

MINUTES

Regular Meeting of Shelby City Council
Don Gibson Theatre

August 19, 2024
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony, III, presiding; Council Members Andrew L. Hopper, Sr., David Causby, Charles Webber, Violet Arth, David White, and Emilie Bullock; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Ben Yarboro, Assistant City Manager Justin Longino, MBA, City Attorney Jason Lunsford, City Clerk Carol Williams, Deputy City Clerk Breanna Jones, Director of Finance Elizabeth (Beth) Beam, CPA, Director of Human Resources Deborah (Deb) Jolly, Fire Chief William Hunt, EFO, Director of Planning and Development Services Brian Burgess, Director Parks and Recreation Charlie Holtzclaw, Public Works Director Scott Black, Director of Water Resources Brian Wilson, Public Information and Communications Officer Chip Nuhrah, Economic Developer Brandon Ruppe, 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.

Mr. Hopper led the Pledge of Allegiance.

A. Approval of Agenda:

- 1) Motion to adopt the agenda as presented.

ACTION TAKEN: Upon a motion by Ms. Arth, 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 for parcel 26023, further identified as 2221 Kings Rd.: Ordinance No. 51-2024

Presenter: Brian Burgess, Planning Director:

- Applicant wishes to amend the zoning district from R10 to General Business (GB) at 2221 Kings Road, Shelby, North Carolina.
- The property is approximately 1.68 acres and sits just east of the Magnolia Plantation neighborhood.
- The surrounding area has both GB and R10 zoning districts.
- General Business zoning district is consistent with the current development patterns, and inconsistent with the Future Land Use Map.
- Staff recommends the approval of the rezoning.
- Planning and Zoning Board have recommended denial of this zoning request.

Mayor Anthony opened the public hearing at 6:05 p.m.

Randy McSwain, who resides at 110 Victoria Park Drive, Shelby, North Carolina spoke on behalf of the Magnolia Plantation Homeowners Association Board. Mr. McSwain stated the HOA is against the rezoning request for the following reasons:

- Many residents in the neighborhood are elderly and exiting and entering the neighborhood is sometimes tricky due to the volume of traffic
- They are concerned about the increase of traffic due to the development of approximately 130 new homes already planned for the Magnolia Plantation neighborhood
- The HOA is also expecting an increase in traffic at their neighborhood entrance due to the County Home Road and Kings Road intersection realignment

Mayor Anthony closed the public hearing at 6:09 p.m.

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to DENY Ordinance No. 51-2024 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA FOR PARCEL 26023, FURTHER IDENTIFIED AS 2221 KINGS RD.” due to it being inconsistent with Shelby’s adopted comprehensive land use plan and approval is not recommended by the planning board and this request is unreasonable because the surrounding neighborhood is R-10, and the encroaching GB district would be too much for that area.”

2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina for Parcel Numbers 30167 and 30168 (1769 S. Lafayette Street): ****Applicant has withdrawn their application – no action required at this time**

- Applicant wishes to amend the initial application, so there is no action required at this time.

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 August 5, 2024
- 2) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's City Hall Chamber Renovation, Windows and Doors Replacement Project: Ordinance No. 52-2024
- 3) Approval of a resolution authorizing the acceptance of an agreement between the Town of Boiling Springs and the City of Shelby for equipment maintenance and upkeep of the Boiling Springs Surge Relief Valve: Resolution No. 55-2024
- 4) Approval of Special Event Applications:
 - a) Shiloh Baptist Church Community Block Party, requested date: September 21, 2024
 - b) Uptown Carriage Rides and Christmas Tree Lighting, requested date: Nov. 30th, Dec. 6th, 13th and 20th, 2024
 - c) Shelby Christmas Parade, requested date: December 1, 2024
 - d) Pinnacle Homecoming Parade, requested date: December 6, 2024
- 5) Management Reports:
 - a) Raper-Roark Financial Report – July 2024
 - b) Mayor's appointees to Comprehensive Land Use Plan Steering Committee

- 6) Acceptance of the Certificate of Sufficiency regarding Petition of Annexation of applicant, Wayne and Iris Beam
- 7) Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council

END OF CONSENT AGENDA

E. Unfinished Business:

None

F. New Business:

- 1) Approval of a resolution naming a certain City of Shelby park facility in honor of Mr. Mitchell Terrill, Sr.: Resolution No. 56-2024

Presenter: Charlie Holtzclaw, Parks and Recreation Director

- In April 2024 an application was received to rename the Holly Oak Park ballfield to Mitchell Terrill Sr. Field
- Three community workshops were held with approximately 40 citizens attending and 11 speakers, in addition, numerous emails and letters were received
- In July 2024 the Parks and Recreation Advisory Board voted unanimously to approve the renaming request
- Approval from City Council is recommended to finalize the renaming request

ACTION TAKEN: Upon a motion made by Mr. Webber, City Council voted unanimously to approve Resolution No. 56-2024 entitled, "A RESOLUTION NAMING A CERTAIN CITY OF SHELBY PARK FACILITY IN HONOR OF MR. MITCHELL TERRILL, SR."

- 2) Adoption of an ordinance to repeal Article II Sections 34-31 and 34-32, "Determination; bond" and "Going on private residence without invitation," of the City Code of Ordinances: Ordinance No. 53-2024

Presenter: Jason Lunsford, City Attorney

- In reviewing the evolving applicable law pertaining to solicitation under the First Amendment's freedom of commercial speech, the City's present

ordinance is ripe for challenge and a repeal would protect the City from future litigation.

- Additionally, the City does not impose or collect a fee or bond under Section 34-31 of Article II relating to itinerant merchants and such an ordinance without justification may also violate the First Amendment's freedom of commercial speech, it is recommended to repeal this section as well.
- Repealing the present ordinances will allow the City time to gather data, either positive or negative, pertaining to door-to-door solicitation, which may be used to provide justifications for a future amended ordinance addressing solicitation and the documented concerns.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve Ordinance No. 53-2024 entitled, "AN ORDINANCE TO REPEAL ARTICLE II SECTIONS 34-31 AND 34-32, "DETERMINATION; BOND" AND "GOING ON PRIVATE RESIDENCE WITHOUT INVITATION," OF THE CITY CODE OF ORDINANCES."

- 3) Approval of a resolution to abolish the Redevelopment Commission of the City of Shelby: Resolution No. 57-2024

Presenter: Jason Lunsford, City Attorney

- In February of 1969, the then City Council created the Redevelopment Commission of the City of Shelby pursuant to N.C. Gen. Stat. § 160A-500, the 'Urban Redevelopment Law.'
- In 1981, the Commission created the West Shelby Redevelopment Plan. This plan affected various lots throughout the area in an effort to make wide scale improvements with the use of grant funding. The properties affected had deed restrictions placed upon them pursuant to N.C. Gen. Stat. § 160A-514 and such restrictions may only be addressed through the Commission pursuant to 160A- N.C. Gen. Stat. § 160A-513(k).
- Shelby no longer has an active member on the Commission and does not appear to utilize the Commission.
- City Council has the authority through N.C. Gen. Stat. § 505(b) to abolish the Commission and have the delegated power, rights, and privileges restored to City Council.
- Upon the abolition of the Commission, City Council, after 90 days from passing the resolution, may act under the powers of the Commission pursuant to N.C. Gen. Stat. § 160A-505(a) and remove the deed restrictions previously placed upon the deeds.
- The removal of these restrictions will allow the affected properties to be sold and developed without the limitations in place.

- The City has received calls from at least two developers that are seeking the restrictions be removed for this very reason.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted 5 -1 (Arth oppose) to approve Resolution No. 57-2024 entitled, “A RESOLUTION TO ABOLISH THE REDEVELOPMENT COMMISSION OF THE CITY OF SHELBY.”

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

a) Planning and Zoning Board

Mayor Anthony reported that Karla Haynes, Rick Washburn, Mark Carter, Bob Cabaniss, and Emanuel Hunt, Jr. are up for reappointment and they all wish to continue to serve. There are five applications on file in the Clerk’s office:

- Ashley Hemming
- Tasha Smith
- Ric Francis
- Matt Albinger
- Guz Martinez

Mayor Anthony opened the floor for nominations:

Mr. White nominated Karla Haynes, Rick Washburn, Mark Carter, Bob Cabaniss, and Emanuel Hunt, Jr. for reappointment.

ACTION TAKEN: Upon a motion by Mr. Causby, City Council voted unanimously to close the nominations and appoint the nominees by acclamation.

b) Parks and Recreation Advisory Board

Mayor Anthony reported that Juan Cherry, Chris Gray, Michael Shawn Collins, and Shanda Hoskins are up for reappointment, and they all wish to continue to serve. There are no applications on file in the Clerk’s office:

Mr. Hopper nominated Juan Cherry, Chris Gray, Michael Shawn Collins, and Shanda Hoskins for reappointment.

ACTION TAKEN: Upon a motion by Mr. Causby, City Council voted unanimously to close the nominations and appoint the nominees by acclamation.

G. City Manager’s Report:

Bid opening for Depot Park was earlier this month but we did not receive any bids. We have put it out for re-bid and since it's a re-bid process now, only one bid is necessary instead of the initial three bids needed. Bids are due on August 29, 2024. Staff has contacted a few contractors to see if interested.

TGS Engineering continues the design of the remainder of Phase II of the Carolina Harmony Trail. This essentially is the section from Marion Street to Graham Street and then from Gardner Street to DeKalb Street (exclusive of the Depot Park section). This section is tentatively scheduled to go out to bid in the fall of this year. We have a DOT grant for this portion of the rail trail so there are hurdles to go through. NCDOT also has to approve the plans. Tentative timeline is: final plan approval should be by the end of October, then advertise the project in November, with a bid opening in mid-December, construction starting in March 2025, and a mid-2026 project completion date.

The Cross-Town Water Main 24" Transmission Line Phase II project will extend the 24" diameter water main approximately 9,000 lf from the intersection of Marion Street/Morgan Street along S. Morgan Street to Graham Street to the South Tank on S. Lafayette Street and to the intersection with Forest Hill Drive/Beaumont. Approximately 4,500 lf of sewer main in conflict with the line will also be replaced. This is the second of a multiphase project to improve water supply to the south, east and north of the uptown area. It is intended to improve fire flow, water volume/pressure and water quality overall in the system. It is high priority. Fuller and Company, (Crouse, NC) is the contractor. Substantial completion is expected in May 2025. Statutory completion deadline to expend all funds is December 31, 2026.

Construction on the Hickory Creek sewer outfall project has begun. It will replace approximately 5,000 lf of existing sewer outfall with 24" diameter pipe. It runs along Hickory Creek from the end of Windsor Drive to Dixon Blvd. This project replaces an existing sewer outfall that has been plagued with Sanitary Sewer Overflows due to infiltration and inflow. Construction began in August 2023. Dellinger (Monroe, NC) is the contractor. The contractor is over the allotted number of days and behind schedule.

The WTP Filter Rehabilitation & Sedimentation Valve Replacement project consists of the rehabilitation and repair of 8 water treatment plant filters as well as the repair/replacement of the sedimentation basin gate and mud valves. JS Haren (Athens, TN) is the contractor. Construction began on this project in late 2023. The contractor is behind schedule with about 55% of the work completed. The completion date is now January 2025. Statutory deadline to expend all funds is December 31, 2026.

The First Broad River Sewer Outfall project provides for the replacement of approximately 9,000 linear feet of 36-inch diameter pipe on a major sewer outfall located on the First Broad River. A number of Sanitary Sewer Overflows (SSO's)

have occurred on this line for the past several years during and after heavy rainfall. McGill Associates has been selected as the project engineer and design work is ongoing. City Council has previously approved the project budget ordinance. Engineering and design work is ongoing.

KFC sinkhole repair should be completed by the end of August.

Graham Street should be reopened this week.

City Hall Annex – This project was bid in March. Upland Architecture is the design architect. This project will involve the relocation of personnel from the Planning and Development Services Department (Planning/Zoning, Code Enforcement and Building Inspections) and the Human Resources Department to the former SPD building. The bid was awarded by Council to Neill Grading on June 3rd. Work should be completed mid-Spring 2025.

City Council Chambers – A scope of work is being developed to renovate the interior of the chambers after the broken water line flooded the room. Anticipate the scope to include a new sound system, camera system, addition of a video display system, carpet replacement, furnishings, ADA bathroom upgrades, lighting improvements as well as other improvements. A detailed update will be given at the September 9th meeting.

H. Council Announcements and Remarks:

Mr. Hopper reminded everyone that the Golden Knights will perform at the American Legion World Series on Tuesday at 5:30pm before the Championship game. The Warbirds have been flying over Shelby and the ballfield this week.

I. Closed Session:

- 1) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations pursuant to North Carolina General Statute § 143-318.11(a)(4).**
- 2) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) 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 Statutes as cited. Mayor Anthony invited all Council members present, along with Mr. Howell, Mr. Lunsford, Mr. Longino, Mr. Ruppe, Mrs. Williams and Mrs. Jones to attend. The motion passed unanimously, and Council moved into closed session at 7:04 p.m.

At the conclusion of the Closed Session item, Mr. White made a motion for City Council to return to the regular session at 7:31 p.m. and seal the minutes.

J. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to adjourn the meeting at 7:32 p.m.

Respectfully submitted,

Carol Williams
City Clerk

O. Stanhope Anthony, III
Mayor

Minutes of August 19, 2024