

MINUTES

Regular Meeting
City Hall Council Chamber

August 21, 2023
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony, III, presiding; Council Members Andrew L. Hopper, Sr., David Causby, David White, Violet Arth, Charles Webber, and Emilie Bullock.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Ben Yarboro, Interim City Attorney Julie Hooten, City Clerk Carol Williams, Deputy City Clerk Breanna Jones, Director of Human Resources Deborah (Deb) Jolly, Director of Finance Elizabeth (Beth) Beam, CPA, Fire Chief William Hunt, EFO, Police Chief Brad Fraser, Director of Planning and Development Services Walter (Walt) Scharer, Public Works Director Scott Black, Director of Water Resources Brian Wilson, and Jennipher H. Harrill, Social Media Manager, Blue Eyes Media Connections;

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

Ms. Arth led the Pledge of Allegiance.

A. Approval of agenda:

Ms. Arth requested Consent Item E-8 be moved to New Business as item G-2.

1) Motion to adopt the proposed agenda as amended.

ACTION TAKEN: Upon a motion by Ms. Arth, City Council voted unanimously to approve the agenda as amended

B. Special Presentation:

1) Development Finance Initiative, UNC School of Government – Sara VanLear and Rory Dowling

Ms. VanLear presented to Council an update on the work Development Finance Initiative (DFI) has done on the Hotel Charles Redevelopment Strategy. Ms. VanLear presented the feasibility results and recommendations; some highlights of the presentation are as follows:

- Scope of their work, which includes pre-development feasibility analysis, solicitation of private development partner(s), and

supporting the City in negotiating the development agreement with selected partner(s).

- **Establishing guiding public interests in the DFI Development Process:**
 - Developed through stakeholder and community engagement process by conducting stakeholder engagement to solicit public input on interests related to the Hotel Charles, present revised guiding public interests to staff and City Council, and City Council to publicly endorse guiding public interests
 - Guide creation of development program(s)
 - Used as criteria to select private development partner

- **Market Analysis:** Ms. VanLear presented to Council facts and figures that show there are limited local hotel options yet arts, cultural and sporting events draw thousands of visitors each year.

- **Redevelopment Scenario:** Ms. VanLear presented the projected development program of the 32,000 square foot building, which includes an estimated 38 guest rooms, with food and beverage located on the first floor, and retail opportunity on the street level. Ms. VanLear gave a breakdown of the estimated costs which total \$13.4 million (building acquisition, hard costs, soft costs), and a list of sources to acquire the \$13.4 million (Historic Tax Credits, Equity, Construction loan and Deferred Developer fee). Ms. VanLear also discussed the redevelopment strategy which has an estimated 10% internal rate of return over a 7-year period. Ms. VanLear stated this is not an ideal rate of return but there are several strategies that would improve the redevelopment feasibility:

- Community Champions willing to invest and accept lower returns
- Investors who can use Historic Tax Credits internally rather than selling the credits at a discounted rate
- Public participation as needed, such as Historic Landmark status and Seller financing

At the end of Ms. VanLear's presentation she asked Council if they are prepared to publicly endorse guiding public interests. City Council enthusiastically gave consensus that they are prepared and look forward to further development. Council also thanked Ms. VanLear and Mr. Dowling for their extensive work on the project and appreciated the presentation.

2) City of Shelby Water Shortage Response Plan – Brian Wilson, Director of Water Resources

Mr. Wilson began his presentation by declaring that because the City provides water, we're required to have a Water Shortage Response Plan. Mr. Wilson

continued by stating the Water Treatment Plant was constructed in 1953 and upgraded in 1995, with the primary water source being the First Broad River and the secondary water source the Broad River. According to Mr. Wilson the treatment capacity is 12 million gallons/day (MGD) and in 2023 the City is averaging 5.4 MGD.

Mr. Wilson stated the City is required to update this Water Shortage Response Plan every five years, the last being done in 2018.

Mr. Wilson presented graphs to show the history of North Carolina droughts from 2000-present, showing the five ways to declare drought (D4-Exceptional, D3-Extreme, D2-Severe, D1-Moderate, D0-Abnormally dry). Mr. Wilson's graphs clearly show that in the past 23 years there is significant data showing the state is frequently D0 (Abnormally Dry), and fewer times at D4 (Exceptional Drought).

Mr. Wilson stated after the 2002 drought the City developed an Emergency Raw Water line that involved 12 miles of 30" pipe from Honey Haven to the Water Treatment plant. Mr. Wilson further stated this contingency plan can be put into service within 36 hours, and has been used twice, in 2007 and 2015.

Mr. Wilson continued by discussing:

- Authorizations and Notifications – these begin with the City Manager enacting the Water Shortage Response Plan and continue with various notifications (email, website, social media, etc.)
- Triggers for each drought state (Stages 1 – 5, with Stage 3 activating our secondary source Broad River).
- Stages of Response which include levels of reductions in water usage (Voluntary, Mandatory, Mandatory II, Emergency, and Water Rationing).
- Enforcement – Stages 1 - 5 of violations from a warning to possible discontinuation of service.

At the conclusion of Mr. Wilson's presentation, Mr. Howell announced to Council that Mr. Wilson has recently been promoted to Director of Water Resources and the City is fortunate to have him and his years of experience.

C. Public Comment:

None

D. Public Hearing:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina at 713 East Marion Street: Ordinance No. 37-2023

Mr. Scharer presented this item to Council and stated this property is located at 713 E. Marion Street currently zoned RO Residential Office and the applicant is requesting NB Neighborhood Business, which is consistent with the development patterns in the area but inconsistent with the Comprehensive Future Land Use Plan. Mr. Scharer stated the Planning Board does recommend this zoning amendment.

Mayor Anthony opened the public hearing at 6:30 p.m. and invited comments from the public.

The public offered no comments.

Mayor Anthony closed the public hearing at 6:31 p.m.

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to approve Ordinance No. 37-2023 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA AT 713 EAST MARION STREET."

2) Consideration of a resolution and order permanently closing a portion of Bowman Street: Resolution No. 55-2023

Mr. Scharer presented this item to Council and stated this property is located at Bowman Street where Cleveland County is redeveloping this area for the Board of Elections. Mr. Scharer stated the City has existing utilities in this right-of-way, so the City is requiring an easement to ensure access for any utility maintenance. Mr. Scharer stated the City is also requesting a pedestrian thruway that will allow access to the library and the City Park; the County has agreed to that request. Mr. Scharer stated staff does recommend the closing of the right-of-way.

Mayor Anthony opened the public hearing at 6:34 p.m. and invited comments from the public.

Kerri Melton, Assistant County Manager, 311 E. Marion Street, Shelby, North Carolina acknowledged she was the petitioner for Cleveland County, and spoke in favor of closing a portion of Bowman Street. Ms. Melton described the reasons for this project were mainly for additional parking when heavy voting is expected, and also to provide a high level of safety for visitors to the Board of Election. Ms. Melton also mentioned a cul-de-sac would be constructed at the new end of Bowman Street which would allow buses and emergency vehicles to turn around safely.

Mayor Anthony closed the public hearing at 6:36 p.m.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve Resolution No. 55-2023 entitled, "A RESOLUTION AND ORDER PERMANENTLY CLOSING A PORTION OF BOWMAN STREET".

- 3) Consideration of a resolution and order permanently closing an unopened right of way for Westfield Drive: Resolution No. 56-2023

Mr. Scharer presented this item to Council and stated this is an unopened portion of a right-of-way which goes through the front yard and driveway on the applicant's property. Mr. Scharer stated this right-of-way was never developed.

Mayor Anthony opened the public hearing at 6:37 p.m. and invited comments from the public.

The public offered no comments.

Mayor Anthony closed the public hearing at 6:38 p.m.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve Resolution No. 56-2023 entitled, "A RESOLUTION AND ORDER PERMANENTLY CLOSING AN UNOPENED RIGHT OF WAY FOR WESTFIELD DRIVE".

C. 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 Regular Meeting of August 7, 2023
- 2) Approval of a Resolution honoring John Carl Hamrick on the occasion of his retirement from employment with the City of Shelby: Resolution No. 57-2023
- 3) Approval of a Resolution honoring Christopher David Truett on the occasion of his retirement from employment with the City of Shelby: Resolution No. 58-2023
- 4) Approval of a Resolution honoring Anthony Todd Vickery on the occasion of his retirement from employment with the City of Shelby: Resolution No. 59-2023

- 5) Approval of a Resolution honoring Stephanie Michelle Herndon on the occasion of her retirement from employment with the City of Shelby: Resolution No. 60-2023
- 6) City Of Shelby's Fire Apparatus Replacement Project:
 - a) Approval of a resolution approving an interfund loan from the City of Shelby Electric Fund to the City of Shelby General Fund: Resolution No. 61-2023
 - b) Adoption of FY 2023-2024 Budget Ordinance Amendment #1: Ordinance No. 38-2023
 - c) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Fire Apparatus Replacement Project: Ordinance No. 39-2023
- 7) Approval of a resolution adopting the 2023 City of Shelby Water Shortage Response Plan as submitted to the North Carolina Division of Environmental Quality: Resolution No. 62-2023
- 8) ITEM WAS MOVED TO NEW BUSINESS, ITEM G-2
- 9) Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council – September 4, 2023

END OF CONSENT AGENDA

D. Unfinished Business:

- 1) Adoption of an ordinance of the City Council of the City of Shelby, North Carolina determining that it is in the best interests of the City of Shelby to approve the power purchase agreement by and between North Carolina Municipal Power Agency No. 1 and Central Electric Power Cooperative, Inc., to consent to the transactions contemplated thereby, and to approve and authorize the execution and delivery of, among other documents, an amendment to the Project Power Sales Agreement with North Carolina Municipal Power Agency Number 1: Ordinance No. 40-2023

Mr. Howell introduced Mr. Jay Morrison, Chief Legal and External Affairs Officer with Electricities and reminded Council that a few months ago in closed session Council heard a discussion of this proposal. Mr. Howell also mentioned that the City is a member of Electricities of North Carolina which is a member organization that provides services to Shelby and the member cities, in particular, they provide services to the North Carolina Municipal Power Agency No. 1 that we are one of 19 member cities, and a 38% stakeholder in the

Catawba Nuclear Station. Mr. Howell concluded by stating the presentation tonight and the Ordinance proposed specifically addresses change to the Purchase Power Agreement.

Mr. Morrison stated tonight he will address the proposed transaction, the economic and risk analysis, the key approvals and next steps required.

Mr. Morrison listed the reasons for tonight's discussion:

- **There have been ongoing efforts to identify opportunities to "right-size" and diversify the power supply portfolio through the sale of excess nuclear capacity and energy**
- **The Board of Directors, which Mr. Howell currently is a member, authorized execution of a Power Purchase Agreement (PPA) with Central Electric Power Cooperative, Inc. (Central) that replicates a 150 MW (18%) sale of NCMPA1 's nuclear ownership interest in Catawba**
- **The Central PPA was executed on June 5, 2023 subject to several conditions which include that all 19 NCMPA1 Participants will be required to agree to the PPA**
- **Requesting that the Council take the appropriate steps necessary to approve the required Ordinance and other documents required thereby, pursuant to the letter from Mike Colo of Poyner Spruill dated July 31 as supplemented on August 10.**

Mr. Morrison gave an overview of the Central Power Purchase Agreement proposal:

- **Central would purchase 150 MW (18%) of NCMPA1 's Catawba output, structured as a PPA to mimic an outright ownership purchase, effective January 1, 2024**
- **Levelized capital payment of \$56M/yr., 2024-2031**
- **Central pays for its proportionate share of all expenses associated with NCMPA1 's Catawba ownership interest**
- **Central buys-in to NCMPA1 's decommissioning fund and contributes at the same rate as NCMPA1 going forward**

Mr. Morrison continued with the benefits of the proposed sale which include:

- **Transfers 18% of cost and nuclear concentration risk (however significant nuclear concentration risk remains)**

- "Right-sizes" the power supply portfolio (eliminates excess capacity 2024-2030)
- "Locks-in" margins on surplus energy sales higher than current forecast
- Proceeds will be utilized to defease a portion of the outstanding debt
- Provides wholesale rate benefits over the term of the sale, potentially dropping wholesale rates below DEC even in the near-term

Mr. Morrison further stated there are considerations of the proposed sale which include:

- Giving up potential upside in surplus power market if prices increase
- Catawba could continue to rise in value due to carbon constraints
- Uncertain cost of replacement power supply in the future (2031 and beyond)
- Timing and amount of baseload growth
- Likely increase in NCMPA 1 carbon footprint
- Taking on credit risk of Central

Mr. Morrison continued his presentation by providing data showing that power costs associated with the proposed sale should result in reduced power costs for City of Shelby wholesale power rates dropping below Duke Energy Company.

Mr. Morrison concluded his presentation by thanking Council for their consideration of adopting the prepared Ordinance (Ordinance No. 40-2023) and other documents executed by the Board and stated that the last text he received showed approval from other member cities, including Maiden, High Point, Landis, Gastonia and Monroe.

ACTION TAKEN: Upon a motion by Ms. Arth, City Council voted unanimously to adopt Ordinance No. 40-2023 entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA DETERMINING THAT IT IS IN THE BEST INTERESTS OF THE CITY OF SHELBY TO APPROVE THE POWER PURCHASE AGREEMENT BY AND BETWEEN NORTH CAROLINA MUNICIPAL POWER AGENCY NO. 1 AND CENTRAL ELECTRIC POWER COOPERATIVE, INC., TO CONSENT TO THE TRANSACTIONS CONTEMPLATED THEREBY, AND TO APPROVE

AND AUTHORIZE THE EXECUTION AND DELIVERY OF, AMONG OTHER DOCUMENTS, AN AMENDMENT TO THE PROJECT POWER SALES AGREEMENT WITH NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1”

2) Oak Grove Road Bridge Replacement Project:

- a) Approval of a resolution accepting and approving a utility relocation agreement between the City of Shelby and the North Carolina Department of Transportation for relocation of natural gas infrastructure in conflict with the Oak Grove Road Bridge Replacement Project (b-5845): Resolution No. 64-2023**
- b) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby’s Oak Grove Road Natural Gas Line Relocate Project: Ordinance No. 41-2023**
- c) Approval of a resolution awarding the contract for the Oak Grove Road Natural Gas Relocation Project to Appling Boring Company: Resolution No. 65-2023**

Mr. Howell presented to Council Resolution No. 64-2023 for their consideration; stating this project is the result of NCDOT’s intent to replace a bridge on Oak Grove Road and the City needing to relocate our natural gas infrastructure that is in conflict with the replacement of the bridge.

Mr. Howell stated Ordinance No. 41-2023 establishes the project budget ordinance for this gas line relocation.

Mr. Howell stated that Resolution No. 65-2023 awards the contract to Appling Boring for the natural gas line relocation.

ACTION TAKEN: Upon a motion by Mr. White, City Council voted unanimously to adopt Resolution No. 64-2023 entitled, “A RESOLUTION ACCEPTING AND APPROVING A UTILITY RELOCATION AGREEMENT BETWEEN THE CITY OF SHELBY AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR RELOCATION OF NATURAL GAS INFRASTRUCTURE IN CONFLICT WITH THE OAK GROVE ROAD BRIDGE REPLACEMENT PROJECT (B-5845)”, Ordinance No. 41-2023 entitled, “AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY’S OAK GROVE ROAD NATURAL GAS LINE RELOCATE PROJECT”, and Resolution No. 65-2023 entitled, “A RESOLUTION AWARDDING THE CONTRACT FOR THE OAK

GROVE ROAD NATURAL GAS RELOCATION PROJECT TO APPLING BORING COMPANY.”

E. New Business

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

a) Parks and Recreation Advisory Board

Mayor Anthony reported the terms of two incumbents, Marie Hendrick and Craig Ferree concluded July 2023; both incumbents wish to continue their service on this board.

There is one application on file in the Clerk’s Office:

- **Tanzy Wallace**

ACTION TAKEN: Mr. Hopper nominated Marie Hendrick and Craig Ferree for reappointment, City Council voted unanimously to approve to close the nominations and accept the nominations by acclamation.

2) Approval of a resolution revising and amending the personnel policies of the City of Shelby to provide for an updated personnel policy and procedure manual: Resolution No. 63-2023

Ms. Arth asked Mr. Howell to clarify Appendix C, Item 9 of the Anti-Drug and Alcohol Misuse Prevention Policy which listed Eating/Chewing gum, candy, mints, tobacco, or other as a physical sign or symptom of drug or alcohol use. Mr. Howell stated this is in reference to behavior that might be covering up drug or alcohol use. Mr. Howell asked Ms. Arth to think about it in totality; the City is not going to shake down employees that are chewing gum or eating mints, but if there’s reasonable suspicions, then this could be another sign of drug/alcohol misuse.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve Resolution No. 63-2023 entitled, “A RESOLUTION REVISING AND AMENDING THE PERSONNEL POLICIES OF THE CITY OF SHELBY TO PROVIDE FOR AN UPDATED PERSONNEL POLICY AND PROCEDURE MANUAL”.

F. City Manager’s Report

Rail Trail Phase 1A – Mr. Howell walked the trail today with Mr. Yarboro and Justin Wright; and announced the ribbon cutting will be on October 21st during the Livermush Festival.

Shelby City Park Aquatics project: There are some issues with concrete cracking being worked out with a third-party expert and the contractor. The City is holding money until these issues are resolved.

City Hall Sidewalk and Storm Drain project will be moving forward.

**Good news: Mr. Justin Longino will be our new Assistant City Manager
Interim Chief Brad Fraser will be our new Chief of Police
Mr. Jason Lunsford accepted our offer for City Attorney, with
details to follow and an announcement upcoming**

Mr. Howell thanked Deb Jolly, HR Director, for her hard work in getting these positions filled; also, staff that were involved, and Gov HR for their assistance.

G. Council Announcements and Remarks:

Mayor Anthony wanted to publicly thanking the ALWS Committee for the hard work that is put into this event each year. Mayor Anthony spoke to some family members of the teams, and they recognized the effort and time to make this event happen and run so smoothly.

Mayor Anthony announced that tomorrow at 3:00 there is a dedication of the new fire truck at Fire Station #2 on Charles Road.

Ms. Arth stated she's happy to be back after missing two meetings during her maternity leave.

Mr. Hopper reiterated what the Mayor said about the families of the teams and how amazed they are about what Shelby is able to pull together. Mr. Hopper said the families thought the Shelby community was friendly, courteous, respectful, and they loved coming. Also, Mr. Hopper was glad the Golden Knights finally got to jump on the Golden Lions field.

H. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to adjourn the meeting at 7:17 p.m.

Respectfully submitted,

**Carol Williams
City Clerk**

**O. Stanhope Anthony, III
Mayor**

Minutes of August 21, 2023