. 47-2019
- 5) Adoption of an ordinance authorizing demolition of a dwelling (802 Logan Street): Ordinance No. 48-2019
- 6) Adoption of an ordinance authorizing demolition of a dwelling (619 and 621 South Morgan Street): Ordinance No. 49-2019
- 7) Adoption of an ordinance authorizing demolition of a dwelling (902 West Oak Street): Ordinance No. 50-2019
- 8) Adoption of an ordinance authorizing demolition of a dwelling (223 and 225 Young Street): Ordinance No. 51-2019
- 9) Adoption of an ordinance authorizing demolition of a dwelling (229 Young Street): Ordinance No. 52-2019
- 10) Adoption of Fiscal Year (FY) 2019-2020 Budget Ordinance Amendment No. 1: Ordinance No. 53-2019

END CONSENT AGENDA

F. Unfinished Business: None

G. New Business:

- 1) **Consideration of a resolution supporting the City of Shelby's application for the North Carolina Department of Transportation – Transportation Alternatives Program Fund Grant: Resolution No. 47-2019**

Mr. Howell introduced Resolution No. 47-2019 for Council's consideration. If approved, this resolution would authorize the City to submit a grant application to the North Carolina Department of Transportation (NCDOT) through the Transportation Alternatives Program (TAP). The purpose of NCDOT-TAP is to provide funding for non-traditional transportation projects. Mr. Howell stated \$15 million has been allocated from the TAP Program to secure and improve rail corridors for Rails to Trails projects statewide. Staff is proposing to apply for these funds to assist in the acquisition of the Norfolk Southern Rail Corridor for the proposed Rail Trail in Shelby. The maximum grant amount is not yet determined and there is a minimum 20 percent match to this grant.

Mr. Howell recommended Council's approval of the resolution authorizing an application for a NCDOT-TAP Rails to Trails grant.

ACTION TAKEN: Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Resolution No. 47-2019 entitled, "A RESOLUTION SUPPORTING THE CITY OF SHELBY'S APPLICATION FOR THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION – TRANSPORTATION ALTERNATIVES PROGRAM FUND GRANT".

- 2) **Consideration of a resolution awarding the contract for the City of Shelby Stormwater Infrastructure Assistance Program Project at 422 Carolina Avenue in Shelby, North Carolina: Resolution No. 48-2019**

Mr. Howell introduced Resolution No. 48-2019 for Council's consideration. If approved, this resolution would award a contract in the amount of \$67,012.00 to Morrison Construction Co., Inc. for the construction of stormwater system improvements at 422 Carolina Avenue. The applicant is Mt. Calvary Baptist Church.

As a reminder, Mr. Howell explained this project qualifies for assistance through the City's Stormwater Infrastructure Assistance Policy which states that for assistance on commercial properties, the City will be responsible for 50 percent of the construction cost (\$33,506.00) and the property owner will be responsible for the remaining 50 percent (\$33,506.00) via a legal

agreement. Funding for the City's portion of the construction contract is available in the existing Stormwater Utility budget.

Mr. Howell recommended City Council approve the resolution awarding the bid for the Stormwater Infrastructure Assistance Program project located at 422 Carolina Avenue to the lowest responsive bidder, Morrison Construction Co., Inc. of Shelby, North Carolina , for the bid price of \$67,012.00.

ACTION TAKEN: Upon a motion made by Mrs. Arth Dukes, City Council voted unanimously to approve and adopt Resolution No. 48-2019 entitled, "A RESOLUTION AWARDING THE CONTRACT FOR THE CITY OF SHELBY STORMWATER INFRASTRUCTURE ASSISTANCE PROGRAM PROJECT AT 422 CAROLINA AVENUE IN SHELBY, NORTH CAROLINA".

3) Consideration of a resolution awarding the contract for the City of Shelby Stormwater Infrastructure Assistance Program Project at 200 West Warren Street in Shelby, North Carolina: Resolution No. 49-2019

Mr. Howell introduced Resolution No. 49-2019 for Council's consideration. If approved, this resolution would award a contract in the amount of \$82,390.00 to Clark Ledbetter Grading for the construction of stormwater system improvements at 200 West Warren Street. The applicant is Carl Cato, owner of Farmers Market Condominiums.

As a reminder, Mr. Howell explained this project qualifies for assistance through the City's Stormwater Infrastructure Assistance Policy which states that for assistance on commercial properties, the City will be responsible for 50 percent of the construction cost (\$41,195.00) and the property owner will be responsible for the remaining 50 percent (\$41,195.00) via a legal agreement. Funding for the City's portion of the construction contract is available in the existing Stormwater Utility budget.

Mr. Howell recommended City Council approve the resolution awarding the bid for the Stormwater Infrastructure Assistance Program project located at 200 West Warren Street to the lowest responsive bidder, Clark Ledbetter Grading, Inc. of Shelby, North Carolina, for the bid price of \$82,390.00.

ACTION TAKEN: Upon a motion made by Mr. Causby , City Council voted unanimously to approve and adopt Resolution No. 49-2019 entitled, "A RESOLUTION AWARDING THE CONTRACT FOR THE CITY OF SHELBY STORMWATER INFRASTRUCTURE ASSISTANCE PROGRAM PROJECT AT 200 WEST WARREN STREET IN SHELBY, NORTH CAROLINA".

H. City Manager's Report:

- 1) With regard to the expansion of Greenheck Fan Corporation within the Foothills Commerce Center representing a total investment of \$59 million and more than 400 jobs, Mr. Howell reported the project is moving forward and their plans are consistent with the development agreement between the City of Shelby and the company.
- 2) Mr. Howell mentioned the process regarding the Airport Layout Plan, which is the master planning document for the Shelby-Cleveland County Regional Airport, will begin in the very near future. The City has secured a grant in the amount of \$225,000 from the North Carolina Division of Aviation for this project. The local match for this grant is \$25,000.
- 3) With regard to the future construction of the next shell building, which will be the third joint venture by Cleveland County and the City of Shelby, Mr. Howell suggested either Cleveland County's 47-acre site on Plato Lee Road or the City's 64-acre site on Randolph Road as the possible locations under consideration.
- 4) Mr. Howell announced a portion of South Washington Street will be paved beginning in late August 2019.
- 5) Mr. Howell mentioned several utility relocation projects are in progress as a result of the North Carolina Department of Transportation projects currently underway including the US 74 Bypass and the Marion Street/Peach Street/Cherryville Road intersection.

He also mentioned the City is evaluating several proposals for a Natural Gas System Assessment which will be brought to Council as a future agenda item.

- 6) Mr. Howell provided an update on the T-Hangar Project at the Shelby-Cleveland County Regional Airport, which is moving along very well.
- 7) Mr. Howell stated the Farmville Road elevated storage water tank near Clearwater Paper Corporation is still on schedule to be operational in September 2019.
- 8) Mr. Howell also stated the First Broad River Wastewater Treatment Plant Bio-solids Improvement Project continues to move forward.
- 9) Mr. Howell provided a progress report regarding the Water Treatment Plant Upgrades Project which is ongoing as the new 2.5 million gallon

clear wells are taking shape.

- 10) Mr. Howell said the next phase of the Uptown Shelby Streetscaping Project will begin on August 19, 2019.

I. Council Announcements and Remarks:

- 1) Mayor Anthony expressed his appreciation to City staff for hosting the fireworks show and display at the Shelby City Park Sports Complex on July 5, 2019, hoping this will become the start of a new tradition for the City.
- 2) Mr. White expressed his appreciation to Mr. Howell and City staff for bringing several minimum housing demolitions to City Council for action.
- 3) Mrs. Arth Dukes said she walked to Shelby City Park to attend the fireworks show on July 5, 2019, which was thoroughly enjoyed by all in her party. She added the best view and the best seats were on the baseball field. Mrs. Arth Dukes was pleased the fireworks were brought back by the City and hopes the traffic issues can be resolved in the future.

J. Closed Session:

- 1) To approve the Minutes and General Account of the Closed Session of April 15, 2019
- 2) To establish or instruct staff concerning the position to be taken by or on behalf of City Council in negotiating the price and other material 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 topic met the statutory requirements for a closed session. The Mayor invited all Council members present along with Mr. Howell and Mr. Yelton to attend. The motion passed unanimously and Council moved into closed session at 6:37 p.m.

Council returned to the regular session at 7:08 p.m.

K. 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 15, 2019