

**MINUTES**

**Regular Meeting  
Don Gibson Theatre**

**October 18, 2021  
Monday, 6:00 p.m.**

**Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David Causby, Violet Arth, Charles Webber, Andrew L. 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, Director of Human Resources Deborah C. (Deb) Jolly, 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; Stan Lowery, Executive Director, Don Gibson Theatre, and Jennipher H. Harrill, Social Media Manager, Blue Eyes Social Media Connections**

**Absent: Council Member David W. White**

**Mayor Anthony called the meeting to order at 6:00 p.m. and delivered the invocation.**

**Mr. Causby led the Pledge of Allegiance.**

**A. Approval of agenda:**

**1) Motion to adopt the proposed agenda**

**ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to approve the agenda as presented.**

**B. Public Comment:**

**Richard Hooker who resides at 1520 King Arthur Court in Shelby, North Carolina expressed his appreciation to the City of Shelby for its continued support of Minority Enterprise Development (MED) Week celebrated throughout Cleveland County in October. Mr. Hooker who is the Executive Director of the Cleveland County Business Development Center brought Minority Enterprise Development Week to Cleveland County and partners with Cleveland Community College, The Shelby Star, Cleveland County Emerging Leaders Academy, and numerous other organizations that have contributed their support to highlight the importance of minority businesses in our community. As minority leaders prepare to celebrate MED Week, October 17 through October 23, 2021, and acknowledge the achievements of minority businesses, Mr. Hooker stated three respective individuals or organizations will be presented with a Humanitarian Award, a Small Business Entrepreneur Award, and a Community Advocate of the Year Award.**

He concluded by reiterating his thanks to the City of Shelby. He echoed Governor Cooper's sentiments by supporting the development of a diverse business community, it ensures that we have the best and brightest talent tackling our greatest challenges and issues with a strong entrepreneurial spirit for a greater outcome. Mr. Hooker added that of more than 900,000 small businesses in North Carolina, more than 120,000 are owned by people of color. This accounts for 12.9 percent of businesses in North Carolina, generating \$16 billion in sales.

### C. Public Hearings:

#### 1) Consideration of a proposed ordinance to amend the Unified Development Ordinance of the City of Shelby: Ordinance No. 39-2021

Mr. Scharer introduced Ordinance No. 39-2021 for Council's consideration and presented the proposed text amendment for greenway development in new commercial projects and subdivision projects.

Although greenways have been part of the City of Shelby plans since 2007, Mr. Scharer stated the City has not yet incorporated any specific language in its Unified Development Ordinance (UDO) to address greenway development. This proposal would require multi-family developments, major subdivisions, and commercial developments to build and connect a section of the greenway if the proposed greenway on the City of Shelby plans is on the developing property. The proposed ordinance requires a developer to construct the greenway, which is similar to the existing City ordinance that requires sidewalk construction.

Mr. Scharer added if land to be dedicated does not meet the requirements of this ordinance or is not suitable or sensible for public recreation purposes, or if the recreational needs of the proposed development can be met by other greenway facilities by the City of Shelby within reasonable proximity to the development, then a fund in lieu may be submitted. At the discretion of the Planning Department staff, the developer must demonstrate that the required greenway qualifies for the fund in lieu program by:

- Showing topographical or other environmental challenges that cannot currently be overcome
- That the development is not currently connected to the greenway and pedestrian network and will not be connected in the future
- Or, that the development is served by existing greenway or pedestrian facilities

Mr. Scharer stated recommendations regarding payment of funds in lieu of greenway construction will be made by the City of Shelby at the time of development approval. The fee amount will be calculated by the City Engineer.

A pedestrian access easement will also be required to be submitted with the fund in lieu if the development qualifies for the fund in lieu of future greenway construction.

Mr. Scharer concluded by stating all greenways or side paths must be constructed in accordance with the City of Shelby Standard Details.

Discussion followed related to greenway development as a common practice among municipalities throughout North Carolina and to adding bike lanes, which was noted as a separate issue with its own set of regulations.

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

The public offered no comments.

Mayor Anthony closed the public hearing at 6:12 p.m.

**ACTION TAKEN:** Upon a motion made by Mr. Hendrick, City Council voted unanimously to approve and adopt Ordinance No. 39-2021 entitled, “A PROPOSED ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF SHELBY”.

- 2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (*2500-2506 Mid Street and 202-204 Beaver Dam Drive*): Ordinance No. 40-2021

Mr. Scharer introduced Ordinance No. 40-2021 for Council’s consideration. The subject property is a two-acre site currently home to six single-family dwellings and located in the Extraterritorial Jurisdiction (ETJ). The property is currently zoned Residential 20 (R20) District. The applicant, Kenneth Blanton, is requesting all properties be rezoned to Residential 10 (R10) District so he can subdivide the properties and subsequently sell each single-family dwelling unit.

The R20 Residential District has a low-density residential character in areas that generally do not have access to public water supplies and are dependent upon septic tanks for sewage disposal. Maximum densities within the R20 District are approximately two dwelling units per acre for single-family and two-family dwellings.

The R10 Residential District has a low-density residential character in areas where public water and sewer service are generally available at a maximum density of four dwelling units per acre.

Mr. Scharer explained the Shelby Comprehensive Land Use Plan designates this site as medium density residential area. Medium density residential

represents single-family detached development of approximately four units per acre. This designation is typical of most of the residential subdivisions in Shelby and Cleveland County that are served by City and/or County water and sewer. Corresponding City of Shelby zoning classifications include Residential 10 District and Residential 8 District. While the zoning map amendment designates this area as medium density residential, sewer and water are not readily available in this area.

City staff and the Planning and Zoning Board recommended the denial of this zoning map amendment based on lack of sewer availability.

Mayor Anthony opened the public hearing at 6:15 p.m. and invited comments from the public:

Kenneth Blanton who resides at 3742 Artee Road in Shelby, North Carolina spoke in support of his application. Mr. Blanton stated he and his sister, who resides in the State of Delaware, are the heirs to these properties. He also represents his sister as her Power of Attorney.

Mr. Blanton stated the homes were built and have been in existence since the 1960s, each operating with separate water connections and septic tanks. He wishes to separate the lots and sell the homes individually. Upon questioning regarding the septic system, Mr. Blanton responded each house has ample yard space for a drain field and a second drain field as a repair site. Mr. Howell suggested Mr. Blanton obtain a letter issued by the Cleveland County Health Department approving the locations of the septic systems and repair sites.

Mayor Anthony closed the public hearing at 6:25 p.m.

**ACTION TAKEN:** Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Ordinance No. 34-2021 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA", subject to the appropriate documentation from the Cleveland County Health Department verifying the locations of all the septic tanks and repair areas on the subject properties.

**FURTHER ACTION TAKEN:** By consensus, Council agreed to give City staff the latitude to amend Ordinance No. 34-2021 to adequately capture the change in the language.

- 3) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (*2431 Kings Road Extension*): Ordinance No. 41-2021

Mr. Scharer introduced Ordinance No. 41-2021 for Council's consideration and presented the proposed zoning map amendment for the property located

at 2431 Kings Road Extension. The applicant, Cleveland Community College, is requesting a zoning change from Residential 10 (R10) District to Residential Office (RO) District on this property to allow for new office space for the College's Foundation offices. Mr. Scharer stated the Shelby Comprehensive Land Use Plan designates this site as a Medium Density Residential Area. This proposed zoning map amendment is inconsistent with the Shelby Comprehensive Land Use Plan. Mr. Scharer further stated the Planning and Zoning Board recommended this proposed zoning amendment due to the property's location and propensity for future redevelopment in the area.

Mayor Anthony opened the public hearing at 6:29 p.m. and invited comments from the public.

The public offered no comments.

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

**ACTION TAKEN:** Upon a motion made by Miss Arth, City Council voted unanimously to approve and adopt Ordinance No. 41-2021 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

#### **D. Consent Agenda:**

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

- 1) Approval of the Minutes of the Special Meeting of September 22, 2021
- 2) Approval of the Minutes of the Regular Meeting of October 4, 2021
- 3) Approval of Special Event Permit Application:
  - a. Hannah and Nick Wedding, requested date: October 30, 2021
- 4) Approval of a resolution awarding the contract for the City of Shelby Stormwater Infrastructure Assistance Program Project at 602 Broad Street in Shelby, North Carolina: Resolution No. 60-2021

#### **E. Unfinished Business:**

- 1) Consideration of appointments to City advisory boards and commissions:
  - a. Shelby Zoning Board of Adjustment

Mrs. Parduski reported the terms of five incumbents, Morris Hudson (2021), David Beam (2020), Martha (Mot) Davis (2020), Bill McCarter (2020), and Henry Earle (2020) concluded July 2020 and July 2021, respectively. All the incumbents wish to continue their service.

There is one vacancy for an alternate position, which is an Extraterritorial Jurisdiction (ETJ) seat. There are no applications on file in the Clerk's Office.

Mr. Hendrick nominated the five incumbents, Morris Hudson, David Beam, Martha (Mot) Davis, Bill McCarter, and Henry Earle, for reappointment.

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

2) Consideration of a resolution adopting the 2021 City of Shelby Central Services Cost Allocation Plan: Resolution No. 61-2021

Mr. Howell introduced Resolution No. 61-2021 for Council's consideration. If approved, the resolution would adopt the Central Services Cost Allocation Plan which was provided for review. He stated a cost allocation plan was initially adopted in 2002 and has not been updated to date. This plan considers organizational changes and overhead costs since that original plan. Mr. Howell further stated in some cases there have been personnel reductions and increases when it comes to providing service to the Enterprise Funds including water, sewer, electric, natural gas, and stormwater, and the Housing Fund.

Next, Mrs. Beam explained the Cost Allocation Plan is the methodology of determining the amount of administrative services that are provided to each of the Enterprise Funds by the General Fund departments and personnel for cost recovery purposes. Maximus Consulting Services, Inc. utilized the Fiscal Year 2022 budget as the basis for the full cost plan. Mrs. Beam added this Cost Allocation Plan update will be used in the upcoming Fiscal Year 2023 budgeting process.

Mr. Howell concluded by stating the primary purpose of this plan is to ensure that General Fund tax revenue is not used to subsidize the administrative and overhead costs of the Enterprise Funds including water, sewer, electric, natural gas, and stormwater, and the Housing Fund.

**ACTION TAKEN:** Upon a motion made by Mr. Hendrick, City Council voted unanimously to approve and adopt Resolution No. 61-2021 entitled, "A RESOLUTION ADOPTING THE 2021 CITY OF SHELBY CENTRAL SERVICES COST ALLOCATION PLAN".

- 3) **Consideration of a resolution authorizing the exercise of eminent domain as vested in the City pursuant to North Carolina General Statute Chapter 40A: Resolution No. 62-2021**

**Mrs. Fite introduced Resolution No. 62-2021 for Council's consideration, seeking approval and authorization through the exercise of eminent domain for the acquisition of Cleveland County Parcel Number 22963 located at 822 Jefferson Street adjacent to the City's North Water Tank. She stated Chapter 40A of the North Carolina General Statutes authorizes municipalities to utilize eminent domain to acquire property for the improvement or improvements of any public utility. The subject property contains a house which lies in proximity to the City's North Water Tank. There are three City water lines near the house with no recorded easements. These water lines need repair, and the necessary improvements will require the house to be torn down. In light of this, the City sought to acquire the property. Mrs. Fite further stated the current owners were approached about purchasing the property; however, their demand greatly exceeds the current fair market value. She added the current tax value of the property is \$4,500.00. Mrs. Fite explained that eminent domain is an authorized and necessary procedure to ensure the necessary repairs are completed and the public is served with water and sewer services.**

**Mrs. Fite recommended Council approve the resolution authorizing the exercise of eminent domain proceedings in which the process will ultimately allow for a market value to be established for the parcel to be paid to the owners, allowing the City to take possession of the lot.**

**It was noted that the property at 822 Jefferson Street is not occupied and is uninhabitable.**

**ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 62-2021 entitled, "A RESOLUTION AUTHORIZING THE EXERCISE OF EMINENT DOMAIN AS VESTED IN THE CITY PURSUANT TO NORTH CAROLINA GENERAL STATUTE CHAPTER 40A".**

**F. New Business: None**

**G. City Manager's Report:**

- 1) **Regarding Shell Building No. 4 to be constructed on the Randolph Road Industrial Site, Mr. Howell stated the project is in the final design stage and will be ready to bid in November 2021.**
- 2) **Mr. Howell reported the City has been notified the Transportation Alternatives Program (TAP) Grant from the Federal Highway Administration (FHA) and the NC Department of Transportation awarded**

to the City for Rail Trail Corridor purchase has been secured. However, the \$4.16 million has been reallocated to the construction of a future phase of the Rail Trail. He is in the process of developing a recommendation for the financing of the Rail Trail Corridor acquisition for Council's consideration.

- 3) Mr. Howell informed Council the City's audit report will be presented at the November 15, 2021 meeting.
- 4) Mr. Howell distributed the Street and Sidewalk Improvement Bond Referendum Fact Sheet prepared by City staff for Council's reference.

#### H. Council Announcements and Remarks:

- 1) Mayor Anthony shared an email message recently received from a citizen who witnessed Shelby Police officers assist a distraught veteran along US 74 Bypass. The officers calmed the veteran in caring manner and ultimately were able to connect him to the services he needed. The citizen was impressed with the police officers' handling of the situation and requested they be officially commended for their service.
- 2) Mr. Webber and Council members collectively expressed their appreciation to Mr. Hooker for his service to the community in many capacities including as a supporter of minority businesses and a former member of the Cleveland County Board of Education.

Mr. Webber and Council members also acknowledged the passing of Carl Dockery Jr. on October 12, 2021. Mr. Dockery served as a longtime member of the Shelby Alcoholic Beverage Control Board since 1975 and ultimately served as Chair of this board since 2013.

#### I. Adjournment:

- 1) Motion to adjourn

**ACTION TAKEN:** Upon a motion made by Mr. Causby, City Council voted unanimously to adjourn the meeting at 6:51 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC  
City Clerk



**O. Stanhope Anthony III  
Mayor**

**Minutes of October 18, 2021**