

Welcome and Call to Order by Mayor O. Stanhope Anthony III

Invocation

Pledge of Allegiance

A. Approval of Agenda

Discussion and revision of the proposed agenda, including consent agenda; adoption of an agenda.

- 1) Motion to adopt the agenda as proposed or amended

B. Public Comment:

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In accordance with City Council's policy, public comment is only taken at the second regular meeting each month. Any citizen who wishes to address Council must register with the City Clerk prior to 6:00 p.m. on the meeting night. The Mayor will call upon each individual during this portion of the meeting and will allow three (3) minutes to speak.

C. Public Hearing:

- 1) Consideration of a proposed ordinance to amend the Unified Development Ordinance of the City of Shelby: Ordinance No. 16-2021

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D. Consent Agenda:

Prior to approval and adoption of the agenda, a Council Member may move an item from the Consent Agenda to the regular agenda. Items remaining on the Consent Agenda will be considered collectively through a single motion and vote.

- 1) Approval of the Minutes of the Regular Meeting of April 5, 2021 22

- 2) Adoption of a budget ordinance amendment for the City of Shelby's Rail Trail Corridor Project: Ordinance No. 17-2021 29

E. Unfinished Business: None 32

F. New Business: None 32

G. City Manager's Report	32
H. Council Announcements and Remarks	32
I. Closed Session:	
1) To discuss matters relating to the location or expansion of industries or other businesses in the area served by City Council, including an agreement on a tentative list of economic development incentives that may be offered pursuant to North Carolina General Statute 143-318.11(a) (4)	33
J. Adjournment:	
<i>To adjourn a meeting of City Council, a majority of the Council Members must vote for a motion to adjourn.</i>	
1) Motion to adjourn	33

City of Shelby
Agenda Item Summary
April 19, 2021
Don Gibson Theatre

B. Public Comment:

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City of Shelby
Agenda Item Summary
April 19, 2021
Don Gibson Theatre

C. Public Hearing:

- 1) Consideration of a proposed ordinance to amend the Unified Development Ordinance of the City of Shelby: Ordinance No. 16-2021

Presenting: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated April 12, 2021 from Walter Scharer, Planning Director to Rick Howell, City Manager
- Staff Report
- Notice of Public Hearing
- Ordinance No. 16-2021

City Manager's Recommendation / Comments

This time on your agenda is scheduled for Council to conduct a legislative hearing on a proposed text amendment to the UDO. This amendment follows the new requirements found in 160D. This amendment eliminates Conditional Use Permits and replaces them with Special Use Permits. Mr. Scharer has provided the necessary background information for your consideration. This is a legislative hearing. The purpose of a legislative hearing is to secure public comment on the proposed action. Following the hearing City Council may take action either in favor or opposition to Ordinance No. 16-2021. Consideration should be given by City Council to the following section from the Unified Development Ordinance of the City Code when making decisions concerning amendments to the UDO whether they be text or map changes. The certified recommendation from the Planning and Zoning Board Chairperson is included in the agenda packet for your consideration.



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: April 12, 2021
Subject: GS-160D Enabling Legislation

Executive Summary of issue – Background

In 2019 the General Assembly passed a new set of land development regulations in 160D of the General Statutes. This legislation requires local governments in North Carolina to amend their land development regulations to follow the new 160D land development statute.

Review and Comments

This proposed text amendment to the City of Shelby UDO follows the new requirements found in 160D. This amendment eliminates Conditional Use Permits and replaces them with Special Use Permits. The process to obtain these permits do not change.

Recommendation

Please schedule a public hearing for this proposed zoning text amendment at the next City Council meeting on April 19, 2021.

Attachments: Staff Report, Notice of Public Hearing, and Ordinance



Staff Report

To: Shelby Planning & Zoning Board
From: Alan Toney
Planner

Date: March 24, 2021
Meeting: April 15, 2021

Proposal: To replace the Conditional Use Permits and Special Use Permits in 4-7 with Special Use Permits 1 and Special Use Permits 2 to be compliant with NC GS 160D Requirements.

ANALYSIS:

The following is the proposed Special Use Permits 1 and Special Use Permits 2 for 4-7:

4-7 SPECIAL USE PERMIT 1 AND SPECIAL USE PERMIT 2

4-7.1 Special Use Permit 2 Review Process

An application for a Special Use Permit 2 shall be submitted to the Board of Adjustment by filing a copy of the application with the Zoning Administrator in the Community Development Department 25 working days prior to the Board of Adjustment meeting at which the request will be reviewed. The review process for a Special Use Permit 2 shall include:

- (A) Community Development Department review and recommendation in accordance with Section 4-7.3;
- (B) Public hearing held by the Board of Adjustment; and
- (C) Board of Adjustment review and action.

4-7.2 Special Use Permit 1 Review Process

An application for a Special Use Permit 1 shall be submitted to the City Council by filing a copy of the application with the Zoning Administrator 25 days prior to the City Council meeting at which the request will be reviewed. The review process for a Special Use Permit 1 shall include:

- (A) Community Development Department review and recommendation pursuant to Section 4-7.4;
- (B) Public hearing held by the City Council; and
- (C) City Council review and action.

4-7.3 Recommendations on Special Use Permit 2 Applications

(A) When presented to the Board of Adjustment, the application for a Special Use Permit 2 shall be accompanied by a report setting forth the Community Development Department's proposed findings concerning the application's compliance with Section 4-3 and the other requirements of this Ordinance, as well as any staff recommendations for additional requirements to be imposed by the Board of Adjustment.

(B) If the staff report proposes a finding or conclusion that the application fails to comply with any requirement of the Ordinance, the report shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(C) The Board of Adjustment may, on a case-by-case basis, refer applications to the Planning and Zoning Board to obtain its recommendations.

4-7.4 Recommendations on Special Use Permit 1 Applications

(A) When presented to the City Council, the application for a Special Use Permit 1 shall be accompanied by a report setting forth the Community Development Department's proposed findings concerning the application's compliance with Section 4-3 and the other requirements of this Ordinance, as well as any staff recommendations for additional requirements to be imposed by the City Council.

(B) If the staff report proposes a finding or conclusion that the application fails to comply with any requirement of the Ordinance, the report shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(C) The City Council may, on a case-by-case basis, refer applications to the Planning and Zoning Board to obtain its recommendations.

4-7.5 Public Hearing Requirements and Procedures

(A) No Special Use Permit 2 nor Special Use Permit 1 shall be approved until a public hearing has been held by the permit-issuing board.

(B) The City Clerk shall publish a notice of the public hearing in a newspaper having general circulation in the area. The notice shall be published not less than ten days before the date affixed for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.

The notice required by this Section shall:

- (1) State the date, time, and place of the public hearing;
- (2) Summarize the nature and character of the permit request;
- (3) Reasonably identify the property affected by the permit request;
- (4) State that the full permit request application can be reviewed at the office of the Zoning Administrator; and
- (5) State that substantial changes in the permit request may be made following the public hearing.

(C) The Zoning Administrator shall mail written notice of the public hearing to the owners of all properties involved in the permit request as well as the owners of all properties any portion of which is within 100 feet of the property involved in the permit request.

(D) The Zoning Administrator may also post notices of the public hearing in the vicinity of the property involved in the permit request and take any other action deemed by the Zoning Administrator to be useful or appropriate to give notice of the public hearing on any permit request.

(E) The Zoning Administrator shall make every reasonable effort to comply with the notice provisions set forth in this Section. However, it is the permit-issuing board's intention that no failure to comply with any of the notice provisions [except those set forth in subsection (B)] shall render any permit request invalid.

(F) At the conclusion of the public hearing, the permit-issuing board may proceed to vote on the permit request, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure. Section 4-7.6 delineates specific actions that the Board of Adjustment must take on requests Special Use Permit 2 and Section 4-7.7, that the City Council must take on requests for Special Use Permit 1.

(G) The permit-issuing board is not required to take final action on a permit request within any specific period of time, but it should proceed as expeditiously as practicable on permit requests since inordinate delays can result in the applicant incurring unnecessary costs.

(H) Subject to subsection (I), the Board of Adjustment or the City Council, respectively, shall approve the requested permit unless it concludes, based upon the information submitted at the hearing, that:

- (1) The requested permit is not within its jurisdiction according to the Table of Permissible Uses; or
- (2) The application is incomplete; or
- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance.

(I) Even if the permit-issuing board finds that the application complies with all other provisions of this Ordinance, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- (1) Will materially endanger the public health or safety; or
- (2) Will substantially injure the value of adjoining or abutting property; or
- (3) Will not be in harmony with the area in which it is to be located; or
- (4) Will not be in general conformity with the land development plan or other plans officially adopted by the City Council.

(J) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this Ordinance remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in subsection (I) rests on the party or parties urging that the requested permit should be denied.

4-7.6 Board of Adjustment Action on Special Use Permit 2 Applications

(A) Upon receipt of a recommendation from the Community Development Department, the Board of Adjustment shall review the application for a Special Use Permit 2 and shall hold a public hearing on the application. Public notice of the public hearing shall be in accordance with the provisions of Section 4-7.5. The Board of Adjustment shall comply with the four-fifths voting requirements set forth in Section 3-2.6(A).

(B) Following the public hearing, the Board of Adjustment may proceed to vote on the permit request, refer it to committee for further study, or take any other action consistent with its usual rules of procedure.

(C) The Board of Adjustment shall consider whether the application is complete. If the Board of Adjustment concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. A motion to this effect, concurred in by a simple majority vote of the Board of Adjustment, shall constitute the Board's finding on this issue. If a motion to this effect is not made and concurred in by a simple majority vote, this shall be taken as an affirmative finding by the Board of Adjustment that the application is complete.

(D) The Board of Adjustment shall consider whether the application complies with all of the applicable requirements of this Ordinance. If a motion to this effect passes by the necessary majority vote, the Board of Adjustment need not make further findings concerning such requirements. Each individual finding may be voted upon individually with an approval requiring a simple majority vote.

(E) If the Board of Adjustment concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in Subsection 4-7.5 (I). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion. Since such a motion is not in favor of the applicant, it is carried by a simple majority vote.

4-7.7 City Council Action on Special Use Permit 1

(A) Upon receipt of a recommendation from the Community Development Department, the City Council shall review the application for a Special Use Permit 1 and shall hold a public hearing on the application. Public notice of the public hearing shall be in accordance with the provisions of Section 4-7.5. The City Council, in considering Special Use Permit 1 applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements of the Board of Adjustment except that no vote greater than a majority vote shall be required for the City Council to issue a Special Use Permit 1.

(B) Following the public hearing, the City Council may proceed to vote on the permit request, refer it to committee for further study, or take any other action consistent with its usual rules of procedure.

(C) In considering whether to approve an application for a Special Use Permit 1, the City Council shall proceed according to the following format:

(1) The City Council shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the City Council that the application is complete.

(2) The City Council shall consider whether the application complies with all of the applicable requirements of this Ordinance. If a motion to this effect passes, the City Council need not make further findings concerning such requirements. If such a motion fails or is not made then a motion shall be made that the application be found not in compliance with one or more of the requirements of this Ordinance. Such a motion shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application.

(3) If the City Council concludes that the application fails to comply with one or more requirements of this Ordinance, the application shall be denied. If the City Council concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

4-7.8 Additional Requirements on Special Use Permit 2 and Special Use Permit 1

(A) Subject to subsection (B), in granting a Special Use Permit 2 or Special Use Permit 1, the Board of Adjustment or City Council, respectively, may attach to the permit such reasonable requirements in addition to those specified in this Ordinance as will ensure that the development in its proposed location:

- (1) Will not endanger the public health or safety;
- (2) Will not injure the value of adjoining or abutting property;
- (3) Will be in harmony with the area in which it is located; and
- (4) Will be in conformity with the land development plan, thoroughfare plan, or other plan officially adopted by the City Council.

(B) The permit-issuing board may not attach additional conditions that modify or alter the specific requirements set forth in this Ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(C) Without limiting the foregoing, the permit-issuing board may attach to a permit a condition limiting the permit to a specified duration.

(D) All additional conditions or requirements shall be entered on the permit.

(E) All additional conditions or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Ordinance.

(F) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in Subsections 4-7.5 (H) or 4-7.5 (I).

4-8 Authorizing Use or Occupancy Before Completion Of Development Under Zoning, Special Use Permit 2 or Special Use Permit 1

(A) In cases when, because of weather conditions or other factors beyond the control of the zoning, special use permit 1, or Special Use Permit 2 recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this Ordinance before commencing the intended use of the property or occupying any buildings, the permit-issuing authority may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Ordinance are concerned) if the permit recipient provides an adequately secured performance bond or other security satisfactory to the permit-issuing authority to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve months). The proposed performance bond and security shall be reviewed and approved by the City Attorney, however, prior to the permit-issuing authority authorizing the intended use or occupancy.

(B) When the permit-issuing board imposes additional requirements upon the special use permit 1 or Special Use Permit 2 recipient in accordance with Section 4-7.8 or when the developer proposes in the plans submitted to install amenities beyond those required by this Ordinance, the permit-issuing board may authorize the permittee to commence the intended use of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:

- (1) A performance bond and security satisfactory to the City Attorney is furnished;
- (2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made;
- (3) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Section 5-4 and Section 5-6.

Definitions:

Special Use Permit 1: A permit issued by the City Council that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance or as well as any additional requirements imposed by the City Council.

Special Use Permit 2: A permit issued by the Board of Adjustment that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance as well as any additional requirements imposed by the Board of Adjustment.

**NOTICE OF PUBLIC HEARING
ZONING TEXT
AMENDMENT**

The City Council of Shelby, North Carolina will conduct a public hearing at The Don Gibson Theatre, 318 S Washington Street, on Monday April 19 at 6 P.M. City Council will consider a proposed text amendment to amend Conditional Use Permits and Special Use Permits of Article 4-7 of the City of Shelby Unified Development Ordinance.

A more detailed description of this amendment is available for public inspection in the Planning and Development Services Department located at 315 South Lafayette Street, Shelby, North Carolina, during regular business hours, 8:00 AM until 5:00 PM. Also, you can call (704) 484-6829 for more information.

The City Council may change the text covered by the petition or any part thereof, without the withdrawal or modification of the petition or further publication of notice.

Persons interested in commenting on this matter are invited to attend the public comment station in the Don Gibson Theatre at 318 South Washington Street, Shelby, NC at 6 pm on Monday April 19, 2021. Persons may also comment on this matter by submitting written comments no later than 5pm, April 19, 2021.

Members of the public wishing to attend this meeting should contact the City Clerk (704 484-6800) at least 24 hours prior to the meeting.

Bernadette A. Parduski, NC-CMC, IMC-MMC
City Clerk

The Shelby Star:

Please publish this notice as a legal line ad on Thursday April 8, 2021 and repeat the same ad on Thursday April 15, 2021.

Mail invoices with affidavits to Walter Scharer, City of Shelby, PO Box 207, Shelby, NC 28151. Thank you.

ORDINANCE NO. 16-2021

**A PROPOSED ORDINANCE TO AMEND
THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF SHELBY**

WHEREAS, the State of North Carolina General Legislature adopted North Carolina General Statute 160D in 2019; and,

WHEREAS, the Shelby Planning and Zoning Board has reviewed said application for a text amendment and has made its findings and recommendations to City Council; and,

WHEREAS, the Shelby Planning and Zoning Board found that the text amendment is consistent with the Comprehensive Land Use Plan; and,

WHEREAS, in accordance with GS 160A-364, a public hearing on this proposed text amendment was held by City Council on April 19, 2021 after due publication of said hearing as required by law; and,

WHEREAS, after hearing all who wished to be heard on this matter and upon review of the findings and recommendations of the Planning and Zoning Board, City Council now desires to act on this matter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. In accordance with Chapter 160A, Article 19 of the North Carolina General Statutes, as amended, the Shelby Unified Development Ordinance is amended as shown in Exhibit A.

Section 2. The City Clerk of the City of Shelby is hereby authorized and directed to cause the provisions of Section 2 of this ordinance to be properly codified, and the City Clerk is further authorized and directed to cause her official records.

Section 3. This ordinance shall become effective upon its adoption and approval.

ADOPTED AND APPROVED this the 19th day of April 2021.

O. Stanhope Anthony III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

APPROVED AS TO FORM:

Andrea Leslie-Fite
City Attorney

Exhibit A:

~~4-7 CONDITIONAL USE PERMITS AND SPECIAL USE PERMITS~~

~~4-7.1 Conditional Use Permit Review Process~~

~~An application for a conditional use permit shall be submitted to the Board of Adjustment by filing a copy of the application with the Zoning Administrator in the Community Development Department 25 working days prior to the Board of Adjustment meeting at which the request will be reviewed. The review process for a conditional use permit shall include:~~

~~(A) Community Development Department review and recommendation in accordance with Section 4-7.3;~~

~~(B) Public hearing held by the Board of Adjustment; and~~

~~(C) Board of Adjustment review and action.~~

~~4-7.2 Special Use Permit Review Process~~

~~An application for a special use permit shall be submitted to the City Council by filing a copy of the application with the Zoning Administrator 25 days prior to the City Council meeting at which the request will be reviewed. The review process for a special use permit shall include:~~

~~(A) Community Development Department review and recommendation pursuant to Section 4-7.4;~~

~~(B) Public hearing held by the City Council; and~~

~~(C) City Council review and action.~~

~~4-7.3 Recommendations on Conditional Use Permit Applications~~

~~(A) When presented to the Board of Adjustment, the application for a conditional use permit shall be accompanied by a report setting forth the Community Development Department's proposed findings concerning the application's compliance with Section 4-3 and the other requirements of this Ordinance, as well as any staff recommendations for additional requirements to be imposed by the Board of Adjustment.~~

~~(B) If the staff report proposes a finding or conclusion that the application fails to comply with any requirement of the Ordinance, the report shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.~~

~~(C) The Board of Adjustment may, on a case-by-case basis, refer applications to the Planning and Zoning Board to obtain its recommendations.~~

~~4-7.4 Recommendations on Special Use Permit Applications~~

~~(A) When presented to the City Council, the application for a special use permit shall be accompanied by a report setting forth the Community Development Department's proposed findings concerning the application's compliance with Section 4-3 and the other requirements of this Ordinance, as well as any staff recommendations for additional requirements to be imposed by the City Council.~~

~~(B) If the staff report proposes a finding or conclusion that the application fails to comply with any requirement of the Ordinance, the report shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.~~

~~(C) The City Council may, on a case-by-case basis, refer applications to the Planning and Zoning Board to obtain its recommendations.~~

4-7.5 Public Hearing Requirements and Procedures

~~(A) No conditional use nor special use permit shall be approved until a public hearing has been held by the permit issuing board.~~

~~(B) The City Clerk shall publish a notice of the public hearing in a newspaper having general circulation in the area. The notice shall be published not less than ten days before the date affixed for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.~~

~~The notice required by this Section shall:~~

- ~~(1) State the date, time, and place of the public hearing;~~
- ~~(2) Summarize the nature and character of the permit request;~~
- ~~(3) Reasonably identify the property affected by the permit request;~~
- ~~(4) State that the full permit request application can be reviewed at the office of the Zoning Administrator; and~~
- ~~(5) State that substantial changes in the permit request may be made following the public hearing.~~

~~(C) The Zoning Administrator shall mail written notice of the public hearing to the owners of all properties involved in the permit request as well as the owners of all properties any portion of which is within 100 feet of the property involved in the permit request.~~

~~(D) The Zoning Administrator may also post notices of the public hearing in the vicinity of the property involved in the permit request and take any other action deemed by the Zoning Administrator to be useful or appropriate to give notice of the public hearing on any permit request.~~

~~(E) The Zoning Administrator shall make every reasonable effort to comply with the notice provisions set forth in this Section. However, it is the permit issuing board's intention that no failure to comply with any of the notice provisions [except those set forth in subsection (B)] shall render any permit request invalid.~~

~~(F) At the conclusion of the public hearing, the permit issuing board may proceed to vote on the permit request, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure. Section 4-7.6 delineates specific actions that the Board of Adjustment must take on requests conditional use permits and Section 4-7.7, that the City Council must take on requests for special use permits.~~

~~(G) The permit issuing board is not required to take final action on a permit request within any specific period of time, but it should proceed as expeditiously as practicable on permit requests since inordinate delays can result in the applicant incurring unnecessary costs.~~

~~(H) Subject to subsection (I), the Board of Adjustment or the City Council, respectively, shall approve the requested permit unless it concludes, based upon the information submitted at the hearing, that:~~

- ~~(1) The requested permit is not within its jurisdiction according to the Table of Permissible Uses; or~~
- ~~(2) The application is incomplete; or~~
- ~~(3) If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance.~~

~~(I) Even if the permit issuing board finds that the application complies with all other provisions of this Ordinance, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:~~

- ~~(1) Will materially endanger the public health or safety; or~~

- (2) Will substantially injure the value of adjoining or abutting property; or
- (3) Will not be in harmony with the area in which it is to be located; or
- (4) Will not be in general conformity with the land development plan or other plans officially adopted by the City Council.

(J) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this Ordinance remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in subsection (I) rests on the party or parties urging that the requested permit should be denied.

4-7.6 Board of Adjustment Action on Conditional Use Permit Applications

(A) Upon receipt of a recommendation from the Community Development Department, the Board of Adjustment shall review the application for a conditional use permit and shall hold a public hearing on the application. Public notice of the public hearing shall be in accordance with the provisions of Section 4-7.5. The Board of Adjustment shall comply with the four-fifths voting requirements set forth in Section 3-2.6(A).

(B) Following the public hearing, the Board of Adjustment may proceed to vote on the permit request, refer it to committee for further study, or take any other action consistent with its usual rules of procedure.

(C) The Board of Adjustment shall consider whether the application is complete. If the Board of Adjustment concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. A motion to this effect, concurred in by a simple majority vote of the Board of Adjustment, shall constitute the Board's finding on this issue. If a motion to this effect is not made and concurred in by a simple majority vote, this shall be taken as an affirmative finding by the Board of Adjustment that the application is complete.

(D) The Board of Adjustment shall consider whether the application complies with all of the applicable requirements of this Ordinance. If a motion to this effect passes by the necessary majority vote, the Board of Adjustment need not make further findings concerning such requirements.

Each individual finding may be voted upon individually with an approval requiring a simple majority vote.

(E) If the Board of Adjustment concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in Subsection 4-7.5 (I). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion. Since such a motion is not in favor of the applicant, it is carried by a simple majority vote.

4-7.7 City Council Action on Special Use Permits

(A) Upon receipt of a recommendation from the Community Development Department, the City Council shall review the application for a special use permit and shall hold a public hearing on the application. Public notice of the public hearing shall be in accordance with the provisions of Section 4-7.5. The City Council, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements of the Board of Adjustment except that no vote greater than a majority vote shall be required for the City Council to issue a special use permit.

~~(B) Following the public hearing, the City Council may proceed to vote on the permit request, refer it to committee for further study, or take any other action consistent with its usual rules of procedure.~~

~~(C) In considering whether to approve an application for a special use permit, the City Council shall proceed according to the following format:~~

~~(1) The City Council shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the City Council that the application is complete.~~

~~(2) The City Council shall consider whether the application complies with all of the applicable requirements of this Ordinance. If a motion to this effect passes, the City Council need not make further findings concerning such requirements. If such a motion fails or is not made then a motion shall be made that the application be found not in compliance with one or more of the requirements of this Ordinance. Such a motion shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application.~~

~~(3) If the City Council concludes that the application fails to comply with one or more requirements of this Ordinance, the application shall be denied. If the City Council concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.~~

4-7.8 Additional Requirements on Conditional Use and Special Use Permits

~~(A) Subject to subsection (B), in granting a conditional or special use permit, the Board of Adjustment or City Council, respectively, may attach to the permit such reasonable requirements in addition to those specified in this Ordinance as will ensure that the development in its proposed location:~~

~~(1) Will not endanger the public health or safety;~~

~~(2) Will not injure the value of adjoining or abutting property;~~

~~(3) Will be in harmony with the area in which it is located; and~~

~~(4) Will be in conformity with the land development plan, thoroughfare plan, or other plan officially adopted by the City Council.~~

~~(B) The permit issuing board may not attach additional conditions that modify or alter the specific requirements set forth in this Ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.~~

~~(C) Without limiting the foregoing, the permit issuing board may attach to a permit a condition limiting the permit to a specified duration.~~

~~(D) All additional conditions or requirements shall be entered on the permit.~~

~~(E) All additional conditions or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Ordinance.~~

~~(F) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in Subsections 4-7.5 (H) or 4-7.5 (I).~~

4-7 SPECIAL USE PERMIT 1 AND SPECIAL USE PERMIT 2

4-7.1 Special Use Permit 2 Review Process

An application for a Special Use Permit 2 shall be submitted to the Board of Adjustment by filing a copy of the application with the Zoning Administrator in the Planning and Development

Department 25 working days prior to the Board of Adjustment meeting at which the request will be reviewed. The review process for a Special Use Permit 2 shall include:

- (A) Planning and Development Department review and recommendation in accordance with Section 4-7.3;
- (B) Public hearing held by the Board of Adjustment; and
- (C) Board of Adjustment review and action.

4-7.2 Special Use Permit 1 Review Process

An application for a Special Use Permit 1 shall be submitted to the City Council by filing a copy of the application with the Zoning Administrator 25 days prior to the City Council meeting at which the request will be reviewed. The review process for a Special Use Permit 1 shall include:

- (A) Planning and Development Department review and recommendation pursuant to Section 4-7.4;
- (B) Public hearing held by the City Council; and
- (C) City Council review and action.

4-7.3 Recommendations on Special Use Permit 2 Applications

(A) When presented to the Board of Adjustment, the application for a Special Use Permit 2 shall be accompanied by a report setting forth the Planning and Development Department's proposed findings concerning the application's compliance with Section 4-3 and the other requirements of this Ordinance, as well as any staff recommendations for additional requirements to be imposed by the Board of Adjustment.

(B) If the staff report proposes a finding or conclusion that the application fails to comply with any requirement of the Ordinance, the report shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(C) The Board of Adjustment may, on a case-by-case basis, refer applications to the Planning and Zoning Board to obtain its recommendations.

4-7.4 Recommendations on Special Use Permit 1 Applications

(A) When presented to the City Council, the application for a Special Use Permit 1 shall be accompanied by a report setting forth the Planning and Development Department's proposed findings concerning the application's compliance with Section 4-3 and the other requirements of this Ordinance, as well as any staff recommendations for additional requirements to be imposed by the City Council.

(B) If the staff report proposes a finding or conclusion that the application fails to comply with any requirement of the Ordinance, the report shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(C) The City Council may, on a case-by-case basis, refer applications to the Planning and Zoning Board to obtain its recommendations.

4-7.5 Public Hearing Requirements and Procedures

(A) No Special Use Permit 2 nor Special Use Permit 1 shall be approved until a public hearing has been held by the permit-issuing board.

(B) The City Clerk shall publish a notice of the public hearing in a newspaper having general circulation in the area. The notice shall be published not less than ten days before the date affixed for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.

The notice required by this Section shall:

- (1) State the date, time, and place of the public hearing;
- (2) Summarize the nature and character of the permit request;
- (3) Reasonably identify the property affected by the permit request;
- (4) State that the full permit request application can be reviewed at the office of the Zoning Administrator; and
- (5) State that substantial changes in the permit request may be made following the public hearing.

(C) The Zoning Administrator shall mail written notice of the public hearing to the owners of all properties involved in the permit request as well as the owners of all properties any portion of which is within 100 feet of the property involved in the permit request.

(D) The Zoning Administrator may also post notices of the public hearing in the vicinity of the property involved in the permit request and take any other action deemed by the Zoning Administrator to be useful or appropriate to give notice of the public hearing on any permit request.

(E) The Zoning Administrator shall make every reasonable effort to comply with the notice provisions set forth in this Section. However, it is the permit-issuing board's intention that no failure to comply with any of the notice provisions [except those set forth in subsection (B)] shall render any permit request invalid.

(F) At the conclusion of the public hearing, the permit-issuing board may proceed to vote on the permit request, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure. Section 4-7.6 delineates specific actions that the Board of Adjustment must take on requests Special Use Permit 2 and Section 4-7.7, that the City Council must take on requests for Special Use Permit 1.

(G) The permit-issuing board is not required to take final action on a permit request within any specific period of time, but it should proceed as expeditiously as practicable on permit requests since inordinate delays can result in the applicant incurring unnecessary costs.

(H) Subject to subsection (I), the Board of Adjustment or the City Council, respectively, shall approve the requested permit unless it concludes, based upon the information submitted at the hearing, that:

- (1) The requested permit is not within its jurisdiction according to the Table of Permissible Uses; or
- (2) The application is incomplete; or
- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance.

(I) Even if the permit-issuing board finds that the application complies with all other provisions of this Ordinance, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- (1) Will materially endanger the public health or safety; or
- (2) Will substantially injure the value of adjoining or abutting property; or
- (3) Will not be in harmony with the area in which it is to be located; or
- (4) Will not be in general conformity with the land development plan or other plans officially adopted by the City Council.

(J) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this Ordinance remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in subsection (I) rests on the party or parties urging that the requested permit should be denied.

4-7.6 Board of Adjustment Action on Special Use Permit 2 Applications

(A) Upon receipt of a recommendation from the Planning and Development Department, the Board of Adjustment shall review the application for a Special Use Permit 2 and shall hold a public hearing on the application. Public notice of the public hearing shall be in accordance with the provisions of Section 4-7.5. The Board of Adjustment shall comply with the four-fifths voting requirements set forth in Section 3-2.6(A).

(B) Following the public hearing, the Board of Adjustment may proceed to vote on the permit request, refer it to committee for further study, or take any other action consistent with its usual rules of procedure.

(C) The Board of Adjustment shall consider whether the application is complete. If the Board of Adjustment concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. A motion to this effect, concurred in by a simple majority vote of the Board of Adjustment, shall constitute the Board's finding on this issue. If a motion to this effect is not made and concurred in by a simple majority vote, this shall be taken as an affirmative finding by the Board of Adjustment that the application is complete.

(D) The Board of Adjustment shall consider whether the application complies with all of the applicable requirements of this Ordinance. If a motion to this effect passes by the necessary

majority vote, the Board of Adjustment need not make further findings concerning such requirements. Each individual finding may be voted upon individually with an approval requiring a simple majority vote.

(E) If the Board of Adjustment concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in Subsection 4-7.5 (I). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion. Since such a motion is not in favor of the applicant, it is carried by a simple majority vote.

4-7.7 City Council Action on Special Use Permit 1

(A) Upon receipt of a recommendation from the Planning and Development Department, the City Council shall review the application for a Special Use Permit 1 and shall hold a public hearing on the application. Public notice of the public hearing shall be in accordance with the provisions of Section 4-7.5. The City Council, in considering Special Use Permit 1 applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements of the Board of Adjustment except that no vote greater than a majority vote shall be required for the City Council to issue a Special Use Permit 1.

(B) Following the public hearing, the City Council may proceed to vote on the permit request, refer it to committee for further study, or take any other action consistent with its usual rules of procedure.

(C) In considering whether to approve an application for a Special Use Permit 1, the City Council shall proceed according to the following format:

(1) The City Council shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the City Council that the application is complete.

(2) The City Council shall consider whether the application complies with all of the applicable requirements of this Ordinance. If a motion to this effect passes, the City Council need not make further findings concerning such requirements. If such a motion fails or is not made then a motion shall be made that the application be found not in compliance with one or more of the requirements of this Ordinance. Such a motion shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application.

(3) If the City Council concludes that the application fails to comply with one or more requirements of this Ordinance, the application shall be denied. If the City Council concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

4-7.8 Additional Requirements on Special Use Permit 1 and Special Use Permit 2

(A) Subject to subsection (B), in granting a Special Use Permit 2 or Special Use Permit 1, the Board of Adjustment or City Council, respectively, may attach to the permit such reasonable requirements in addition to those specified in this Ordinance as will ensure that the development in its proposed location:

- (1) Will not endanger the public health or safety;
- (2) Will not injure the value of adjoining or abutting property;
- (3) Will be in harmony with the area in which it is located; and
- (4) Will be in conformity with the land development plan, thoroughfare plan, or other plan officially adopted by the City Council.

(B) The permit-issuing board may not attach additional conditions that modify or alter the specific requirements set forth in this Ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(C) Without limiting the foregoing, the permit-issuing board may attach to a permit a condition limiting the permit to a specified duration.

(D) All additional conditions or requirements shall be entered on the permit.

(E) All additional conditions or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Ordinance.

(F) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in Subsections 4-7.5 (H) or 4-7.5 (I).

4-8 Authorizing Use or Occupancy Before Completion Of Development Under Zoning, Special Use Permit 2 or Special Use Permit 1

(A) In cases when, because of weather conditions or other factors beyond the control of the zoning, Special Use Permit 1, or Special Use Permit 2 recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this Ordinance before commencing the intended use of the property or occupying any buildings, the permit-issuing authority may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Ordinance are concerned) if the permit recipient provides an adequately secured performance bond or other security satisfactory to the permit-issuing authority to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve months). The proposed performance bond and security shall be reviewed and approved by the City Attorney, however, prior to the permit-issuing authority authorizing the intended use or occupancy.

(B) When the permit-issuing board imposes additional requirements upon the Special Use Permit 1 or Special Use Permit 2 recipient in accordance with Section 4-7.8 or when the developer proposes in the plans submitted to install amenities beyond those required by this Ordinance, the permit-issuing board may authorize the permittee to commence the intended use of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:

- (1) A performance bond and security satisfactory to the City Attorney is furnished;
- (2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made;

(3) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Section 5-4 and Section 5-6.

~~**Special Use Permit.** A permit issued by the City Council that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance or as well as any additional requirements imposed by the City Council.~~

~~**Conditional Use Permit.** A permit issued by the Board of Adjustment that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance as well as any additional requirements imposed by the Board of Adjustment.~~

Special Use Permit 1: A permit issued by the City Council that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance or as well as any additional requirements imposed by the City Council.

Special Use Permit 2: A permit issued by the Board of Adjustment that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance as well as any additional requirements imposed by the Board of Adjustment.

City of Shelby
Agenda Item Summary
April 19, 2021
Don Gibson Theatre

D. Consent Agenda:

Prior to approval and adoption of the agenda, a Council Member may move an item from the Consent Agenda to the regular agenda. Items remaining on the Consent Agenda will be considered collectively through a single motion, second, and vote.

Agenda Item: D-1

- 1) Approval of the Minutes of the Regular Meeting of April 5, 2021

Consent Agenda Item: (Bernadette Parduski, City Clerk)

Summary of Available Information:

Please read and offer changes as you deem necessary.

- Minutes of the Regular Meeting of April 5, 2021

City Manager's Recommendation / Comments

Approve the minutes as presented or as amended by the Mayor and City Council via the Consent Agenda.

MINUTES

Regular Meeting
Don Gibson Theatre

April 5, 2021
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members David W. White, Violet Arth Dukes, Charles Webber, and Andrew Hopper, Sr.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin S. Merritt, MPA, City Attorney Andrea Leslie-Fite, City Clerk Bernadette A. Parduski, Public Information and Communications Officer Chip Nuhrah, Director of Finance Elizabeth B. (Beth) Beam, CPA, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Planning and Development Services Walter (Walt) Scharer, AICP, Stan Lowery, Executive Director, Don Gibson Theatre; and Jennipher H. Harrill, Social Media Manager, Blue Eyes Social Media Connections

Absent: Council Members Eric B. Hendrick and David Causby

Mayor Anthony called the meeting to order at 6:00 p.m. It was noted Council returned to and will continue in-person meetings at the Don Gibson Theatre in accordance with the current Executive Orders of Governor Cooper and the North Carolina Department of Health and Human Services (NCDHHS) COVID-19 guidelines, until further notice.

The Mayor delivered the invocation and Mrs. Fite 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. Special Presentation:

- 1) Recognition of B. Doyle McSwain on the occasion of his retirement from employment with the City of Shelby

Mayor Anthony called upon Billy Doyle McSwain. Mr. McSwain recognized his father, wife, and son, along with members of his Fire and Rescue Department family, in attendance. The Mayor formally read and presented framed Resolution No. 9-2021 to Mr. McSwain. He then presented a shadow box, which displays various career keepsakes, and the City key and lapel pin to him in honor of and with heartfelt appreciation for his 32 years of dedicated service within the Fire and Rescue Department of the City of Shelby.

Humbled by the recognition, Mr. McSwain expressed his appreciation to all.

C. Public Hearing:

- 1) Consideration of an ordinance to extend the corporate limits of the City of Shelby, North Carolina: Ordinance No. 12-2021

Mr. Scharer introduced Ordinance No. 12-2021 for Council's consideration. He stated Jason Lowery of North Point Custom Builders has submitted a voluntary annexation petition for property owned by Riverbend Acres, Inc. The site consisting of 92.25 acres is contiguous near the Riverbend Golf Course and is being considered for a residential development. Mr. Scharer further stated the property meets the statutory requirements for annexation and is noncontiguous with the current corporate limits. This request was reviewed for compliance with City policy, which along with State law, requires the City to be able to serve the similar services to the proposed annexation parcel as it provides to the existing City limits.

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

The public offered no comments.

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

ACTION TAKEN: Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Ordinance No. 12-2021 entitled, "AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF SHELBY, NORTH CAROLINA".

D. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of March 15, 2021
- 2) Approval of a resolution supporting the passage of legislation in the General Assembly of North Carolina: Resolution No. 21-2021
- 3) Approval of a resolution honoring Amy Edmonson Fredell on the occasion of her retirement from employment with the City of Shelby: Resolution No. 22-2021

- 4) Adoption of Fiscal Year (FY) 2020-2021 Budget Ordinance Amendment No. 9: Ordinance No. 13-2021
- 5) Adoption of Fiscal Year (FY) 2020-2021 Budget Ordinance Amendment No. 10: Ordinance No. 14-2021
- 6) Approval of a resolution adopting the City of Shelby's Community Development Block Grant Programs for April 2021 through April 2024: Resolution No. 23-2021
- 7) Adoption of an ordinance authorizing demolition of a dwelling: Ordinance No. 15-2021

E. Unfinished Business:

- 1) Consideration of appointments to City advisory boards and commissions:
 - a. Alcoholic Beverage Control (ABC) Board

Mrs. Parduski reported that due to the departure of Chair Carl Dockery for health reasons, a vacancy for the unexpired term concluding April 2022 on this board was created.

The term of incumbent, David Schweppe, concludes April 2021. Mr. Schweppe wishes to continue his service and is seeking reappointment to this board.

Applications on file in the Clerk's Office include:

- Kevin Karner
- Peter Potemkin
- James Phillip Reid
- Jeffrey Yates

City Council as the appointing authority shall designate one member of the local board as Chair.

Mr. Hopper nominated James Phillip Reid for appointment to the unexpired term concluding April 2022.

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

Mr. White nominated the incumbent, David Schweppe, for reappointment.

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

Mayor Anthony discussed Council's appointment of the ABC Board Chair position, suggesting the matter be continued to a future Council meeting. By consensus, Council agreed to consider the matter on May 3, 2021.

Mrs. Parduski expressed the City's appreciation to Carl Dockery for his many years of service to the Shelby ABC Board, sending collective best wishes to him as well.

F. New Business: None

G. City Manager's Report:

- 1) Mr. Howell echoed Mrs. Parduski's comments about longstanding member and Chair of the Shelby ABC Board, Carl Dockery, by extending his good wishes to him.
- 2) Mr. Howell reported the City of Shelby had three discharges of untreated wastewater on March 25 and 26, 2021 during the heavy rain event. These discharge locations were at Linton Barnette Drive, Hanover Drive, and Randolph Road. He will be providing further information.
- 3) Mr. Howell discussed and summarized House Bill 401/Senate Bill 349 entitled, "Increasing Housing Opportunities". The bill proposes to provide reforms to local government zoning authority to increase housing opportunities and to make various changes and clarifications to the zoning statutes. Specifically, the bill enacts changes to mandate local governments to allow all middle housing types, defined to include residential duplexes, triplexes, quadplexes, and townhouses, in areas zoned for residential use. The bill will also mandate local governments to allow the development of at least one accessory dwelling unit. Mr. Howell expressed concerns about this bill and will provide Council with further details.
- 4) Mr. Howell mentioned work on the Bobby Bell mural will begin shortly. He credited Mayor Anthony and Chip Nuhrah with obtaining permission from the National Football League Hall of Fame and the Kansas City Chiefs for the use of their logos on this mural.
- 5) Mr. Howell mentioned Senate Bill 41 and House Bill 24, which would add the City of Shelby to the list of municipalities exempted from the 10 percent area cap on voluntary satellite annexations, has cleared the Senate and is anticipated to be approved by the House of

Representatives, as it moves through the North Carolina General Assembly.

- 6) Mr. Howell announced the City submitted a pre-application request to the North Carolina Industrial Development Fund Utility Account for the Randolph Road Industrial Park Project in the amount of \$750,000. The funds are requested to construct a new sewer lift station with generator and will be designed and constructed in such a way to allow for future service extensions to industrial development on the site. The grant request will be for \$562,500 with a \$187,500 in local matching funds equally shared between the City of Shelby and Cleveland County.
- 7) Mr. Howell confirmed City Council's annual planning retreat is scheduled for Saturday, April 17, 2021, beginning at 8:00 a.m., at the Earl Scruggs Center.

H. Council Announcements and Remarks:

- 1) Council further discussed House Bill 401/Senate Bill 349. By consensus, Council agreed to have a resolution prepared by staff stating their position in opposition to the proposed reforms to their zoning authority.
- 2) Mayor Anthony requested an announcement and/or press release be prepared by staff regarding the activities to be held in recognition of Bobby Bell including the mural project and his Shelby visit to be scheduled in the fall of 2021.
- 3) Mr. Webber expressed his appreciation to Chip Nuhrah for agreeing to be interviewed as a Public Relations professional by his niece, who is a Public Relations student at North Carolina A & T State University.

I. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to adjourn the meeting at 6:32 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of April 5, 2021

DRAFT

City of Shelby
Agenda Item Summary
April 19, 2021
Don Gibson Theatre

Agenda Item: D-2

- 2) Adoption of a budget ordinance amendment for the City of Shelby's Rail Trail Corridor Project: Ordinance No. 17-2021

Consent Agenda Item: (Justin Merritt, Assistant City Manager)

Summary of Available Information:

- Ordinance No. 17-2021

City Manager's Recommendation / Comments

Ordinance No. 17-2021 is presented for City Council consideration via the Consent Agenda. If approved this amendment would appropriate funding from the economic development fund and general fund reserves for the engineering of the rail trail segment within the Shelby city limits only. This step is necessary to better the position the City's efforts toward securing both federal and state grant funding. Grant applications that show an applicant's commitment to the project and that we have more "skin in the game" are viewed in a much more favorable light. This will ensure that we are able to garner the most points possible as we compete for limited funding from federal and state grants.

It is my recommendation that Ordinance No. 17-2021 be adopted and approved via the Consent Agenda.

ORDINANCE NO. 17-2021

A BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY'S
RAIL TRAIL CORRIDOR PROJECT

WHEREAS, in accordance with applicable provisions of the North Carolina Budget and Fiscal Control Act, the City of Shelby finds it advisable and necessary to revise and amend its capital project ordinance and budgets for the City of Shelby's Rail Trail Corridor Project; and

WHEREAS, the City Manager (Budget Officer) has recommended certain amendments to the budget which the governing body finds acceptable; and,

WHEREAS, City Council now desires to act on the recommended budget amendments and approve the same for implementation and compliance with the North Carolina Local Government Budget and Fiscal Control Act.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. Ordinance No. 34-2017, the City's Rail Trail Corridor Project, is hereby amended as follows to provide for Budget Amendment No. 2 for said project:

Rail Trail Corridor Project

(1) Appropriating Revenues and Fund Balance:

Local Option Sales Tax	11001000-39900	\$362,000
Transfer to ED Capital Projects	110495-49231	\$362,000
Fund Balance Appropriated	23009000-39900	\$207,000
Transfer to ED Capital Projects	230590-49231	\$207,000

(2) The following Econ. Dev. Fund Cap. Project Revenues are amended by the City:

Transfer from General Fund	23109000-39110-RLTRL	\$362,000
Transfer from ED Fund	23109000-39230-RLTRL	\$207,000
Trail Grants	23109000-34602-RLTRL	\$73,000

(3) The following Econ. Dev. Fund Cap. Project Expenditures are amended by the City:

Professional Services	231590-42000-RLTRL	\$642,000
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Section 2. That the revenues, expenditures and amendments set forth in Section 1 of this ordinance are hereby summarized as follows:

Rail Trail Corridor Project

	<u>Current Budget</u>	<u>Amendment No. 2</u>
Revenues		
Cleveland County Grant	\$ 15,000	\$ 15,000
Trail Grant Revenue	\$ 40,000	\$ 113,000
Transfer from General Fund	\$ -0-	\$ 362,000
Transfer from EDC	\$ 15,000	\$ 222,000
State Grant	\$ 4,160,000	\$ 4,160,000
Proceeds from Financing	\$ 1,340,000	\$ 1,340,000

Ordinance No. 17-2021
April 19, 2021
Page 2

Expenditures

Professional Services	\$ 70,000	\$ 712,000
Land	\$ -0-	\$ 5,500,000

Section 3. Copies of this Budget Ordinance Amendment shall be furnished to the City Manager as Budget Officer and to the Finance Director to be kept on file by them for their direction in the collection and disbursement of funds. Said officials are hereby authorized to receive and expend funds as herein set forth in accordance with the Shelby City Code, the General Statutes of North Carolina, and the provisions of the original budget ordinance; inclusive of GS 159-28 governing budgetary accounting of appropriations.

Section 4. This ordinance shall become effective upon its adoption and approval.

Adopted and approved this the 19th day of April 2021.

O. Stanhope Anthony III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

APPROVED AS TO FORM:

Andrea Leslie-Fite
City Attorney

City of Shelby
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E. Unfinished Business

None

F. New Business

None

Agenda Item: G

City Manager's Report

I will report to Mayor and Council on a number of ongoing projects and issues. The projects and issues reported upon are intended to be for your information and do not necessarily require action by Council.

Agenda Item: H

Council Announcements and Remarks

City of Shelby
Agenda Item Summary
April 19, 2021
Don Gibson Theatre

I. Closed Session:

- 1) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered pursuant to North Carolina General Statute 143-318.11 (a) (4)

J. Adjournment:

To adjourn a meeting of City Council, a majority of the Council members must vote for a motion to adjourn.

- 1) Motion to adjourn