

MINUTES

Regular Meeting
City Hall Council Chamber

September 16, 2019
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David Causby, Violet Arth Dukes, Charles Webber, and Dicky Amaya; 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 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, Director of Public Works Daniel C. (Danny) Darst, 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 David W. White

Mayor Anthony called the meeting to order at 6:00 p.m., welcomed all who were in attendance, and acknowledged former Mayor Mike Philbeck in attendance. The Mayor gave the invocation then 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. Amaya, City Council voted unanimously to approve the agenda as presented.

B. Special Presentations:

- 1) Presentation of the North Carolina Sheriffs' Education and Training Standards Commission Advanced Service Award to Amy E. Fredell, Telecommunications Supervisor, Shelby Police Department

Mayor Anthony called upon Miss Fredell. He formally read and presented the Advanced Service Award conferred by the North Carolina Department of Justice Sheriffs' Standards Division to Telecommunications Supervisor Amy Fredell, commending her commitment to law enforcement professionalism and extending his congratulations.

- 2) Proclamation declaring October 6-12, 2019 as “Public Natural Gas Week” in the City of Shelby, North Carolina

Mayor Anthony called upon Natural Gas Superintendent, Jeff Champion. The Mayor formally read and presented the Proclamation declaring October 6 through 12, 2019 as “Public Natural Gas Week” in the City of Shelby to Mr. Champion, commending the City’s employees of the Natural Gas Department.

- 3) Proclamation declaring October 6-12, 2019 as “Public Power Week” in the City of Shelby, North Carolina

Mayor Anthony called upon Electric Superintendent, Jeff Freeman. The Mayor formally read and presented the Proclamation declaring October 6 through 12, 2019 as “Public Power Week” in the City of Shelby to Mr. Freeman, commending the City’s employees of the Electric Department.

C. Public Comment:

- 1) Jamie Yarbrow who resides at 854 West Warren Street in Shelby, North Carolina spoke against the demolition of 211 Chestnut Street. Mr. Yarbrow owns the property and purchased it with the intent to repair and renovate the dwelling for rental purposes. He requested City Council’s indulgence for a continuance in order to bring said property into compliance with the City’s housing standards.

D. Public Hearings:

- 1) Consideration of a resolution and order permanently closing a section of County Home Road: Resolution No. 58-2019

Mr. Scharer introduced Resolution No. 58-2019 for Council’s consideration. He stated the owners of the properties adjacent to County Home Road, the State Employees’ Credit Union and the Shelby Hospitality Group, LLC, have petitioned the City of Shelby to permanently close the right-of-way and the road.

Utilizing a location map, Mr. Scharer pointed to the section of County Home Road located between the frontage road of US Highway 74 and Kings Road. He stated County Home Road, as displayed on the plat of Right-of-Way Abandonment/Dedication, will be permanently closed effective December 31, 2019 and all rights, title, and interest that is vested in the public for street purposes is released to the abutting property owners. Mr. Scharer noted the City of Shelby retains a utility easement for any utilities that may lie on or cross the road.

Lastly, it was discussed the State Employees' Credit Union has preliminary plans to construct a new facility, which may include a new connector road between Kings Road and the Highway 74 frontage road.

Mayor Anthony opened the public hearing at 6:13 p.m. and invited comments from the public:

Bill McCarter who resides at 107 Plantation Court in Shelby, North Carolina spoke in appreciation and in support of Council's action to close County Home Road, which, in his opinion, is long overdue.

Mike Philbeck who resides at 1805 Arbor Way Drive in Shelby, North Carolina spoke in support of closing County Home Road for various reasons. Mr. Philbeck stated the City will be well-served by the road closure from a public safety point-of-view and, personally as a real estate broker, the closure should provide a better, possible economic development opportunity.

Mayor Anthony closed the public hearing at 6:17 p.m.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Resolution No. 58-2019 entitled, "A RESOLUTION AND ORDER PERMANENTLY CLOSING A SECTION OF COUNTY HOME ROAD".

- 2) Consideration of a resolution and order permanently closing an unopened right of way at the west end of East Shannonhouse Street and south end of Railroad Avenue: Resolution No. 59-2019

Mr. Scharer introduced Resolution No. 59-2019 for Council's consideration. He stated the property owners, Alfred Alexander Taylor of Tube Enterprises, Inc. and Jay S. Hennett of Hill Property Management, Inc., are located adjacent to this unopened right-of-way for Shannonhouse Street and have petitioned the City to close this section of right-of-way. Utilizing a location map, Mr. Scharer pointed to the west end of East Shannonhouse Street and the south end of Railroad Avenue as the site of the proposed closing and abandonment. The unopened right-of-way on the west end of East Shannonhouse Street and on the southern end of Railroad Avenue is also displayed on the plat titled, "Proposed Street and Alley Closing/Abandonment". He added a portion of the Shannonhouse Street right-of-way was never completed as a street. Both will be permanently closed and all rights, title, and interest that may be vested in the public to said area for street purposes is released to the abutting property owners. Mr. Scharer concluded by stating City staff has reviewed this request and found the closure of the unopened right-of-way will not impact the provision

of City services now or in the future. However, Tube Enterprises has agreed to pay for the cost of moving City utilities as well as acquire ownership and maintenance of the stormwater system located within the proposed closure.

Mayor Anthony opened the public hearing at 6:18 p.m. and invited comments from the public:

Alfred Taylor who owns the property and business at 1028 Railroad Avenue in Shelby, North Carolina spoke in support of his petition to permanently close the subject unopened right-of-way for business purposes. Mr. Taylor stated Tube Enterprises, Inc. is a family business which relocated from Kings Mountain to Shelby several years ago. The company purchased two parcels on Morgan Street and now wishes to add building frontage facing Morgan Street as well as expand the business by approximately 10 to 15 percent.

Mayor Anthony closed the public hearing at 6:20 p.m.

ACTION TAKEN: Upon a motion made by Mr. Causby, City Council voted unanimously to approve and adopt Resolution No. 59-2019 entitled, “A RESOLUTION AND ORDER PERMANENTLY CLOSING AN UNOPENED RIGHT OF WAY AT THE WEST END OF EAST SHANNONHOUSE STREET AND SOUTH END OF RAILROAD AVENUE”.

3) Consideration of a proposed ordinance to amend the Unified Development Ordinance (UDO) of the City of Shelby: Ordinance No. 59-2019

Mr. Scharer introduced a proposed textual amendment to the City’s UDO for tattoo studios as a conditional use in the Central Business (CB) Zoning District as submitted by applicant, Eric Metcalf. He explained tattoo studios are currently a permitted use with development standards in General Business and General Business 2 Zoning Districts. Mr. Scharer discussed the only development standards for tattoo studios bar tattoo studios from being located within 500 feet of any other tattoo studio. This current standard would also apply to any potential tattoo studios in the CB District. Next, a 300-foot buffer area from the property line of the Historic Court Square has also been proposed for the CB District Development Standards. He utilized a map to display the proposed buffer area. Any tattoo studios in the CB District will require a Conditional Use Permit from the Zoning Board Adjustment. The proposed ordinance would restrict the hours of operation between 8:00 a.m. to 8:00 p.m. on Sundays. Lastly, the transparent or see-through windows will encourage a comfortable and safe place for citizens in the Uptown District, promoting Uptown Shelby as more attractive and welcoming to pedestrians.

Mr. Scharer concluded by stating the Planning and Zoning Board recommended approval of the proposed text amendment as submitted by staff.

Mayor Anthony opened the public hearing at 6:22 p.m. and invited comments from the public:

Brenton Young, D.D.S. who resides at 144 West Ross Grove Road in Shelby, North Carolina spoke in support of the proposed text amendment to permit tattoo studios in the Central Business District. Dr. Young stated he has known the applicant, Eric Metcalf, for 20 years, endorsing the hygienic and sterile condition of his tattoo shop and the caliber of his personality as a tattoo artist.

Howard Young who resides at 606 Grace Street in Shelby, North Carolina spoke in support of the proposed text amendment to permit tattoo studios in the Central Business District. Mr. Young stated he has known the applicant, Eric Metcalf, for 20 years and personally supports the establishment of his tattoo business in Uptown Shelby.

Eric Metcalf who resides at 1204 New Crest Lane in Shelby, North Carolina spoke in support of his application requesting a proposed text amendment to permit tattoo studios in the Central Business District. He lived and worked in downtown Asheville before relocating to Shelby 20 years ago. Mr. Metcalf submitted this application in the hopes of legitimizing his tattoo business and becoming a part of the Uptown Shelby community.

Lori Metcalf who resides 1204 New Crest Lane in Shelby, North Carolina spoke in support of her husband's application requesting a proposed text amendment to permit tattoo studios in the Central Business District. Mrs. Metcalf is an Associate Dean and Psychology instructor at a local community college and as such, she urged Council to think about their attitudes towards tattoos and tattoo businesses since she has concluded attitudes and opinions have changed dramatically over the last 20 years. Her husband is a responsible business owner and should have the right to operate his business in the Central Business District of Uptown Shelby.

Angela Franklin who resides at 112 North Lafayette Street in Shelby, North Carolina spoke in support of the proposed text amendment to permit tattoo studios in the Central Business District. As a nurse by profession, Miss Franklin knows many people from many walks of life who have and get tattoos, representing both the changes in attitudes over time and as a means of art expression. She also stated a tattoo studio in the Central Business District may be beneficial to other businesses in Uptown Shelby.

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

ACTION TAKEN: Upon a motion made by Mrs. Arth Dukes, City Council voted unanimously to approve and adopt Ordinance No. 59-2019 entitled, “A PROPOSED ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF SHELBY”.

- 4) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 60-2019

Mr. Scharer introduced a zoning map amendment for the property located at 845 North Post Road from Residential 20 (R20) zoning district to Corridor Protection District Conditional Use (CRD-CU) zoning district. Utilizing both location and zoning maps of the area, Mr. Scharer pointed to the subject property owned by Cleveland County. The applicant is Odom Engineering and the proposed project is submitted on behalf of Cleveland Community College. The application includes the proposed site plan for the conditional uses within the City of Shelby. Mr. Scharer further stated the proposed zoning map amendment is inconsistent with the Shelby Comprehensive Land Use Plan. However, he explained this area will be near the 150-74 Bypass Interchange and will be a part of the future Small Area Plan for the area. Mr. Scharer concluded by stating the Planning and Zoning Board recommended approval of the proposed zoning map amendment for property located at 845 North Post Road from Residential 20 (R20) zoning district to Corridor Protection District Conditional Use (CPD-CU) zoning district.

Mayor Anthony opened the public hearing at 6:32 p.m. and invited comments from the public. The public offered no comments.

Mayor Anthony closed the public hearing at 6:33 p.m.

ACTION TAKEN: Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Ordinance No. 60-2019 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA”.

- 5) Consideration of a resolution granting a Special Use Permit to Cleveland Community College at 845 North Post Road: Resolution No. 60-2019

Mayor Anthony opened the public hearing at 6:35 p.m. and sworn testimony was given as follows:

Mr. Scharer introduced Resolution No. 60-2019 and the proposed Special Use Permit request by the applicant, Odom Engineering, and as the designer of a vocational school for Cleveland Community College.

Utilizing both location and zoning maps of the area, Mr. Scharer pointed to the subject parcel within the City of Shelby fronting at 845 North Post Road in the Corridor Protection District Conditional Use zoning district. The applicant wishes to build a vocational school facility for utility linemen. Mr. Scharer discussed the following conditions recommended by staff for the proposed Conditional Use District:

- 100 foot front setback
- 15 foot side setback
- No street access shall be on Spake Circle
- All street access shall be on North Post Road
- The right-of-way screening for every 50 feet of road frontage shall have four large maturing trees planted in a two by two arrangement, one small maturing tree in the center, and fifteen shrubs.

Mr. Scharer concluded by stating the Planning and Zoning Board recommended approval of the proposed zoning map amendment for property located at 845 North Post Road from Residential 20 (R20) zoning district to Corridor Protection District Conditional Use (CPD-CU) zoning district.

Mayor Anthony closed the public hearing at 6:36 p.m.

Having heard all of the evidence and arguments presented at the hearing, Council finds and determines the application is complete. Council was presented with no evidence as to the following findings as read by Mayor Anthony:

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

ACTION TAKEN: Upon a motion made by Mr. Amaya approving a Special Use Permit on South Dekalb Street due to the fact this project will not materially endanger the public health or safety, will not substantially injure the value of adjoining or abutting properties, will be in harmony with the area in which it is to be located, and will be in general conformity with the Shelby Comprehensive Land Use Plan or other plans officially adopted by City Council, City Council voted unanimously to approve and adopt Resolution No.

60-2019 entitled, "A RESOLUTION GRANTING A SPECIAL USE PERMIT TO CLEVELAND COMMUNITY COLLEGE AT 845 NORTH POST ROAD".

E. 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 approved by a vote of 4 (Hendrick, Causby, Webber, and Amaya) to 1 (Arth Dukes).

- 1) Approval of the Minutes of the Regular Meeting of August 19, 2019
- 2) Approval of Special Event Permit Applications:
 - a. Art of Sound, requested dates: September 27 and September 28, 2019
 - b. Shelby High Homecoming Parade, requested date: October 4, 2019
 - c. Carolinas on Tap, requested date: October 18, 2019
 - d. Mush, Music & Mutts Festival commonly known as the Liver Mush Festival, requested date: October 19, 2019
 - e. The Light Ball Dash, requested date: December 22, 2019
- 3) Approval of a resolution honoring Melvin David Durham on the occasion of his retirement from employment with the City of Shelby: Resolution No. 61-2019
- 4) Approval of a resolution authorizing selection of McGill Associates based on qualifications for civil engineering services for the Plato Lee Road industrial site design: Resolution No. 62-2019
- 5) Adoption of an ordinance authorizing demolition of a dwelling: Ordinance No. 61-2019
- 6) Adoption of an ordinance authorizing demolition of structures: Ordinance No. 62-2019
- 7) Adoption of Fiscal Year (FY) 2019-2020 Budget Ordinance Amendment No. 3: Ordinance No. 63-2019
- 8) Adoption of Fiscal Year (FY) 2019-2020 Budget Ordinance Amendment No. 4: Ordinance No. 64-2019
- 9) Adoption of Fiscal Year (FY) 2019-2020 Budget Ordinance Amendment No. 5: Ordinance No. 65-2019

END CONSENT AGENDA

F. Unfinished Business:

1) Consideration of appointments to City advisory boards and commissions:

a. Parks and Recreation Advisory Board

Mrs. Parduski reported the terms of three incumbents, Allen Langley, David Lynn, and Robert Coleman, concluded July 2019. All three incumbents are seeking reappointment to this board.

There are three applications on file in the Clerk's Office:

- Richard Baker, Jr.
- Darrell Gerald
- Chris Gray

Mr. Causby nominated Allen Langley, David Lynn, and Robert Coleman for reappointment.

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

G. New Business: None

H. City Manager's Report:

1) Capital purchase for replacement of self-contained breathing apparatus (SCBA) equipment for the Fire and Rescue Department

Mr. Howell summarized the documentation provided by Chief Hunt regarding the capital purchase for the replacement of self-contained breathing apparatus equipment for the Fire and Rescue Department. He reminded Council of their approval of this purchase as part of the Fiscal Year 2019-2020 budget. The project provides for the replacement of obsolete and aging equipment that is at the end of its useful service life. Staff utilized the group purchase method to acquire the SCBA equipment manufactured by Scott Fire & Safety Products through Rhinehart Fire Services of Asheville, North Carolina at a specified price of \$373,975.67.

Council received the information. No action was required.

- 2) Mr. Howell informed Council the North Carolina Department of Transportation (NCDOT) has announced project delays statewide due to unexpected costs related to the hurricanes, expected damages from the Map Act being found unconstitutional, and the rising cost of construction. (Clerk's note: The Map Act gave NCDOT the power to impose absolute, permanent development moratoria on land within designated transportation corridors, suppressing the value of the land and reducing the amount it would have to pay when it eventually acquired it for highway rights-of-way.) The delays affect many projects around the State. These factors have caused what hopefully will be short-term cash flow issues. The City will continue to monitor the status of several projects, namely, US 74 Shelby Bypass, Dekalb Street and Dixon Boulevard and Dixon Boulevard and Earl Road construction improvements, and Marion Street and Cherryville Road realignment of intersection. Mr. Howell suggested Council consider a discussion and potential action sometime in the future.

Mr. Amaya, who serves as a Gaston-Cleveland-Lincoln Metropolitan Planning Organization board member, has contacted elected officials at the General Assembly in Raleigh for their support of Shelby's NCDOT projects, urging others to do the same.

- 3) Mr. Howell updated Council on the following projects:

- Farmville Road Elevated Storage Water Tank Project – The tank is scheduled to be functional within two weeks.
- Wastewater Treatment Plant Bio-solids Improvement Project – There is good progress on this project.
- Water Treatment Plant Upgrades Project – The project should be substantially complete in September 2020.
- T-Hangar Project at Shelby Cleveland County Regional Airport – There is good progress on this project.
- Uptown Shelby Streetscape Project – This project is currently in the stormwater improvements phase.
- Street Resurfacing Program – The project has begun and is moving along.

I. Council Announcements and Remarks:

- 1) Mayor Anthony shared the details of his recent tour led by David Hux at the Wastewater Treatment Plant Improvements Project and encouraged Council members to do the same.

- 2) **Mr. Amaya announced early voting for the Shelby Primary Election begins Wednesday, September 18, 2019.**

J. Closed Session:

- 1) **To approve the Minutes and General Account of the Closed Session of May 20, 2019**
- 2) **To approve the Minutes and General Account of the Closed Session of July 15, 2019**
- 3) **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. Amaya 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 6:58 p.m.

Council returned to the regular session at 7:20 p.m.

K. Adjournment:

- 1) **Motion to adjourn**

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to adjourn the meeting at 7:21 p.m.

Respectfully submitted,

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

**O. Stanhope Anthony III
Mayor**

Minutes of September 16, 2019