

MINUTES

Regular Meeting
City Hall Council Chamber

May 16, 2022
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members David Causby, David White, Violet Arth, 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, City Clerk Carol Williams, Public Information and Communications Officer Chip Nuhrah, Director of Finance Elizabeth (Beth) Beam, CPA, Director of Human Resources Deborah (Deb) Jolly, Police Chief Jeffrey (Jeff) Ledford, Assistant Fire Chief David Vanhoy, EFO, Director of Planning and Development Services Walter (Walt) Scharer, AICP, and Jennipher H. Harrill, Social Media Manager, Blue Eyes Media Connections

Absent: Council Member Charles Webber

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

Mr. White 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 Comment: None

C. Public Hearings:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (1712 S. Lafayette Street): Ordinance No. 25-2022

Mr. Scharer introduced a zoning map amendment for property located at 1712 S. Lafayette Street from R10 zoning district to General Business 2 Conditional Zoning (GB2CZ) zoning district to operate a halfway house. Mr. Scharer listed the development standards for a halfway house such as, property separation, operation, location, parking and screening.

Mr. Scharer stated that the amendment is inconsistent with the Shelby Comprehensive Land Use Plan but consistent with other zoning districts in the area. Conditional Zoning is not the only requirement needed to allow for a halfway house to be at this location; a Special Use permit is also required by the Zoning Board of Adjustment.

Mayor Anthony asked for clarification that if a change in zoning occurs to GB2CZ then the only use for this property is a halfway house due to the Conditional Zoning attachment to the application. Mr. Scharer responded that is correct.

Mayor Anthony opened the public hearing at 6:10 p.m. and invited comments from the public.

Iverson Smith who resides at 1510 Knox Street, Shelby, North Carolina spoke against the proposed zoning. Mr. Smith is concerned about the number of group homes that are already in South Shelby. Mr. Smith also commented that he did not think it was appropriate to have a halfway house near schools. Mr. Smith stated that there has been an increase in vandalism and thefts since the group homes have been established.

John Grellman who resides at 1605 McFarland Drive, Shelby, North Carolina spoke against the proposed rezoning amendment for the property located at 1712 S. Lafayette Street. Mr. Grellman is a husband, father, and an educator. He does not think Mr. Dean (the applicant) was aware that:

- there are 3 schools in the area**
- 11-, 12-, and 13-year-olds walk to and from school every day or to and from practices at their schools**

Mr. Grellman stated that to even consider having a halfway house at this location is grossly irresponsible. He claims there have already been problems with just 3 or 4 residents at the halfway house. Mr. Grellman stated that the concept of a halfway house is great but only when conditions are right. Mr. Grellman concluded by stating statistics from an article in prisonlegalnews.com.

Mrs. Rachel Hamrick who resides at 3014 Poplar Circle, Shelby, North Carolina spoke for members of the Brittain Village community. Mrs. Hamrick clearly stated that the community does not want any rezoning of the property at all, especially to GB2CZ for a halfway house. Mrs. Hamrick stated that there are already problems with the four residents. Mrs. Hamrick inquired about the drawing that was submitted with the application, what is the buffer area? Mayor Anthony answered the buffer would meet the specifications the City requires.

Krista Ford who resides at 112 Holly Hill Road, Shelby, North Carolina voiced her concerns with the property at 1712 South Lafayette Street. Mrs. Ford is

concerned about safety in the community. Mrs. Ford questioned whether the statements in the interview with The Star were valid concerning the property manager being on site, 24-hour surveillance. Mrs. Ford listed six or more emergency calls to 1712 S. Lafayette Street (for example, fighting each other, marijuana on the premises, eviction issues, etc.) Mrs. Ford concluded by stating that there is fear in the community and pleaded with the Council to not approve the rezoning of this property. Mrs. Ford offered a petition that has 110 signatures opposed to the rezoning.

Carol McAllister Carpenter who resides at 3016 Harold Court, Shelby, North Carolina spoke against the proposed rezoning. Her family has owned her house since 1967. Mrs. Carpenter stated Brittain Village is a safe community with elderly and young people living there. She is opposed to a halfway house being allowed in the community.

George Rogers who resides at 400 Garland Place, Shelby, North Carolina, spoke against the proposed rezoning. Mr. Rogers' father-in-law is 86 years old and lives in Brittain Village. Mr. Rogers stated that his research showed that all of North Carolina's halfway houses were over capacity. Mr. Rogers also tracked how far away the halfway house was from James Love School and found it to be only .26 of a mile distance. Mr. Rogers further stated that he contacted a Cleveland County School Board member that stated that he was unaware of the halfway house being so close to the school.

Karen Clarke who resides at 35 Drewery Lane, Shelby, North Carolina spoke in favor of the proposed rezoning. Mrs. Clarke stated that Mr. Dean purchased the house from her family and has made great improvements to the house. Mrs. Clarke encouraged Council to tour the house if they haven't already. Mrs. Clarke stated that Mr. Dean desires to lead people to the Lord and to change people. Mrs. Clarke referred to David Barton, an American historian, that points out that spiritual influences help people rehabilitate. Mrs. Clarke stated that she respects Mr. Dean for his goals that he has for the halfway house and believes Mr. Dean can be successful in rehabilitating people.

Mr. Cedric Dean (the applicant) who resides at 1712 South Lafayette Street, Shelby, North Carolina stated while he was in prison, he accepted Christ. Mr. Dean stated that this is not a halfway house, this is a house for people that have been failed by the system. Mr. Dean said that he was asked by the Federal and State Probation offices to help with the problem of rehabilitation, and he wanted to find a solution to the problem. Mr. Dean stated he is trying to make this community safer by taking men in and giving them opportunities instead of them sleeping on the street.

James Holland who resides at 1712 S. Lafayette Street, Shelby, North Carolina spoke in favor of the rezoning. He stated that he was approved to

stay at this house by the Cleveland County Clerk of Court. He stated when he was released from prison, he lived under a bridge for three months due to be homeless. He stated that losing his children prompted him to try to kill himself. He said that with Mr. Dean's help he has been going to church, listens to gospel music, and helps buy food for others in the home when they don't have anything.

Ms. Jemeka Jefferies who resides at 906 Lake Drive, Shelby, North Carolina spoke against the proposed zoning. Ms. Jefferies questioned whether Mr. Dean resides at 1712 S. Lafayette Street. Ms. Jefferies believes Mr. Dean lives in Charlotte and that he would not want this halfway house in his Charlotte neighborhood. Ms. Jefferies further stated that she personally has looked for other properties or businesses that are vacant and are already zoned properly to assist Mr. Dean in relocating the halfway house. Ms. Jefferies stated that Brittain Village is the only community that has four schools within 1.9 miles and is a neighborhood that people watch out for each other. Ms. Jefferies thanked Council for their service to the community and reminded them that they were chosen to represent, help and protect the citizens. Ms. Jefferies concluded by stating that if Mr. Dean did not want this in his Charlotte neighborhood why would the people of Brittain Village want it in theirs.

Mayor Anthony closed the public hearing at 6:51 p.m.

Mayor Anthony asked City Attorney Leslie-Fite to help guide Council in this matter on the statement of reasonableness. Mrs. Leslie-Fite referred Council to General Statute 160D-605 printed in their agenda. Mrs. Leslie-Fite explained that this process requires a two-part analysis:

- Council is required to deliver a consistency statement or inconsistency statement.
- Council is required to adopt a reasonableness statement or unreasonable statement.

Mrs. Leslie-Fite further instructed Council that when a motion is made, it should include addressing the plan consistency part and whether the rezoning is reasonable or unreasonable based on the presentation from Mr. Scharer and the recommendation of the Planning and Zoning Board.

City Attorney Leslie-Fite listed the factors that should be considered when determining reasonableness:

- the size, physical conditions, and other attributes of the area
- the benefits and detriments to the landowners, the neighbors, and the surrounding community
- the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment

- why the action taken is in the public interest
- any changed conditions warranting the amendment

Mrs. Leslie-Fite further stated that Council's motion needs to address the plan consistency and statement of reasonableness.

Ms. Arth commented on the concerns the residents raised about the sex offenders living in the area and the proximity to the schools. Ms. Arth continued by stating that the halfway house residents are allowed to live there because the house is 1372 feet from any school, and the State requirement is 1000 feet. Ms. Arth wanted to ask Chief Ledford if any other sex offenders lived within that proximity; however, Chief Ledford was not in attendance of the meeting.

Mr. Hopper asked City Attorney Leslie-Fite what the most efficient way was to make a motion either to approve or deny the amendment. Mrs. Leslie-Fite referred Council to the Ordinance prepared if Council chose to approve the amendment. Mrs. Leslie-Fite continued by stating that the verbiage in Section 2 of the Ordinance can be modified to suit the reasonableness factor of the proposed amendment.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to deny Ordinance No. 25-2022 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA at 1712 SOUTH LAFAYETTE STREET" based on the analysis of it being inconsistent with the Comprehensive Land Use Plan and it changes the character of the surrounding community.

2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (Gilliatt Street): Ordinance No. 26-2022

Mr. Scharer introduced a zoning map amendment for property located on Gilliatt Street from Light Industrial (LI) zoning district to R10 zoning district. According to Mr. Scharer the applicant wishes to build a residence on this property and a zoning of R10 is consistent with the Comprehensive Land Use Plan.

Ms. Arth asked Mr. Scharer about the surrounding properties in this area. Mr. Scharer stated that City Council previously amended the zoning of several properties from LI to R10 for residential use, just like this proposed amendment.

Mayor Anthony opened the public hearing at 7:05 p.m. and the public offered no comments.

Mayor Anthony closed the public hearing at 7:06 p.m.

ACTION TAKEN: Upon a motion made by Mr. Arth, City Council voted unanimously to approve and adopt Ordinance No. 26-2022 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA ON GILLIATT STREET” based on the consistency of the Comprehensive Land Use Plan and is reasonable for the area.

3) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (Arboretum Way): Ordinance No. 27-2022

Mr. Scharer introduced a zoning map amendment for property located on Arboretum Way which is in the ETJ from General Business Condition Zoning (GBCZ) district to R20 zoning district. According to Mr. Scharer the applicant wishes to build a subdivision on this property and a zoning of R20 is consistent with the Comprehensive Land Use Plan. Mr. Scharer stated that R20 is more suitable for this property because sewer is not available in the area.

Ms. Arth inquired whether the possibility of parking pads for Recreational Vehicles would be allowed. Mr. Scharer stated there are other Development Standards that would have to be approved for that to happen.

Mayor Anthony opened the public hearing at 7:08 p.m. and the public offered no comments.

Mayor Anthony closed the public hearing at 7:09 p.m.

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to approve and adopt Ordinance No. 27-2022 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA ON ARBORETUM WAY” based on the consistency of the Comprehensive Land Use Plan and is reasonable for the area.

4) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (Eaves Road): Ordinance No. 28-2022

Mr. Scharer introduced a zoning map amendment for property located on Eaves Road which is in the ETJ from R20 zoning district to R6-CZ zoning district. According to Mr. Scharer the applicant wishes to build a subdivision on this property. A zoning of R6-CZ is inconsistent with the Comprehensive Land Use Plan, however, now that sewer is in the area this amendment is consistent with the local land use.

Mr. Howell and Ms. Leslie-Fite explained that if the zoning is changed, the applicant would still need to go through the subdivision regulation process.

Mr. Scharer also stated that since the property is along the Rail Trail, the developer would be responsible for developing greenways along the Rail Trail, along Hickory Creek, and along the sewer line toward Pinnacle School property.

Mayor Anthony opened the public hearing at 7:15 p.m. and the public offered no comments.

Mayor Anthony closed the public hearing at 7:16 p.m.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Ordinance No. 28-2022 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA ON EAVES ROAD” based on the consistency of the Comprehensive Land Use Plan and is reasonable for the area.

- 5) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (Toms Street and Wyke Road): Ordinance No. 29-2022

Mr. Scharer introduced a zoning map amendment for property located on Toms Street and Wyke Road which is zoned a variety of districts (LI, R6, R8) to R6-CZ zoning district. According to Mr. Scharer the applicant wishes to build a subdivision on this property. A zoning of R6-CZ is consistent with the Comprehensive Land Use Plan due to the layout of the proposed subdivision for the Conditional Zoning.

Ms. Arth addressed the traffic on Wyke Road being very busy especially during school hours. Mr. Scharer explained that a second entrance from Toms Street into the subdivision was devised to help alleviate the traffic on Wyke Road.

Mayor Anthony opened the public hearing at 7:19 p.m. and invited comments from the public.

Brice Dimitruk who resides at 2013 A Van Buren Avenue, Indian Trail, North Carolina, spoke as the applicant in this proposed zoning amendment. He stated he was in favor of the zoning amendment. Mr. Dimitruk stated the developer is looking at traffic calming, and connectivity issues to help with traffic flow.

Yves Boudreau who resides at 102 Donlynn Drive, Shelby, North Carolina stated he owns a business on Wyke Road, and the traffic is already a concern for his tenants and his customers. Mr. Boudreau asked if there was a plan to possibly widen the road Wyke Road. Mr. Scharer stated that Wyke Road is a NCDOT road, and City staff would work with the NCDOT if traffic issues

needed to be addressed but there are not any plans currently to modify Wyke Road.

Mayor Anthony closed the public hearing at 7:24 p.m.

ACTION TAKEN: Upon a motion made by Mr. Causby, City Council voted unanimously to approve and adopt Ordinance No. 29-2022 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA AT TOMS STREET AND WYKE ROAD” based on the consistency of the Comprehensive Land Use Plan and is reasonable for the area.

- 6) Consideration of a resolution authorizing purchase of land pursuant to G.S. 158-7.1: Resolution No. 35-2022

Mr. Howell introduced Resolution No. 35-2022 for Council’s consideration. Mr. Howell stated the purpose of the public hearing is to allow the public to comment regarding the City’s intent to acquire this property for economic development purposes.

Mayor Anthony opened the public hearing at 7:26 p.m. and the public offered no comments.

Mayor Anthony closed the public hearing at 7:27 p.m.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 35-2022 entitled, “A RESOLUTION AUTHORIZING PURCHASE OF LAND PURSUANT TO G.S. 158-7.1”.

- 7) Consideration of a resolution assigning government property to Economic Development: Resolution No. 36-2022

Mr. Howell introduced Resolution No. 36-2022 for Council’s consideration. Mr. Howell stated the City acquired two parcels at 414 South Lafayette Street for public use centered around parking for the Depot Park. Mr. Howell continued by stating that the property is much larger than necessary for parking, therefore, the City’s intent is to now use a part of this property for Economic Development.

Mayor Anthony opened the public hearing at 7:28 p.m. and the public offered no comments.

Mayor Anthony closed the public hearing at 7:29 p.m.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 36-2022 entitled, “A RESOLUTION ASSIGNING GOVERNMENT PROPERTY TO ECONOMIC DEVELOPMENT”.

D. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of May 2, 2022
- 2) Approval of Special Event Application:
 - a. Dover Foundation YMCA - The Memorial 5K Race requested date: May 21, 2022
- 3) Approval of a resolution directing the City Clerk to determine sufficiency of a voluntary annexation petition from Cleveland Partners, LLC: Resolution No. 37-2022
- 4) Approval of a resolution directing the City Clerk to determine sufficiency of a voluntary annexation petition from Don Peeler Realty: Resolution No. 38-2022
- 5) Approval of a resolution accepting Holman Drive into the City of Shelby street system: Resolution No. 39-2022
- 6) Consideration of Fiscal Year (FY) 2021-2022 Budget Ordinance Amendment No. 10: Ordinance No. 30-2022
- 7) Approval of a resolution accepting American Rescue Plan funding: Resolution No. 40-2022
- 8) An ordinance rescinding Ordinance 52-2019: Ordinance No. 31-2022

E. Unfinished Business:

- 1) **SECOND READING** – An Ordinance Amending Chapter 4 of The City of Shelby Code of Ordinances: Ordinance No. 24-2022

City Attorney Leslie-Fite reintroduced Ordinance No. 24-2022 for Council’s consideration. Mrs. Leslie-Fite reminded Council that this ordinance updates Chapter 4 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.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Ordinance No. 24-2022 entitled, “AN ORDINANCE AMENDING CHAPTER 4 OF THE CITY OF SHELBY CODE OF ORDINANCES”

- 2) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby’s TAMP Phase 1 Natural Gas Line Rehabilitation Project: Ordinance No. 32-2022

Mr. Howell introduced Ordinance No. 32-2022 for Council’s consideration stating this ordinance appropriates \$960,000 for the construction and replacement of natural gas lines identified in the TAMP Phase 1 area.

ACTION TAKEN: Upon a motion made by Mrs. Bullock, City Council voted unanimously to approve and adopt Ordinance No. 32-2022 entitled, “AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY’S TAMP PHASE 1 NATURAL GAS LINE REHABILITATION PROJECT”

- 3) Approval of a resolution awarding the bid for replacement of natural gas lines in the N. Morgan, Leander St., Royster Ave., Cline St., Grice St., and Gidney St. areas: Resolution No. 41-2022

Mr. Howell introduced Resolution No. 41-2022 for Council’s consideration stating this Resolution awards the bid contract for the replacement of natural gas lines to Appling Boring, Inc.

Ms. Arth inquired as to the disparity in bids the City received. Mrs. McMurry stated there are just a few gas contractors and they are very busy – so supply and demand concept is evident.

ACTION TAKEN: Upon a motion made by Mrs. Bullock, City Council voted unanimously to approve and adopt Resolution No. 41-2022 entitled, “A RESOLUTION AWARDING THE BID FOR REPLACEMENT OF NATURAL GAS LINES IN THE N. MORGAN, LEANDER ST., ROYSTER AVE., CLINE ST., GRICE ST., AND GIDNEY ST. AREAS”

- 4) Consideration of an ordinance establishing a capital project ordinance and budgets for the City of Shelby’s City Hall Roof Replacement Project: Ordinance No. 33-2022

Mr. Howell introduced Ordinance No. 33-2022 for Council’s consideration stating this ordinance would appropriate \$295,000 of ARPA funding and

\$345,000 of budgeted general fund capital outlay funding to replace City Hall's slate roof. Mr. Howell further stated based on research the original roof from 1939 has only been repaired twice. This funding would replace the roof with another slate roofing material.

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to approve and adopt Ordinance No. 33-2022 entitled, "AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S CITY HALL ROOF REPLACEMENT PROJECT"

F. New Business

- 1) Approval of a resolution establishing a public hearing date for City of Shelby property on Artee Road: Resolution No. 42-2022

Mr. Howell introduced Resolution No. 42-2022 for Council's consideration stating this resolution would set a public hearing date to hear public comment regarding the proposed voluntary annexation of city owned property into the city limits. Mr. Howell stated this property is approximately 41 acres plus an additional NCDOT parcel along Artee Road and the new US 74 bypass.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 42-2022 entitled, "A RESOLUTION ESTABLISHING A PUBLIC HEARING DATE FOR CITY OF SHELBY PROPERTY ON ARTEE ROAD"

G. City Manager's Report:

- Regarding City Park Aquatics Center – bids for the renovation project were due Friday, May 13th, unfortunately no qualified bids were received so the project will be rebid for Friday, June 3rd.
- Regarding Phase IA of the Carolina Harmony Trail – The second bid opening was held Friday, May 6th, 2022. Only one bidder submitted at the initial bid opening so staff is working with the consulting engineer to value engineer the cost reductions to bring it closer to budget.
- The City has received a grant award totaling \$10,000 from ElectriCities of NC for a downtown revitalization grant to be used toward the restoration of the old railroad depot on Market Street.
- The City anticipates submitting a grant application in the fall to the NC Rural Transformation Grant program. This grant focuses on retaining businesses, attracting new customers, supporting downtown economic

development, supporting community enhancements for economic growth, building local government capacity, and creating resilient neighborhoods through investment in quality-of-life improvements. The maximum grant is \$900,000 and must demonstrate impact on communities negatively impacted by COVID 19.

- Piedmont Construction has begun mobilizing to begin the sewer project at the Randolph Road industrial park site. This system will serve the 64 acres in the park as well as some surrounding areas. Construction is scheduled to be complete in January 2023.
- T-Hangar #4 is complete and all 10 spaces are occupied by paying customers.
- The updated Airport Layout Plan has been reviewed and approved by the NC Division of Aviation and will be presented to Council in June for adoption. The City is still awaiting approval from the Federal Aviation Administration (FAA) which could take up to a year.
- Beginning in June/July monthly presentations by City staff will be brought to Council on a variety of issues facing the City.
- RAISE grant was submitted (\$25 million) in April. The City is using a company named Strategics to help work through the federal process and hopefully enhance our opportunity to receive this grant.
- The Chamber Legislative breakfast is Monday, May 23rd at the LeGrand Center.
- The Town/State dinner is June 1st in Raleigh – Mr. Howell needs to know who is interested in attending.
- Rescheduling the Budget workshop that was cancelled last week for Monday, May 23rd at noon.

H. Council Announcements and Remarks:

Mayor Anthony suggested that Council may want to look at the Advisory Boards to develop some policies, such as expertise, attendance, city residency, etc. Mr. Howell stated that staff will come back with some recommendations for Council to review.

Mr. Causby reminded everyone to vote tomorrow in the primary election.

I. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to adjourn the meeting at 7:48 p.m.

Respectfully submitted,

**Carol Williams
City Clerk**

**O. Stanhope Anthony III
Mayor**

Minutes of May 16, 2022

DRAFT