

**MINUTES**

**Regular Meeting  
City Hall Council Chamber**

**April 18, 2022  
Monday, 6:00 p.m.**

**Present: Mayor O. Stanhope Anthony III, presiding; Council Members David Causby, Charles Webber, Andrew L. Hopper Sr., and Emilie Bullock.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin S. Merritt, MPA, Assistant City Manager of Utilities Benjamin (Ben) Yarboro, City Attorney Andrea Leslie-Fite, Interim City Clerk Carol Williams, Public Information and Communications Officer, Chip Nuhrah, Director of Human Resources Deborah (Deb) Jolly, Police Chief Jeffrey (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Planning and Development Services Walter (Walt) Scharer, AICP, and Jennipher H. Harrill, Social Media Manager, Blue Eyes Media Connections**

**Absent: Council Members David White and Violet Arth**

**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 by Mr. Webber, City Council voted unanimously to approve the agenda as presented.**

**B. Public Comment: None**

**C. Public Hearings:**

**1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (810 W. Dixon Blvd): Ordinance No. 21-2022**

**Mr. Scharer introduced a zoning map amendment for property located at 810 W. Dixon Blvd. from RO zoning district to General Business (GB2) zoning district to operate a salon/tattoo spa.**

**Mr. Scharer stated that the amendment is consistent with the Shelby Comprehensive Land Use Plan but the Planning and Zoning Board and staff unanimously recommend not approving this proposed zoning map amendment.**

Mayor Anthony asked Mr. Scharer if the reason the Planning and Zoning Board voted to deny the rezoning was because of the residential neighborhood adjacent to the property, Mr. Scharer stated that is correct. Mayor Anthony stated that if a change in zoning occurs then Council needs to understand that all the uses under General Business could apply.

Mayor Anthony opened the public hearing at 6:04 p.m. and invited comments from the public.

Lavonda Huskey who owns the home located at 903 W. Elm Street, Shelby, North Carolina submitted a written comment to City Council stating that she was opposed to the rezoning. She listed several concerns:

- The impact that the requested rezoning would have on her property at 903 W. Elm Street and other adjacent properties.
- More intensive land use under GB2 would negatively affect, and almost certainly degrade the property value of homes and residences that directly surround 810 W. Dixon Blvd.
- Rezoning could negatively affect a large majority of the neighborhood homes that encompass W. Elm Street, Woodside Drive and Franklin Street.

Ric Francis who resides at 844 W. Marion Street, Shelby, North Carolina spoke in favor of the proposed rezoning amendment for the property located at 810 W. Dixon Blvd. Mr. Francis noted there are several other businesses classified as General Business in the area that are also surrounded by the neighborhood. Mr. Francis stated that in his line of business as a commercial real estate agent he has clients looking for space to open their businesses, but the RO zoning classification makes this property unapproachable. Mr. Francis believes if the zoning is General Business, then he could get a good client in the property, and he stated that business is good for neighborhoods. Mr. Francis concluded by stating that if Council denies the rezoning to General Business, then he and the property owner may consider going back to the Zoning Board with another proposal.

Nichole Newell who resides at 825 W. Elm Street, Shelby, North Carolina spoke against the proposed rezoning. Mrs. Newell stated that her house is located directly behind the current business. Mrs. Newell expressed that she was concerned if the property is changed to General Business and the salon closes then the GB2 zoning classification would allow many types of businesses to open. Mrs. Newell said that she is concerned about the safety of getting in and out of the property due to the speed of the trucks and other traffic on Dixon Blvd. Mrs. Newell isn't opposed to the salon that is already in the building but worries about the various options the property could become if zoned as General Business. Mrs. Newell concluded by saying that the

property owner has in the past and currently been difficult to contact when situations arise.

Constantine Diacolios who resides at 112 Mike Ledford Road, Kings Mountain, North Carolina spoke as the applicant of the proposed rezoning amendment and property owner. Mr. Diacolios stated that he has owned the property at 810 W. Dixon Blvd. since 1999 and at that time it was zoned as General Business. At some point, Mr. Diacolios said that the City changed the zoning to RO and since then he and his real estate agent have been trying to straighten out the matter. Mr. Diacolios stated that he has not received any phone calls from neighbors. Mr. Diacolios concluded by stating that he cannot rent or lease the property if it stays RO, he needs the zoning to be General Business to have the property occupied and not sit vacant.

Mayor Anthony asked for clarification from Mr. Scharer about the zoning change that occurred as referenced by Mr. Diacolios. Mr. Scharer stated that in the early 2000's the current property owner requested the City to change the zoning to RO. Mr. Scharer further stated that the GB2 classification would allow a long list of possibilities for the property. Mayor Anthony asked about conditional zoning on the property. Mr. Scharer stated that the property owner would have to ask for conditional zoning.

Mayor Anthony closed the public hearing at 6:19 p.m.

Mr. Hopper stated that Mr. Francis commented that he would be willing to go back to the Planning and Zoning Board to request a Conditional Use and establish a more specific proposal instead of such a broad General Business classification. City Attorney Leslie-Fite responded by stating that the applicant has presented his specific request and at this point City Council needs to dispose of the ordinance as it stands. Mrs. Leslie-Fite further stated that based on the decision of Council tonight, the applicant is always welcome to go back and work with staff if they chose to do so.

Mr. Webber asked for clarification that if Council denied the proposed amendment tonight then Mr. Francis could go back and ask for a Conditional Use. Mr. Scharer stated there is a time period of requesting a rezoning of the same zoning district unless it is significantly different than the previous application. Mrs. Leslie-Fite also noted that the change from a General rezoning to a Conditional rezoning could arguably be a significant change which would shorten the time period. Mr. Howell reminded Council that statutorily Council cannot impose or suggest conditions on this rezoning application, those changes must come completely from the applicant.

**ACTION TAKEN:** Upon a motion made by Mr. Hopper to deny Ordinance No. 21-2022, based on the fact that the proposed zoning change, while consistent the Comprehensive Land Use Plan, it is not reasonable nor in

the public interest because the proposed zoning is inconsistent with the built environment, City Council voted unanimously to deny Ordinance No. 21-2022 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 (845 N. Post Rd): Ordinance No. 22-2022

Mr. Scharer introduced a zoning map amendment for property located on 845 N. Post Road from Residential Office (RO) zoning district to Corridor Protection District (CPD) zoning district. Mr. Scharer stated that several years ago Cleveland Community College had a portion of this property rezoned to CPDCZ to build a vocational school, but that school never came to fruition. Mr. Scharer further explained that now the college wants the balance of this property to be CPDCZ to operate a truck driving school on this site. Mr. Scharer stated that this area was designated as Conservation Development because at that time the route for the bypass was unknown. Mr. Scharer noted that even though this rezoning proposal is inconsistent with the Comprehensive Land Use Plan, it is consistent with the environment and local land use. Mr. Scharer concluded by stating that a few years ago Council approved half of this property to be zoned CPD.

Mayor Anthony opened the public hearing at 6:25 p.m. and invited comments from the public.

Mr. Larry Parker who resides at 901 N. Post Road, North Carolina spoke in favor of the proposed amendment but had concerns. Mr. Parker stated that he has no complaints about the operation of a heavy equipment and truck driving school on this property. He operated heavy equipment for 25 years all over the world. His concern was the noise and time of day that the noise occurs. He stated that the school operates as early as 5:55am on weekdays and 6:30am on Sunday mornings. He would like a condition on the zoning that operations would not start until 8:00am. Mr. Parker concluded by stating that he was concerned about the noise that comes from the school but was not opposed to the zoning change.

Mayor Anthony asked Mr. Howell to elaborate on the parameters of the City's noise ordinance. Mr. Howell stated that the noise ordinance does make an exception for this type of facility. The noise ordinance does regulate the hours of 7am-9pm on weekdays and 8am – 9pm on weekends.

Mr. Scharer pointed out that this property is actually in the ETJ and it is not subject to the Code of Ordinances for the City of Shelby just the zoning regulations.

Mayor Anthony stated that the City could communicate to the college that there have been complaints about the noise so early in the morning. Mr. Howell agreed but stated compliance would be completely voluntary.

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

**ACTION TAKEN:** Upon a motion made by Mr. Causby, City Council voted unanimously to approve and adopt Ordinance No. 22-2022 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. Hopper moved to approve the consent agenda and the following items were unanimously adopted:

- 1) Approval of the Minutes of the Regular Meeting of April 4, 2022
- 2) Approval of a resolution declaring April 10-16, 2022, as National Public Safety Telecommunicators Week and honor the men and women who serve as Public Safety Telecommunicators in our community:  
Resolution No. 29-2022

Mr. Howell requested the Mayor recognize the Telecommunicators that were in attendance. Mr. Howell shared that in 2021 the telecommunicators for the City of Shelby answered over 45,000 calls for service. Chief Ledford commented that since 1981 the second week of April has been designated National Public Safety Telecommunicators Week to celebrate the men and women behind the scenes. Chief Ledford concluded that he is humbled by the service of these men and women; they do a remarkable job in a stressful environment.

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

- 1) **SECOND READING – An Ordinance Amending Chapter 30 of The City of Shelby Code of Ordinances: Ordinance No. 20-2022**

City Attorney Leslie-Fite reintroduced Ordinance No. 20-2022 for Council’s consideration. Mrs. Leslie-Fite reminded Council that this ordinance updates Chapter 30 of our Code of Ordinances to comply with the new statutory changes requiring cities to include misdemeanor language to every ordinance the city wishes to be punishable as a misdemeanor. Attorney Leslie-Fite provided a synopsis of other similar sized cities (Lincolnton, Forest City, Gastonia and Lexington) stating that each of these cities do punish skateboarding and roller

skating on city sidewalks as misdemeanors. She concluded by stating that the action the City of Shelby is considering is consistent with peer jurisdictions.

Mayor Anthony asked about how the City enforces these changes. Mr. Howell stated that the City doesn't have staff to walk along the sidewalks and cite everyone that is skateboarding or causing danger to pedestrians. Mr. Howell explained this would be an episodic type of situation and City staff would address issues as they become a problem. Mr. Howell also stated that discretion would be used in these situations.

City Attorney Leslie-Fite added that enforcement actually lies in the District Attorney's office. Mrs. Leslie-Fite stated that in cases where someone is hurt, or property is damaged as a result of reckless skating then this ordinance gives the District Attorney's office the ability to prosecute.

**ACTION TAKEN:** Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Ordinance No. 20-2022 entitled, "AN ORDINANCE AMENDING CHAPTER 30 OF THE CITY OF SHELBY CODE OF ORDINANCES"

#### **F. New Business**

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

###### **a) Keep Shelby Beautiful Commissions**

Mrs. Williams reported the terms of four incumbents, Joe Suttle, Linda Price, Kellie Ledford and Dick Baker, Jr., concluded January 2022. All four incumbents wish to continue their service on this board.

The application on file in the Clerk's Office include the following:

- Cheryl Yates

Mr. Causby nominated Joe Suttle, Kellie Ledford, Linda Price, and Dick Baker, Jr. 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) Approval of a resolution requesting the North Carolina General Assembly to amend the City of Shelby, North Carolina charter to provide that the City Manager shall appoint the City Clerk: Resolution No. 30-2022

Mr. Howell introduced Resolution No. 30-2022 that amends the City of Shelby charter to allow the City Manager to hire, fire, supervise and evaluate the City Clerk just as any other City employee. Mr. Howell stated that he and the City Attorney have looked into this and cannot find that the charter clearly states that the City Clerk be appointed. Mr. Howell further stated that it is difficult to have an employee that does not report to or is not supervised or evaluated in the current administrative setting. Mr. Howell reminded Council that they asked for this to be addressed and brought to the legislative delegation to amend the charter so the City Clerk can be appointed, hired or fired by the City Manager.

Mayor Anthony asked how often our charter has been changed. Mr. Howell responded very seldom; the last time was to amend the election process.

**ACTION TAKEN:** Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Resolution No. 30-2022 entitled, “A RESOLUTION REQUESTING THE NORTH CAROLINA GENERAL ASSEMBLY TO AMEND THE CITY OF SHELBY, NORTH CAROLINA CHARTER TO PROVIDE THAT THE CITY MANAGER SHALL APPOINT THE CITY CLERK”

- 3) Approval of a resolution for approving the submission of the City of Shelby 2021 Local Water Supply Plan: Resolution No. 31-2022

Mr. Howell introduced Resolution No. 31-2022 which formally adopts the Local Water Supply Plan. Mr. Howell stated that the City is required by the NC Division of Environmental Quality to have a local water supply plan which addresses several things, such as where our water supply comes from and our reporting process. Mr. Howell stated that the plan has been submitted and approved by the NC DEQ; it will be on file with the State and in our City Clerk’s office.

**ACTION TAKEN:** Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 31-2022 entitled, “A RESOLUTION FOR APPROVING THE SUBMISSION OF THE CITY OF SHELBY 2021 LOCAL WATER SUPPLY PLAN”

- 4) Shelby-Cleveland County Regional Airport T-Hangar Construction:
  - a. Approval of a Resolution Accepting and Entering into an Agreement with the North Carolina Department of Transportation to Accept Grant Funding for the Shelby-Cleveland County Regional Airport Grant No. 36237.16.17.1:

**Resolution No. 32-2022**

- b. Approval of a Resolution Accepting and Entering into an Agreement with the North Carolina Department of Transportation to Accept Grant Funding for the Shelby-Cleveland County Regional Airport Grant No. 36237.16.17.2: Resolution No. 33-2022**

**Mr. Howell introduced both Resolution Nos. 32-2022 and 33-2022 which authorize the City to enter into agreements with the NC Department of Transportation Division of Aviation for grant funding. The grant number 17.1 is a 100% grant of \$333,332 with no local match, and the 17.2 grant number is a 90% grant \$47,482 with a 10% local match. These funds have already been allocated to be used to reimburse the City for costs incurred for construction of T-Hangar 4.**

**ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 32-2022 entitled, “A RESOLUTION ACCEPTING AND ENTERING INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO ACCEPT GRANT FUNDING FOR THE SHELBY-CLEVELAND COUNTY REGIONAL AIRPORT GRANT NO. 36237.16.17.1”**

**ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 33-2022 entitled, “A RESOLUTION ACCEPTING AND ENTERING INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO ACCEPT GRANT FUNDING FOR THE SHELBY-CLEVELAND COUNTY REGIONAL AIRPORT GRANT NO. 36237.16.17.2”**

**G. City Manager’s Report:**

- **Regarding Phase IA of the Rail Trail – Bid Openings will be April 28, 2022**
- **Regarding the closing of the County Recycling Center on W. Graham Street – the site is City owned property but for many years there has been a handshake agreement that the County use that property for a recycling center. Mr. Howell stated that he’s had numerous calls regarding this issue, and it is disappointing that the center is going to close. Mr. Howell expressed to Council that if it doesn’t make sense for the County to operate it, then why does it make sense for the City to operate it. Mr. Howell further stated that from his understanding the closing of the recycling center is based on low volume. Mr. Howell commented that the**



County and other surrounding counties are all having extreme difficulties getting rid of recyclables, even so much that our County has been forced to take them to the landfill at times. Other facilities are paying private companies to dispose of recyclables. Mr. Howell concluded by stating that the recyclable market has never been robust, and the demand has greatly diminished over the years.

Mayor Anthony reiterated what Mr. Howell said, if it's not good for the County then it's not good for the City to operate the recycling center.

Mr. Webber commented that there doesn't appear to be a conceivable business model that would work under the current circumstances.

Mr. Hopper commented that there used to be several countries that would take our recyclables, but that is no longer the case. Mr. Hopper also commented that the County Commissioners have been asked why the County operates a recycling facility in Shelby but there aren't any in Lawndale, Casar, Boiling Springs and other municipalities in the County.

Mr. Howell stated that no disrespect intended to anyone, but in case some people have forgotten, the City of Shelby is also in Cleveland County.

#### **H. Council Announcements and Remarks:**

Mayor Anthony reminded everyone that the Merry Go Round Festival is this weekend at the City Park. It's the first one in two years due to COVID.

Mayor Anthony also reminded Council of the Budget workshops scheduled for May 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup>. The National Day of Prayer is also on Thursday, May 5<sup>th</sup> so possibly moving the Budget workshops to the Don Gibson Theater.

Mayor Anthony also mentioned that he has had several calls about noise in the City, especially due to mufflers or modified mufflers. Mayor Anthony asked if staff could look into the noise ordinance.

Mr. Hopper added that the noise coming from cars with external speakers is also an issue.

Mr. Causby hoped everyone had a Happy Easter.

Mr. Webber appreciated all the hard work the City Manager and staff are doing.

#### **I. Adjournment:**

**1) Motion to adjourn**

**ACTION TAKEN:** Upon a motion made by Mr. Webber, City Council voted unanimously to adjourn the meeting at 7:02 p.m.

**Respectfully submitted,**

**Carol Williams  
City Clerk**

**O. Stanhope Anthony III  
Mayor**

**Minutes of April 18, 2022**