

MINUTES

Regular Meeting
City Hall Council Chamber

January 3, 2022
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members David W. White, David Causby, Violet Arth, Charles Webber, Andrew L. Hopper Sr., and Emilie Bullock.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin S. Merritt, MPA, City Attorney Andrea Leslie-Fite, Interim City Clerk Carol S. Williams, Public Information and Communications Officer, Chip Nuhrah, Director of Finance Elizabeth B. (Beth) Beam, CPA, and William P. Hunt, MPA, EFO

Mayor Anthony called the meeting to order at 6:00 p.m. He acknowledged the recently sworn in Interim City Clerk, Carol Williams, and appreciated her willingness to serve in that capacity. Mayor Anthony also stated that Mrs. Parduski would be invited back to a future meeting to honor her for her many years of service to the City. Mayor Anthony delivered the invocation.

Miss Arth led the Pledge of Allegiance.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

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

B. Public Hearings:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (413 Weathers Street): Ordinance No. 1-2022

Mr. Scharer introduced a zoning map amendment for property located at 413 Weathers Street from RO zoning district to General Business (GB2-CZ) zoning district to operate a crematorium in the existing structure.

Mr. Scharer concluded by stating staff recommended approval of this proposed zoning map amendment, which is reasonable and consistent with the Shelby Comprehensive Land Use Plan.

Mayor Anthony opened the public hearing at 6:03 p.m. and invited comments from the public.

The public offered no comments.

Mayor Anthony closed the public hearing at 6:04 p.m.

Mr. Webber disclosed that he had worked on a part-time basis at the funeral home. The City Attorney, Andrea Leslie-Fite, stated that Mr. Webber did not have to recuse himself from the vote but it was appropriate to disclose that information.

ACTION TAKEN: Upon a motion made by Miss Arth, City Council voted unanimously to approve and adopt Ordinance No. 1-2022 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA”.

2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (Wal-Mart Drive – Parcel No. 49681): Ordinance No. 2-2022

Mr. Scharer introduced a zoning map amendment for property located at Wal-Mart Drive from R20 zoning district to General Industrial (GI-CZ) zoning district. The property has no address at this time and is a vacant lot. The applicant intends to relocate a concrete plant to this property.

Mr. Scharer stated that the applicant has offered a larger buffer than normally required. It is 100 feet wide and will contain the appropriate number of trees. He also stated that there are homes in the area and the Planning and Zoning Board was concerned about noise from the concrete plant, that is why the applicant incorporated a larger buffer area.

Mr. Scharer concluded by stating that the amendment is inconsistent with the Shelby Comprehensive Land Use Plan but consistent with the other uses in the area. The Planning and Zoning Board and staff recommend approval of this proposed zoning map amendment.

Miss Arth inquired if this property was going to be the new location of the concrete plant currently on Morgan Street. Mr. Scharer stated that he wasn't sure but it is likely.

Mayor Anthony opened the public hearing at 6:07 p.m. and invited comments from the public.

The public offered the following comments:

Bulo Price who resides at 1924 Randolph Road, Shelby, North Carolina spoke against the proposed rezoning amendment for the property located on Wal-

Mart Drive. He stated that he also was speaking for another homeowner that lived in the area who also opposed the rezoning. Mr. Price expressed several concerns, including, the cemetery that is on the property, the dust problems a concrete plant could cause, a possible water control problem, increased traffic in the area, and property value of the homes. Mr. Price further stated that there wasn't any knowledge who owned the cemetery but that the City should do its due diligence in finding out before someone builds on the property.

Ed Yarboro who resides at 2140 McBrayer Springs Road, Shelby, North Carolina is the property owner and applicant for this rezoning. His application is to rezone the property now for future use. He had not come to an agreement with the concrete company. Mr. Yarboro stated that the cemetery may be within the 100-foot buffer that the City has set up, but that would need to be determined. According to the concrete company, the noise and dust will be 50% less than current levels because of newer equipment and procedures. With newer equipment there will be less noise, less dust, less environmental issues. He stated that the property was a total of 15 acres. The concrete plant requested 6-8 acres, therefore, allowing for an increased buffer.

Grady Allen who resides at 507 Polkville Road, Shelby, North Carolina spoke against the proposed rezoning amendment for the property located on Wal-Mart Drive. He reiterated Mr. Price's concerns of the reduced property values, the noise, the cemetery behind his house, the dust and the increased traffic.

Kevin Woodall who resides at 605 Polkville Road, Shelby, North Carolina spoke against the proposed rezoning amendment for the property located on Wal-Mart Drive. He bought the property because it was a great place for his kids and grandkids to play. A view of a concrete plant outside his kitchen window would be devastating to him. His concern is about the amount of dust a concrete plant would create, and the property values would be reduced.

Gayla Hammond who resides at 807 W. Elm Street, Shelby, North Carolina stated that Mr. Price spoke for her. She had no further comment.

Tonda Putnam who resides at 505 Polkville Road, Shelby, North Carolina spoke against the proposed rezoning amendment for the property located on Wal-Mart Drive. When Wal-Mart Distribution built their facility the beautiful landscape and the magnificent deer were gone from the area. She's saddened that the property she owns is not what she would like to leave to her son when he finishes serving in the United States Marine Corp. She is concerned about the amount of dust that the property owners would be exposed to. She respectfully asks the Council to preserve the historical

homes. She stated there are other lots in the County that are available. The lifestyle of the families in this community should be considered.

Mr. Scharer stated that he neglected to point out a few things about this site. A stormwater permit would be required and issued by the City of Shelby. Also, a DOT driveway permit would be required. He also stated that a cemetery cannot be tampered with in the State of North Carolina without a special permit.

Mr. Howell stated that there is an unofficial cemetery map that was created in the 1990s. He said he doesn't know if this particular cemetery shows up on the survey. There is a process of family notification that would happen if the cemetery or gravestones were removed or relocated. In addition, Mr. Howell addressed the air quality concern. A concrete plant would have to apply for a separate air quality permit with the State of North Carolina and provide the air quality information.

Mr. Hopper asked about whether an Environmental Study would be required and was concerned about the water runoff toward the creek. Mr. Howell stated an Environmental Study probably would not be needed. The City's Stormwater Department would review the site and a permit would be issued. Some instances may require a State permit as well. Mr. Howell also clarified that the existing concrete plant sits on approximately 2 acres.

Mayor Anthony closed the public hearing at 6:32 p.m.

Mr. White asked for clarification from the applicant, Mr. Yarboro, about the amount of acreage available and how much acreage the concrete plant requested. He also stated that the graveyard situation was a concern and it needed to be addressed by the applicant or new owner of property. Mr. Howell stated that state law will require that the graveyard be protected, and that the City does not have jurisdiction.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted 5-1 (Webber oppose) to approve and adopt Ordinance No. 2-2022 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

C. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of December 6, 2021

- 2) Approval of a resolution honoring Christopher Mitchell Howington on the occasion of his retirement from employment with the City of Shelby: Resolution No. 1-2022
- 3) Approval of a resolution honoring Kenneth Shannon Price on the occasion of his retirement from employment with the City of Shelby: Resolution No. 2-2022
- 4) Approval of a resolution honoring Bernadette Adele Parduski on the occasion of her retirement from employment with the City of Shelby: Resolution No. 3-2022
- 5) Approval of a resolution honoring Coach Mike Wilbanks and the Shelby High School 2021 Golden Lions Football Team: Resolution No. 4-2022
- 6) Approval of a resolution authorizing acceptance of compensation for service as Director to the ElectriCities of North Carolina, Inc. Board of Directors: Resolution No. 5-2022
- 7) Adoption of Fiscal Year (FY) 2021-2022 Budget Ordinance Amendment No. 4: Ordinance No. 3-2022
- 8) Adoption of Fiscal Year (FY) 2021-2022 Budget Ordinance Amendment No. 5: Ordinance No. 4-2022
- 9) Management Reports:
 - a. Planning and Development Monthly Summary – October 2021
 - b. Monthly Financial Summary – November 2021
- 10) Approval of Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council

D. Unfinished Business:

- 1) Consideration of an ordinance authorizing demolition of a structure: Ordinance No. 5-2022

Mr. Scharer stated that the structure is located at 421 E. Marion Street, Shelby, North Carolina. The Building Inspection Department has conducted an inspection of this building and has recommended demolition.

Mayor Anthony stated that this property was discussed by Council in September 2021. Mr. Scharer agreed and stated that the conditions set forth in September 2021 have not been met. City Attorney Leslie-Fite stated that the property owners were notified that this item was on the agenda with intention to move forward with the demolition.

ACTION TAKEN: Upon a motion made by Mr. Causby, City Council voted unanimously to approve and adopt Ordinance No. 5-2022 entitled, "AN ORDINANCE AUTHORIZING DEMOLITION OF A STRUCTURE".

2) City of Shelby/Cleveland County Job Ready Shell Building No. 4 Project:

- a. Consideration of a budget ordinance amendment for the City of Shelby/Cleveland County Job Ready Shell Building No. 4 Project: Ordinance No. 6-2022**

Mr. Howell stated Ordinance No. 6-2022 sets forth a budget for the JOB READY Shell Building No. 4. It appropriates funding and recognizes funding from both the City of Shelby and Cleveland County in a 50/50 partnership. The County will be borrowing the money and the City will be paying its 50% share. The property has already been transferred to Cleveland County.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Ordinance No. 6-2022 entitled, "A BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY/CLEVELAND COUNTY JOB READY SHELL BUILDING NO. 4 PROJECT".

- b. Consideration of a resolution awarding the construction contract for the City of Shelby/Cleveland County Job Ready Shell Building No. 4 Project on Randolph Road: Resolution No. 6-2022**

Mr. Howell stated that Resolution No. 6-2022 awards the construction bid to Hickory Construction as recommended by WHN Architects. Hickory Construction was the low bidder for the project.

ACTION TAKEN: Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Resolution No. 6-2022 entitled, "A RESOLUTION AWARDED THE CONSTRUCTION CONTRACT FOR THE CITY OF SHELBY/CLEVELAND COUNTY JOB READY SHELL BUILDING NO. 4 PROJECT ON RANDOLPH ROAD".

E. New Business:

1) Consideration of Fiscal Year (FY) 2021-2022 Budget Ordinance Amendment No. 6: Ordinance No. 7-2022

Mr. Merritt presented Ordinance No. 7-2022 to Council. He stated that after internal discussion by City staff it was concluded that the Rail Corridor that was purchased in December 2019 from Norfolk Southern Railroad could be useful as an asset within the Electric Fund. Mr. Merritt stated that this budget ordinance amendment allocates the funding for the Electric Fund to purchase that asset from the General Fund where it currently resides. This makes it an Electric Fund asset which allows the City to use it more freely from an electric standpoint in that Rail Trail Corridor.

Mr. Webber stated that it gives the City more flexibility in spending. Mr. Howell agreed and allows the City more opportunity to serve those areas within the Rail Trail Corridor with electric service.

ACTION TAKEN: Upon a motion made by Miss Arth, City Council voted unanimously to approve and adopt Ordinance No. 7-2022 entitled, "CITY OF SHELBY FISCAL YEAR (FY) 2021-2022 BUDGET ORDINANCE AMENDMENT".

2) Consideration of a resolution rejecting all bids received for the City of Shelby's Randolph Road Industrial Park Sewer Extension Project: Resolution No. 7-2022

Mr. Howell presented Resolution No. 7-2022 to Council stating that this is an unusual item brought to Council. City staff received bids for the Randolph Road Sewer Extension Project. This project is on the 64 acres where the Shell Building 4 is being built and requires a sewer system on the project. Three bids were received. Two of the bidders were considered non-responsive because they both failed to list an electric subcontractor which was required by the Statute. The third bidder exceeded the budgeted funds. City Council has the right to reject all the bids. Due to the circumstances with the received bids, City staff has recommended that the City send the project out for a re-bid. The City Attorney also reviewed the bids and made a recommendation for the bids to be rejected and for the project to be re-bid.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 7-2022 entitled, "A RESOLUTION REJECTING ALL BIDS RECEIVED FOR THE CITY OF

SHELBY'S RANDOLPH ROAD INDUSTRIAL PARK SEWER EXTENSION PROJECT".

3) Discussion regarding American Rescue Plan (ARP) funding

Mr. Howell stated that the City was awarded funding as part of the American Rescue Plan based on our 2010 Census numbers. Our total amount is approximately \$6.382 million of which we have already received half that amount. The City will receive the second half of the money in July 2022. The U.S. Treasury describes categorically how the City can spend the money. The City must have the funds encumbered by December 31, 2024 and completely spent by December 31, 2026 unless Congress extends the date.

Mr. Howell stated that Council should have some ideas of how the money can be used when they reconvene at the Council Retreat on January 29, 2022.

Mr. Howell discussed briefly the following broad categories that the funding can be spent on:

- Supporting Public Health Response**
- Provide Premium Pay to Essential Workers**
- Replace Public Sector Revenue Loss**
- Water and Sewer Infrastructure and Broadband Infrastructure**

The Infrastructure Spending category, according to Mr. Howell, is probably the best way for the City to spend the money. He named a few neighborhoods that need sewer service but for differing circumstances have not qualified for CDBG grants or other funding.

Mr. Howell also mentioned that the Broadband Infrastructure category may be an option for using the ARP funds. Mr. Howell explained that the City's fiber loop is used for internal purposes. This loop connects all the city facilities except for Holly Oak Park with fiber network that our computer servers are on. The fiber loop also connects our electric substations and our water tanks which allows for better response times when something happens.

Mr. Howell further explained that fiber network projects are typically funded by the utility system but this ARP funding may allow the City to offset some of those utility system costs by using the ARP funding instead.

Mr. Howell then mentioned some restrictions that are not allowed with the ARP funds. The ineligible uses are:

- Deposit into a pension fund
- Interest or principal of outstanding debt
- Settlement or judgments payment
- Non-federal match for other Federal programs and grants

Mr. Howell expressed that there are significant timing and reporting requirements that need to be complied with. He cautioned Council that the City should remember the spirit and intent of what the ARP funding is for, which is to have a practical impact on the projects chosen from a health standpoint.

Mr. Webber asked if any communication had been given to the Clearbrook neighborhood. Mr. Howell stated not at this time. He further explained that Council needs to have a better discussion before any communication given to a neighborhood where projects are needed.

Mr. Webber clarified that his question was to see if Clearbrook had been notified that they were a moderate-income neighborhood and that they did not qualify for other funding. Mr. Howell stated that they were aware of being denied other funding for that reason. In 2019 the City applied for a grant and conducted a survey door to door in the Clearbrook neighborhood and the result was that the neighborhood was nowhere near the low-income status required for that grant.

Mayor Anthony asked Mr. Howell about what timeline is anticipated. Mr. Howell stated that by the Council Retreat a plan needed to be devised so that the City could move forward quickly.

Mr. Hopper stated the key thing with federal funds is that the City should take full advantage and work as quickly as possible to maximize the usage. The federal government will take back any money that is not taken advantage of.

Mr. Howell agreed and stated that City staff could easily compose a list of projects that will use the \$6.38 million dollars, especially with the inflated contractor pricing that we are experiencing now. Mr. Howell encouraged Council to review the ARP funding requirements and to go to the League of Municipalities website to see the entire US Treasury document or to speak to any other elected officials in other municipalities as well.

Miss Arth stated that it would be helpful if City staff could let Council know by the Council Retreat date on how much some of those infrastructure projects would cost.

F. City Manager's Report:

- 1) Update on the progress of the Aquatics Center at the City Park. CHA was contracted to develop the design of the pool project that included replacing the roof of the pool house, address cracking in the pool, water loss, and update shower areas. The goal is to have the project completed by May 31, 2022 which is a doable deadline if everything goes according to plan. The bid package will be out by January 24, 2022. Bids required by February 11, 2022 and award of construction consideration on the February 21, 2022 agenda. Mr. Howell noted that it was an aggressive timeline but the City did not want to miss out on an entire pool season.
- 2) Let the City Manager know by the end of this week if there are specific agenda items Council would like to discuss at the Council Retreat so that City staff has time to prepare.

G. Council Announcements and Remarks:

- 1) Mayor Anthony remarked that Uptown looked great during the Christmas season but asked when the trees from Warren Street to Graham Street on Lafayette Street were going to get lights. Mr. Howell stated that the lights are in the next fiscal budget.
- 2) Miss Arth, Mr. White and Mr. Webber wished everyone a Happy New Year.

H. Adjournment:

- 1) Motion to adjourn

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

Respectfully submitted,

Carol S. Williams
Interim City Clerk

O. Stanhope Anthony III
Mayor

Minutes of January 3, 2022