

MINUTES

Regular Meeting – Electronic Meeting
City Hall and Don Gibson Theatre

July 20, 2020
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, Charles Webber, and Andrew Hopper, Sr.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin S. Merritt, MPA, Interim City Attorney Martha R. Thompson, City Clerk Bernadette A. Parduski, Director of Finance Elizabeth B. (Beth) Beam, Director of Energy Services Julie R. McMurry, Director of Water Resources David W. Hux, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Planning and Development Services Walter (Walt) Scharer, AICP, Public Information and Communications Officer Chip Nuhrah, Lead for North Carolina (LFNC) Fellow Shelby Holmes, Jennipher H. Harrill, Social Media Manager, Blue Eyes Social Media Connections, and Stan Lowery, Executive Director, Don Gibson Theatre

Mayor Anthony called the meeting to order at 6:00 p.m. and certified a quorum was present. It was noted a location for public access to the meeting was established at the Don Gibson Theatre and monitored by Mr. Nuhrah. A maximum of ten (10) persons would be allowed to attend.

The Mayor called for a moment of silence and reflection. Afterwards, he delivered an invocation.

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) Benjamin (Ben) Schaeffer who resides at 1403 Lackey Street in Shelby, North Carolina addressed Council with the following recommendations:
 - Develop a framework that obliges City employees or representatives to acknowledge emails from members of the public.
 - Provide clear and updated information on how the public can attend any boards, committees and commissions that are meeting on video conferencing services.

- Create a publicly available repository for all meeting minutes, agendas or items created by boards and committees.
- Ensure all policies and procedures that pertain to the public are listed on the website for the City of Shelby or made otherwise accessible for viewing with coordination by the City Clerk or the Clerk's designee.
- Create a section on the City of Shelby website for all resolutions passed by the City Council. Currently, an individual must navigate individual meeting minutes or agendas to see proposed or adopted and approved resolutions.
- Immediately reevaluate the current public comment policy.
- Consider the public records policy as considered in resolution No. 36-2020 as an interim policy only until the following revisions are completed: Clarify if the Citizens Request/311 link exists? I could not find a request link in a prominent place on the website. Codify an expected timeframe for typical requests and oblige the Clerk or custodian of records to inform the requesting party of anticipated delays or adjustments. Ensure a reason is required if a request is denied.
- Invest in underrepresented and purposefully under-resourced communities in Shelby.
- Issue a proclamation standing in solidarity with the protestors in Portland who have been protesting racism and injustice in their own community.

Mr. Schaeffer provided his statement, which has been incorporated by reference and made a part of these Minutes.

C. Public Hearings:

- 1) Consideration of a resolution and order permanently closing an opened right of way for Chesterfield Drive: Resolution No. 31-2020

Mr. Scharer introduced Resolution No. 31-2020. Previously, Council approved a resolution declaring the intent to close this unopened right-of-way for Chesterfield Drive and establish a public hearing for the right-of-way closing. This public hearing is being conducted in accordance with North Carolina General Statutes and is a required step prior to Council taking formal action on the petition.

Mr. Scharer explained a portion of the Chesterfield Drive right-of-way was never completed as a street. The property owner adjacent to this unopened right-of-way for Chesterfield Drive, Dale Short, has petitioned the City to close this section of right-of-way.

Mayor Anthony opened the public hearing at 6:10 p.m. and invited comments from the public. The public offered no comments.

Mayor Anthony closed the public hearing at 6:11 p.m.

Mr. Scharer stated under a recently adopted provision of the North Carolina General Statutes, Council may not act on the matter following the close of the public hearing. It must receive public comment on the matter for at least 24 hours following the close of the hearing. The proposed resolution and order will be available to act upon by Council at their meeting of August 3, 2020.

Council took no action.

2) Consideration of a resolution and order permanently closing the north end of Pere Street from West Dale Street to West Marion Street: Resolution No. 32-2020

Mr. Scharer introduced Resolution No. 32-2020. Previously, Council approved a resolution declaring the intent to close a section of Pere Street and establish a public hearing for this closing. This public hearing is being conducted in accordance with North Carolina General Statutes and is a required step prior to Council taking formal action on the petition.

Mr. Scharer explained a portion of Pere Street between West Marion Street and West Dale Street has been requested to be closed. The property owner of both sides of the street, Thompson-Gordon-Shook (TGS) Engineers, is redeveloping the property at 201 West Marion Street and intends to create a safer parking facility for the redeveloped property.

Mayor Anthony opened the public hearing at 6:12 p.m. and invited comments from the public. The public offered no comments.

Mayor Anthony closed the public hearing at 6:13 p.m.

Mr. Scharer stated under a recently adopted provision of the North Carolina General Statutes, Council may not act on the matter following the close of the public hearing. It must receive public comment on the matter for at least 24 hours following the close of the hearing. The proposed resolution and order will be available to act upon by Council at their meeting of August 3, 2020.

Council took no action.

3) Consideration of a resolution and order permanently closing West Stadium Street: Resolution No. 33-2020

Mr. Scharer introduced Resolution No. 33-2020. Previously, Council approved a resolution declaring the intent to close West Stadium Street and establish a public hearing for this closing. This public hearing is being conducted in accordance with North Carolina General Statutes and is a required step prior to Council taking formal action on the petition.

Mr. Scharer explained the Cleveland County School District requested that West Stadium Street at Shelby High School be closed as a City street. The School District intends to close the street to regular through traffic for the safety of students and the public who attend events at the football stadium. The School District also intends to fence in the area between the stadium and a school building and provide an easement and coordinate permanent access for City-owned utilities.

Mayor Anthony opened the public hearing at 6:14 p.m. and invited comments from the public. The public offered no comments.

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

Mr. Scharer stated under a recently adopted provision of the North Carolina General Statutes, Council may not act on the matter following the close of the public hearing. It must receive public comment on the matter for at least 24 hours following the close of the hearing. The proposed resolution and order will be available to act upon by Council at their meeting of August 3, 2020.

Council took no action.

D. Consent Agenda:

Mayor Anthony presented the consent agenda. Mr. Webber moved to approve the consent agenda and following items were unanimously adopted:

1) Approval of the Minutes of the Regular Meeting of June 15, 2020

2) Approval of a Special Event Permit Application:

a. Here's the Scoop, requested date: July 23, 2020

3) Approval of a resolution naming a certain City of Shelby facility in honor of Bobby Bell: Resolution No. 34-2020

E. Unfinished Business:

1) Consideration of a proposed ordinance to amend the Unified Development Ordinance (UDO) of the City of Shelby: Ordinance No. 24-2020

Mr. Scharer introduced Ordinance No. 24-2020 for Council’s consideration. Council previously held the required legislative hearing on June 1, 2020. No comments were received on this matter at that time. It was noted if the proposed ordinance is approved, it would eliminate private recreational clubs as a permitted use in the Residential 10 (R10), Residential 8 (R8), and Residential 6 (R6) zoning districts.

As related information, he stated staff reviewed the current code and found that private recreational clubs were a permitted use but there was no detail definition or development standards within the UDO. After a careful evaluation, staff believed that allowing the continuation of this situation was not in keeping with maintaining the residential character within R10, R8, and R6 zoning districts throughout the City’s jurisdiction.

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to approve and adopt Ordinance No. 24-2020 entitled, “A PROPOSED ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (UDO) OF THE CITY OF SHELBY”.

F. New Business:

1) Consideration of a resolution adopting the Cleveland Gaston Lincoln Regional Hazard Mitigation Plan: Resolution No. 35-2020

Mr. Howell introduced Resolution No. 35-2020 for Council’s consideration. If approved, this resolution would adopt the “Cleveland, Gaston, Lincoln Regional Hazard Mitigation Plan.” Mr. Howell stated this plan was prepared in conjunction with all the emergency management agencies for all three counties and several municipalities at no cost to any of the agencies involved. The plan seeks to set forth a framework to plan, prepare, react, and recover from both natural and manmade hazards. These hazards threaten the life and safety of residents in the Cleveland Gaston Lincoln area and have the potential to damage or destroy both public and private property, disrupt the local economy, and impact the overall quality of life of individuals who live, work, and visit the region. Mr. Howell explained both State and Federal law require local governments to have a plan that meets specific criterion for the covered local government entities to qualify for Federal Emergency Management Agency (FEMA) reimbursement in the event of a disaster. Mr. Howell added the plan more importantly raises awareness of local government authorities for the need to plan, prepare, react, and recover in the event of a disaster.

ACTION TAKEN: Upon a motion made by Mrs. Arth Dukes, City Council voted unanimously to approve and adopt Resolution No. 35-2020 entitled, “A RESOLUTION ADOPTING THE CLEVELAND GASTON LINCOLN REGIONAL HAZARD MITIGATION PLAN”.

- 2) Consideration of a resolution adopting the City of Shelby Public Records Request Policy and Procedure: Resolution No. 36-2020

Mr. Howell introduced Resolution No. 36-2020 for Council’s consideration. If approved, this resolution would put into place a specific policy for access to public records and addresses procedures, authorized statutory charges, and exemptions permitted under the law. Mr. Howell stated the City currently works to follow the appropriate state and federal statutes. However, these are often broad and do not necessarily give guidance on procedures to be followed, appropriate fees to be charged, or which documents are not subject to the law.

Mr. Howell further stated the policy was developed by the City Attorney and Ms. Thompson recommended that Council give it their attention and thought. Ms. Thompson reiterated the policy and procedure meet the statutory requirements and provide guidance to both the public and the custodian of the City’s records, namely the Office of the City Clerk, as to charges and the options to inspect or to copy public records. Requests for public records may be submitted via a link on the City’s website, to be established soon, or in writing to the City Clerk.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 36-2020 entitled, “A RESOLUTION ADOPTING THE CITY OF SHELBY PUBLIC RECORDS REQUEST POLICY AND PROCEDURE”.

- 3) Consideration of a proposed ordinance amending the Minimum Housing Ordinance of the City of Shelby, North Carolina: Ordinance No. 25-2020

Mr. Scharer introduced Ordinance No. 25-2020 for Council’s consideration. If approved, this ordinance would amend the existing City Code to bring it into full conformance with the applicable North Carolina General Statute addressing minimum housing standards. After conducting a review, the City Attorney prepared the necessary changes in cooperation with the Planning and Development Services staff. The detailed changes are included as part of the ordinance and will be codified.

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to approve and adopt Ordinance No. 25-2020 entitled, “A PROPOSED ORDINANCE AMENDING THE MINIMUM HOUSING ORDINANCE OF THE CITY OF SHELBY, NORTH CAROLINA”.

F. City Manager's Report:

- 1) Mr. Howell announced the City received notification it was awarded a Carolina Thread Trail grant of \$75,000 which will help with the cost of replacing the suspension bridge over the First Broad River. The bridge was swept away in February 2020 when storms brought catastrophic flooding to Cleveland County, closing the First Broad River Trail off West Grover Street. The next step in getting the trail reopened is to send out requests for proposals and that process is expected to take approximately 30 days. The matter will eventually be brought to Council for discussion and action.**
- 2) Mr. Howell stated under executive orders from Governor Roy Cooper, utility service providers have been prohibited since March 31, 2020 from charging late fees or cutting service to customers who have not paid their utility bills. Those consumer protections are likely expiring on July 29, 2020. He further stated the City has announced plans to reopen City Hall on Monday, August 3, 2020, for utility payments and payment arrangement requests with the typical payment plan for customers with outstanding balances being six months.**
- 3) Regarding the Job Ready Industrial Shell Building No. 3 Project, Mr. Howell reported the construction is moving along well, weather permitting.**
- 4) Regarding the Uptown Shelby Streetscaping Project, Mr. Howell reported Sealand Contractors will continue with asphalt milling of the Uptown streets in advance of the street resurfacing and other construction activities, weather permitting.**
- 5) Mr. Howell informed Council a certificate of occupancy has been issued to Greenheck Fan Company for its new facility housing the architectural products business at the Foothills Commerce Center.**
- 6) Regarding the Brookwood Drive Water and Sewer Project, Mr. Howell reported the work in that neighborhood is in progress and currently a water line is being replaced.**
- 7) Mr. Howell introduced Shelby Holmes as the City's Lead for North Carolina (LFNC) Fellow. Miss Holmes is a native of Weaverville, North Carolina and a graduate of Davidson College. The goal of LFNC is to implement a fellowship program for recent college graduates and is the pilot state affiliate program of Lead for America. It is being run by the UNC Chapel Hill School of Government (SOG), in partnership with the NC City and County Managers Association (NCCCMA), NC League of**

Municipalities (NCLM), and NC Association of County Commissioners (NCACC). Mr. Howell stated Miss Holmes will work on various projects:

- A housing policy and a program to implement the encouragement and development of all types of residential housing
- Development of a process for a public art plan
- An employee recruitment policy and a workforce diversity plan

G. Council Announcements and Remarks:

- 1) Mayor Anthony initiated a discussion about Governor Roy Cooper's Executive Order No. 147 as it relates to the requirements to wear face coverings. First, Mr. Howell referred to the Governor's Order, the Frequently Asked Questions for Executive Order No. 147, and the NC Department of Health and Human Services Requirements for the Use of Face Coverings and Masks, all posted on the State's website for review by the public. It is his understanding that face coverings/masks are required in retail businesses, restaurants, personal care, grooming, and tattoo businesses, child care facilities, day camps, and overnight camps, state government, transportation, high-density occupational settings, meat or poultry processing plants, long-term care facilities, and health care settings, etc. Regarding exceptions, anyone who declines to wear a face covering/mask is not required to produce documentation or any other proof of a condition. Under this Executive Order, all North Carolinians will be on the honor system about whether there is a reason why they cannot wear a face covering/mask. It is also his understanding that law enforcement personnel are not authorized to criminally enforce the face covering/mask requirements of this Executive Order against individuals. However, if a business or organization does not allow entry to a worker, customer, or patron because that person refuses to wear a face covering/mask, and if that worker, customer, or patron enters the premises or refuses to leave the premises, law enforcement personnel may enforce the trespassing laws and any other laws that may be violated. Next, Chief Ledford agreed with and reiterated Mr. Howell's synopsis of the Executive Order, adding it has been both confusing and crippling for law enforcement, which only has the authority to enforce the trespassing laws. To conclude, Ms. Thompson stated there is an exception for children under eleven (11) years of age, private offices, and local government facilities. However, local government agencies are encouraged to adopt similar policies and/or ordinances that require face coverings/masks with an educational component but with no enforcement provision. Ms. Thompson added that face coverings/masks are to be worn in addition to social distancing. Mr. Howell added the City regularly posts educational information about the requirements for the use of face coverings/masks on social media. Mayor Anthony encouraged elected

officials and citizens to use their power of persuasion about the importance of wearing face coverings/masks for the sake of the community.

- 2) Mayor Anthony mentioned he signed a letter prepared by the North Carolina League of Municipalities to North Carolina's 10th Congressional District legislators regarding municipal revenue shortfalls due to the COVID-19 pandemic.
- 3) Mayor Anthony said he and Andrew Hopper recently spoke to Bobby Bell regarding his recognition event scheduled for September 2020 in Shelby and it was decided to postpone the festivities to a date to be determined.

H. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to adjourn the meeting at 6:59 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of July 20, 2020