

## MINUTES

Regular Meeting  
City Hall Council Chamber

September 19, 2022  
Monday, 6:00 p.m.

**Present: Mayor O. Stanhope Anthony III, presiding; Council Members David White, Charles Webber, David Causby, 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 Benjamin (Ben) Yarboro, City Clerk Carol Williams, Deputy City Clerk Breanna Jones, Public Information and Communications Officer Chip Nuhrah, Director of Human Resources Deborah (Deb) Jolly, Director of Finance Elizabeth (Beth) Beam, CPA, Police Chief Jeffrey (Jeff) Ledford, Fire Chief William Hunt, EFO, Planning and Development Services Director Walter Scharer, and Jennipher H. Harrill, Social Media Manager, Blue Eyes Media Connections;**

**Mayor Anthony called the meeting to order at 6:00 p.m. recognizing Boy Scout Troop 101 from First Baptist Church.**

**Mayor Anthony delivered the invocation and invited the Boy Scout troop to lead the Pledge of Allegiance.**

### **A. Approval of agenda:**

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

**Mayor Anthony requested the removal of Item B-1 under Special Presentations due to a scheduling conflict, and Item E-2(b) under Consent Items be removed from tonight's agenda.**

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

**Ms. Arth requested permission to excuse herself from the City Council meeting by 7:10 p.m.**

**ACTION TAKEN: Upon a motion by Mr. White, City Council voted unanimously to approve Ms. Arth permission to leave early.**

### **B. Special Presentation:**

#### **1) Recognition of Director of Finance, Beth B. Beam, and the City of Shelby's Finance Department as recipients of the Certificate of Achievement for**

**Excellence in Financial Reporting awarded by the Government Finance Officers Association for Fiscal Year ended June 30, 2021.**

**Mayor Anthony recognized the City's Finance Department for attaining this award for over 15 years. Mayor Anthony presented the award certificate to Beth Beam, Finance Director, for the City of Shelby. Mrs. Beam acknowledged it was with great teamwork that this award is possible. Mrs. Beam further indicated that she was glad to lead such a great team and would extend the Council's appreciation to the Finance Department.**

**C. Public Comment:**

- 1) Mary Degree who resides at 1110 Stanton Drive, Shelby, North Carolina presented to Council a petition signed by homeowners in her neighborhood who are against a duplex being built on a vacant lot on Stanton Drive. Mrs. Degree also presented the Restrictions that are recorded in the Register of Deeds (Book 7, Page 88) pertaining to this neighborhood. Mrs. Degree stated she and her neighbors are not against building homes, but against a duplex being built. Mrs. Degree read the Restrictions to Council which in her opinion applied to this matter.**
- 2) Richard Hooker who resides at 1520 King Arthur Court, Shelby, North Carolina spoke about Minority Enterprise Development Week, October 23<sup>rd</sup> – 29<sup>th</sup>, 2022. Mr. Hooker stated this would be the 30<sup>th</sup> year of the Development Center being in Cleveland County and the City of Shelby. Mr. Hooker further stated this year's theme is Enduring Legacy and Sustainability which will recognize the longevity of this organization. Mr. Hooker recognized the support this organization has received from City Council and invited them to attend the celebration this year.**
- 3) Marcus Cyprian who resides at 1111 Stanton Drive, North Carolina echoed Mrs. Degree's concerns about the building of the duplex next door to his mother's home. Mr. Cyprian stated this is an older neighborhood but one that cares about each other and wants things done the right way. Mr. Cyprian thanked Council for their time.**
- 4) Reverend James L. Smith who resides at 1100 Hemlock Drive, Shelby, North Carolina stated the community at Sherwood Acres is made up of hard-working people and he has lived there since 1984. Rev. Smith asked Council if something can be done about the large hole in the ground at the vacant lot on Stanton Drive; he said it is a mess when a large rainfall happens. Reverend Smith concluded by stating this is the City of Pleasant Living and it should be that in all communities not just some communities.**

Mayor Anthony appreciated the comments and reminded the neighborhood group that deed restrictions cannot be enforced by the City but can be enforced through the court system. Mayor Anthony stated there may be grounds for legal action against the property owner but that would be up to the neighborhood and an attorney to consider. Mayor Anthony concluded by stating Mr. Scharer has contacted the property owner and instructed the owner to fill in the hole.

#### **D. Public Hearings:**

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (2043 Green Oak Drive): Ordinance No. 50-2022**

Mr. Scharer introduced a zoning map amendment for property located at 2043 Green Oak Drive from R20 zoning district to R6-CZ zoning district. Mr. Scharer stated sewer is available in this area. Mr. Scharer stated the applicant included the conditional use amendment with a condition of only allowing single family dwellings on this site. Mr. Scharer said the applicant, Ashley Jennings, wishes to build two single-family dwellings on this property, with each lot being approximately 7,500 square feet.

Mr. Scharer shared that the homes in this neighborhood are approximately 1200 square feet and reminded Council that the City cannot restrict home sizes but can regulate lot size. Mr. Scharer stated the applicant has plans for each home to be approximately 1800 square feet.

Mr. Howell reminded Council that the size of the home is immaterial, only the lot size being proposed should be considered.

Mr. Scharer stated that the amendment is inconsistent with the Shelby Comprehensive Land Use, and that the Planning and Zoning Board had a split vote (4 – 3) to deny the zoning amendment.

Mayor Anthony opened the public hearing at 6:26 p.m. and invited comments from the public.

Ashley Jennings, property owner of 2043 Green Oak Drive, Shelby, North Carolina spoke as the applicant and in favor of the rezoning amendment. Ms. Jennings stated she is from Cleveland County and her father lives in the Green Oak Drive neighborhood. Ms. Jennings stated as a developer she focuses on distressed properties and renovates them for new ownership. Ms. Jennings declared her company, Experience Capital, LLC has revitalized 11 homes this year, brought \$6 million into the housing market, and has sold 75 homes. Ms. Jennings presented to Council a few examples of the homes her company has been involved with this year, and stated she uses several local

companies and tradesmen for plumbing, electrical, drywall, paint, flooring, etc.

Ms. Jennings further stated she wants to build two homes because housing at this price point is needed. Ms. Jennings said that if we continue to stay the same then nothing is going to change, and the City becomes stagnant.

Ms. Jennings stated she and Mr. Scharer talked about options for this property and she's glad she didn't choose to do a duplex; however, she decided to do two single-family homes to keep the community the same.

Mayor Anthony closed the public hearing at 6:34 p.m.

Mayor Anthony reminded Council in this matter there needs to be a statement of reasonableness in the motion.

Mr. Scharer came forward to state that he neglected to tell Council earlier that this matter could be a potential spot zoning issue that a Judge could overturn if this zoning amendment was challenged.

Mr. Howell stated if this rezoning makes sense, then Council may want to look at the neighborhood to see if it makes sense to rezone the entire development. Mr. Howell also acknowledged that the City should make sure utilities support the additional density.

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted 3 – 3 (Bullock, White, Causby – Arth, Webber, Hopper) to deny Ordinance No. 50-2022 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA (2043 GREEN OAK DRIVE)” based on the inconsistency statement in Section 1 and the unreasonableness statement in Section 2 of the Ordinance. Mayor Anthony casted a tie-breaking vote against Mr. White's motion to deny.

**ACTION TAKEN:** Upon a motion made by Mr. Hopper, City Council voted 4 – 2 (Arth, Webber, Hopper, Causby – Bullock, White) to approve and adopt Ordinance No. 50-2022 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA (2043 GREEN OAK DRIVE)”.

2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (Lithia Springs Road): Ordinance No. 51-2022

Mr. Scharer introduced a zoning map amendment for property located on Lithia Springs Road from R20 zoning district to R6 zoning district. Mr. Scharer stated that the property is currently vacant, and that sewer is available in the area. Mr.

Scharer declared that an R6 zoning can be for single family dwellings or multi-family dwellings and a Special Use Permit would not be required.

Mr. Scharer also pointed out that the future land use for this area is listed as Conservation Development because at the time the exact path of the new by-pass was unknown and there was no sewer available; now we know the path of the by-pass and there is sewer available.

Mayor Anthony opened the public hearing at 6:52 p.m. and invited comments from the public. There were no comments from the public.

Mayor Anthony closed the public hearing at 6:53 p.m.

**ACTION TAKEN:** Upon a motion made by Ms. Arth, City Council voted unanimously to approve and adopt Ordinance No. 51-2022 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA (LITHIA SPRINGS ROAD)" based on the consistency statement in Section 1 and the reasonableness statement in Section 2 of the Ordinance.

#### **E. CONSENT AGENDA:**

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

- 1) Approval of the Minutes of the Regular Meeting of August 15, 2022
- 2) Approval of Special Event Applications:
  - a) Mush, Music, & Mutts Festival, requested date: October 15, 2022
  - b) REMOVED from Agenda:  
Seeds in Season, requested date: October 29, 2022
  - c) Cleveland County's Veteran's Day Parade, requested date:  
November 11, 2022
  - d) Pinnacle Classical Academy Homecoming Parade, requested date: December 2, 2022
- 3) Approval of a resolution authorizing the selection of Upland Architects, Inc., based on Qualifications for Architectural Design for City Hall Annex Renovation project: Resolution No. 60-2022
- 4) Adoption of budget ordinance amendment for the City of Shelby's American Rescue Plan Water and Sewer Project: Ordinance No. 52-2022

- 5) Adoption of an ordinance concurring with the North Carolina Department of Transportation for speed limit revisions inside the corporate limits of Shelby, North Carolina: Ordinance No. 53-2022
- 6) Adoption of a resolution supporting the application requesting stormwater grant funding from the Local Assistance for Stormwater Infrastructure Investments Fund (LASII) for city-wide stormwater modeling, infrastructure assessment, and master plan: Resolution No. 61-2022
- 7) Adoption of a resolution for Community Development Block Grant Section 3 Plan September 2022-2025: Resolution No. 62-2022
- 8) Management Reports:
  - a. Financial Summary – July 2022

**F. Unfinished Business:**

- 1) Water and Sewer Asset Management and Hydraulic Modeling Projects -
  - a. Adoption of a budget ordinance amendment for the City of Shelby's Water and Sewer Asset Management and Hydraulic Modeling Projects: Ordinance No. 54-2022
  - b. Approval of a resolution authorizing selection of HDR Inc based on qualifications for the Water and Sewer Asset Management and Hydraulic Modeling Projects: Resolution No. 63-2022

**Mr. Howell introduced the Water and Sewer Asset Management and Hydraulic Modeling Projects that contains two items:**

- Ordinance 54-2022 if approved this ordinance would appropriate \$465,000 toward the development of plans specific to both the Water and Sewer systems - \$400,000 from grant funding and \$65,000 from local funding. This appropriation includes \$400,000 (\$100,000 for Water System and \$300,000 for Sewer System) from the NC Division of Water Infrastructure.
- Resolution No. 63-2022 if approved would allow for the selection HDR, Inc. of Charlotte to provide engineering services for the Water and Sewer Asset Management and Hydraulic Modeling Projects.

**ACTION TAKEN:** Upon a motion made by Ms. Arth, City Council voted unanimously to approve and adopt Ordinance No. 54-2022 entitled, “AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY’S AMERICAN RESCUE PLAN WATER AND SEWER ASSET MANAGEMENT AND MODELING PROJECTS” and Resolution No. 63-2022, entitled, “A RESOLUTION AUTHORIZING SELECTION OF HDR INC BASED ON QUALIFICATIONS FOR THE WATER AND SEWER ASSET MANAGEMENT AND HYDRAULIC MODELING PROJECTS.”

2) **SECOND READING:** An Ordinance amending Chapter 16 of the City Of Shelby Code Of Ordinances: Ordinance No. 49-2022

Mayor Anthony reminded Council that the First Reading was at the last meeting with City Attorney Leslie-Fite. Mr. Howell stated that this Ordinance clarifies and modernizes the language within the City Code.

**ACTION TAKEN:** Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Ordinance No. 49-2022 entitled, “AN ORDINANCE AMENDING CHAPTER 16 OF THE CITY OF SHELBY CODE OF ORDINANCES”.

## G. New Business

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

a) Planning and Zoning Advisory Board

Mayor Anthony reported the terms of three incumbents, Mike Royster, Scott Bankhead and Jim Martin concluded June 2022. Mr. Royster and Mr. Bankhead wish to continue their service. Mr. Martin wishes to conclude his service on the board. Mayor Anthony further stated there is a vacancy that needs to be filled as well with a term concluding in June 2024.

There are five applications on file in the Clerk’s Office:

- Becca Schweppe
- Ric Francis
- Matthew Albinger
- Henry Earle
- Karla Haynes

Mr. Webber nominated Karla Haynes for appointment to fill the vacancy concluding in 2024.

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to close the nominations for the unexpired term and accept the nomination by acclamation.

Mr. Causby nominated Scott Bankhead and Mike Royster for reappointment and Becca Schweppe for appointment for terms concluding in 2025.

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to close the nominations for the unexpired term and accept the nomination by acclamation.

**MS. ARTH EXCUSED HERSELF FROM THE MEETING AT 7:03 P.M.**

#### **H. City Manager's Report:**

- **Regarding the Interim City Attorney position:** Mr. Howell hopes to have a recommendation to Council by the next Council meeting, October 3<sup>rd</sup>. This position will be contractual.
- **Regarding the hiring of the City Attorney position:** This is a difficult task to replace Mrs. Leslie-Fite and the position will be open until filled to ensure we get the right person.
- **Regarding Shell Building #4:** The slab is complete, and wall panels will be up in mid-September and once the walls are up the roof should follow. There is an issue with materials being delayed.
- **Regarding Rail Trail Phase 1A:** Notice to Proceed should be dated September 26<sup>th</sup> and waiting on the delivery of pipe.
- **Regarding the City Park pool renovations:** Construction should be completed before the pool season, if not, earlier. The old pool was losing 50,000 gallons of water a day. This project is a complete rebuild of the pool.

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

Mayor Anthony listed the upcoming events:

- **Employee Picnic – Wednesday, September 28<sup>th</sup> at the City Park**
- **Cycle NC – October 4<sup>th</sup> Uptown**
- **Cleveland Cup – October 14<sup>th</sup> at Hanna Park**



- October 15<sup>th</sup> – Livermush Festival Uptown
- October 20<sup>th</sup> – ElectriCities Fall Regional meeting – let Bre know if you are interested in attending

Mr. Webber appreciated the efforts from the City Manager and Human Resources in recruiting and retention, especially the attention given to the City Attorney position.

Mr. Hopper commented Raleigh hosted a Career Fair trying to recruit personnel and wondered if the City of Shelby could do the same. Mr. Howell stated we have participated in those locally.

Mr. Hopper commented he appreciated the update on Steffes and how they are building the electric Bobcat here in Shelby.

#### J. Closed Session

To establish, or to instruct staff concerning the position to be taken by or on behalf of City Council in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease pursuant to North Carolina General Statute 143-318.11(a)(5).

**ACTION TAKEN:** Mr. White made a motion to enter a closed session pursuant to the appropriate North Carolina General Statute as cited. The Mayor invited all Council members present along with Mr. Howell, Mrs. Williams, and Mrs. Jones to attend. The motion passed unanimously, and Council moved into closed session at 7:08p.m.

Council returned to the regular session at 7:32p.m.

#### K. Adjournment:

##### 1) Motion to adjourn

**ACTION TAKEN:** Upon a motion made by Mr. Causby, City Council voted unanimously to adjourn the meeting at 7:33 p.m.

Respectfully submitted,

Carol Williams  
City Clerk

**O. Stanhope Anthony III  
Mayor**

**Minutes of September 19, 2022**