

MINUTES

Regular Meeting
City Hall Council Chamber

May 16, 2016
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members David W. White, David Causby, Dicky Amaya; City Manager Rick Howell, City Clerk Bernadette A. Parduski, NCCMC, MMC, City Attorney Robert W. (Bob) Yelton, Director of Finance Justin S. Merritt, MPA, Director of Energy Services Julie R. McMurry, Director of Engineering Services Benjamin (Ben) Yarboro, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Parks and Recreation Charlie Holtzclaw, and Director of Planning and Development Services Walter (Walt) Scharer, AICP; Reporter Casey White of The Shelby Star and Director of Cable Programming Greg Tillman of Cleveland Community College

Absent: Council Members Eric B. Hendrick, Dennis C. Bailey, and Ben Kittrell

Mayor Anthony called the meeting to order at 6:00 p.m. and welcomed all who were in attendance. The Mayor gave the invocation and Mr. White led the *Pledge of Allegiance*.

A. Approval of agenda:

1) Motion to adopt the proposed agenda

Mr. Amaya requested that Item E-2 (a) be removed from the Consent Agenda and placed under New Business as Item G-1 as follows:

- Consideration of a special event permit application, Craft Beer Fest, requested date: July 9, 2016

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

B. Special Presentations:

1) Don Gibson Theatre update – Stan Lowery, Executive Director

Mr. Lowery began the presentation by expressing his appreciation and that of Destination Cleveland County (DCC) and Mrs. Bobbi Gibson of Nashville,

Tennessee for all the City's support given to the theatre to date. Next he gave an update of Fiscal Year 2015-2016 which highlighted the activities at the Don Gibson Theatre. He stated there were more than 20,000 visitors to the theatre, which hosted 138 days of events/rentals and produced 31 concerts with attendance averaging 76 percent of capacity. Local hotels reported the theatre generated more than 500 room nights of stay.

Mr. Lowery reviewed the breakdown of the patrons who visit the theatre as follows:

- Shelby residents – 43 percent
- Travel less than 50 miles – 23 percent
- Travel more than 50 miles – 19 percent
- Out-of-state visitors with 21 states represented – 6 percent
- Visitors from Charlotte, North Carolina include 3 percent

In general, Mr. Lowery stated approximately 30 percent of the theatre's patrons travel more than 50 miles and reside outside of North Carolina.

In 2015, Mr. Lowery reported the theatre collected more than \$18,000 in sales tax, generating tax revenue for the State and the region.

He also mentioned the theatre has recently been involved in long-range, strategic planning covering a five-year period.

Mr. Lowery said the theatre maintains strong partnerships and relationships with many organizations including the Shelby Police Department, Christian Cooperative Extension, Boys and Girls Club, Uptown Shelby Association, Cleveland County Arts Council, Foothills Merry Go Round Festival, Teen Summit, Cleveland County School System, Keep Shelby Beautiful (KSB) Commission, Junior Charity League, several local churches, and the Earl Scruggs Center.

Mr. Lowery discussed noteworthy developments at the theatre including:

- The Don Gibson Singer Songwriter Symposium/Competition was held on April 1 and 2, 2016, which was co-hosted by Mayor Anthony. There were 52 entries. The event encourages the development of singer songwriters and honors the Shelby native who was a member of the Nashville Songwriter Hall of Fame, the Grand Ole Opry, and the Country Music Hall of Fame. The dates for next year's program are March 31 and April 1, 2017.

- Guided tours of the LP Shelby Art Project, which begin at the theatre, are hosted by Sally Royster. These informative tours of Uptown Shelby include information about Don Gibson and other landmarks around the City.
- The announcement of upcoming shows.

On a personal note, Mr. Lowery announced it was his 30th wedding anniversary. Instead of going out-of-town to celebrate, he and his wife decided to stay in town and experience Shelby as visitors. They thoroughly enjoyed touring the sights and commended the City and its partners for their role in making Shelby a destination.

Lastly, Mr. Lowery reminded Council of DCC's presentation introducing its electronic press kit (EPK) earlier this year. He concluded his presentation by distributing the EPK on USB flash drives in the form of a guitar, a replica of Don Gibson's Super 400, to Mayor Anthony, Council members, and Mr. Howell.

Council received the information. No action was required.

2) Shelby Fire & Rescue Department 2016-2020 Strategic Plan –
William Hunt, Fire Chief

Chief Hunt began his presentation by explaining that a strategic plan is a management tool that provides short term direction, builds a shared vision, sets goals and objectives, and optimizes the use of resources. He defined a community-driven strategic plan as a planning process where an organization examines its priorities, products and services, and expectations through the eye of the community or customer. For fire departments engaged in the accreditation process, strategic planning is an integral and required component in the accreditation model. Chief Hunt said an accredited agency must have a current, formalized strategic plan that has the approval of the agency's governing body. The Shelby Fire & Rescue Department is an accredited agency with the Center for Public Safety Excellence (CPSE) since August 2014.

This past February 2016, Chief Hunt stated the Fire & Rescue Department conducted a Community Driven Strategic Plan in concert with the department's ongoing efforts to maintain and advance accreditation through the CPSE. The process, facilitated by CPSE, consisted of an external stakeholder workshop with community members and a three-day internal stakeholder's workshop with department staff. Ultimately, an updated strategic planning document outlining goals and objectives for the next five years was produced for the department.

Chief Hunt concluded his presentation by stating for fire departments engaged in CPSE's strategy of continuous improvement, strategic planning is an integral component and is based upon a shared purpose, mission, values, and vision; a set of attainable goals and objectives, and optimization of resources.

Council received the information. A resolution adopting the Shelby Fire & Rescue Department 2016-2020 Strategic Plan was included within the Consent Agenda section.

C. Public Comment: None

D. Public Hearings:

1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No.19-2016

Mr. Scharer introduced a proposed map amendment to the Unified Development Ordinance (UDO) for 1147 Buffalo Street. Utilizing location and zoning maps, he pointed to the entire block bounded by Buffalo Street, Julius Street, and East Grover Street. These properties were zoned industrial in the 1950s due to their association with the adjacent mill. Since the mill no longer functions, these properties have lost their industrial character or no longer serve an industrial purpose. Land uses in the area include vacant buildings and commercial uses. The Shelby Comprehensive Land Use Plan designates this area as a Mixed Use area which benefits both residential and commercial uses.

Mr. Scharer reviewed and discussed rezoning the entire block from Light Industrial (LI) District to Neighborhood Business (NB) District to encourage neighborhood business uses to utilize this area with the Planning and Zoning Board. The board reviewed the matter and concurred, noting the proposed change of use is consistent with the Shelby Comprehensive Land Use Plan. Mr. Scharer concluded by stating no non-conforming uses would be created if the entire block were rezoned NB District.

Mayor Anthony opened the public hearing at 6:36 p.m. and invited comments from the public:

Mike Philbeck, recognized as former Mayor, who resides at 1805 Arbor Way in Shelby, North Carolina, spoke in support of the proposed zoning map amendment. He represents the applicant, Tracy Winborne, who was interested in purchasing the property at 1147 Buffalo Street for a church.

After researching the property, Mr. Philbeck discovered its present zoning was Light Industrial, which does not allow a church as a permitted use. He contacted Mr. Scharer who researched the entire area and recommended the zoning map amendment from Light Industrial (LI) District to Neighborhood Business (NB) District. The NB District would allow for a small church. Mr. Philbeck requested Council's favorable consideration of the request.

Tracy Winborne who resides at 604 Forest Hill Drive in Shelby, North Carolina, spoke as the applicant in support of the proposed zoning map amendment. Mr. Winborne stated he and his wife retired from military service and settled in Shelby. It was his intent to serve the community as a pastor. While working with Mr. Philbeck, he found the subject property to be a great opportunity to transform the Buffalo Street neighborhood.

Mayor Anthony closed the public hearing at 6:40 p.m.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 19-2016 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

2) Consideration of a proposed ordinance to amend the Unified Development Ordinance (UDO) of the City of Shelby: Ordinance No. 20-2016

Mr. Scharer introduced a textual amendment to the UDO to change the parking requirements for retail establishments and restaurants.

Currently, the City of Shelby requires five (5) parking spaces for each 1,000 square feet (SF). Staff has noticed a trend statewide where communities are now requiring less parking at a ratio of three (3) spaces for each 1,000 SF of gross floor area in a retail establishment.

Staff is also proposing a change in calculating parking for restaurants. Currently, the calculation is one (1) space for every four (4) seats plus two (2) for every three (3) employees on the largest shift. This is somewhat of a difficult calculation that can change simply with a change in restaurant. Staff is proposing eight (8) spaces for each 1,000 SF of gross floor area for this calculation. This does not necessarily reduce the number of parking spaces required. It may be a reduction or an increase; however, in any event, it will make it easier on staff.

Mr. Scharer stated the reduction of parking for retail establishments will help the City meet one of its Stormwater Program goals to reduce the amount of

impervious surface. He added one of the recommendations found in the 2007 Comprehensive Pedestrian Plan is to reduce parking requirements within the City.

Mr. Scharer concluded by stating the Planning and Zoning Board reviewed this proposal and recommended approval of the proposed ordinance as presented.

Mayor Anthony opened the public hearing at 6:41 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:42 p.m.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 20-2016 entitled, “A PROPOSED ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (UDO) OF THE CITY OF SHELBY”.

- 3) Consideration of a resolution granting a Special Use Permit for a solar energy system farm at 230 Victory Lane (1129 County Home Road): Resolution No. 23-2016

Mayor Anthony introduced Resolution No. 23-2016 and the required public hearing on an amendment to the Special Use Permit (SUP) for 1129 County Home Road filed by County Home Solar Center, LLC. The hearing must be conducted in quasi-judicial fashion. These hearings must be evidentiary in nature and the decision by Council must be based upon that evidence.

Mayor Anthony opened the public hearing at 6:44 p.m. and sworn testimony was given as follows:

First, Mr. Scharer provided background information by stating County Home Solar, LLC submitted an SUP application in August 2014 for a Level III Solar Energy System (SES) on an approximate 24-acre site on County Home Road. City Council denied this proposed SUP at that time. Subsequently, County Home Solar, LLC appealed City Council’s decision to Superior Court. Superior Court Judge Robert Ervin ordered the City Council of the City of Shelby to adopt a resolution and issue the requested Special Use Permit along with the original conditions as recommended by staff. City Council approved this SUP in June 2015. Mr. Scharer stated construction of this solar farm is currently underway but not yet completed and not operational at this time. He pointed out the access to this property has changed to 230 Victory Lane.

Next, Mr. Scharer stated one of the conditions of the SUP was for the applicant to construct a greenway as shown on the City of Shelby Comprehensive Land Use Plan and Comprehensive Pedestrian Plan. In March 2016, the developer requested staff if the conditions could be amended to eliminate construction of the greenway and replaced with a payment in lieu of construction that can be used in other pedestrian or greenway project in another location in the City. The amendment essentially allows the developer to pay a fee in the amount of \$25,000 in lieu of constructing the required greenway contained in the original permit. The condition with regard to the dedication of a recreation easement for a greenway on the existing sewer easement on the property remains in place.

Jo Ann Schilling who resides at 1184 Cambridge Road in Shelby, North Carolina spoke against the proposed amendment to the Special Use Permit and in support of the greenway to be constructed as originally planned. Miss Schilling stated the owner of the solar farm property wants to modify the agreement that requires him to fulfill his obligations for the greenway because he thinks he will have to construct a barrier between the greenway path and his cattle. This would be an expense which he is not willing to accept. Miss Schilling stated he had time when he signed the original agreement to complete his due diligence and determine what the responsibilities were. He did not fulfill his responsibilities so now the landowners around the ugly solar farm have to put up with it. Mr. Cline stated he will continue to do what he wants because it is his property.

Mitchell Flontek who resides at 1303 Brandy Lane in Shelby, North Carolina spoke against the proposed amendment to the Special Use Permit and in support of the greenway to be constructed as originally planned. Mr. Flontek read a statement from his phone about the positive impact of greenways. He stated a greenway in the neighborhood would strike a balance between the solar farms in the area.

Gene Trammell who resides at 1309 Brandy Lane in Shelby, North Carolina spoke against the proposed amendment to the Special Use Permit and in support of the greenway to be constructed as originally planned. Mr. Trammell stated both he and his mother own land adjoining the subject property and spoke against the original Special Use Permit for the solar farm. He added the greenway would have a positive effect on the residents and the neighborhood after being disappointed by the construction of the solar farm.

A representative of the solar farm developer, who was not listed to speak or sworn, requested Council to speak during the public hearing. Mr. Yelton

advised Council had a choice and the authority to allow or not to allow further testimony. By consensus, Council objected to allowing any further speakers.

Upon questioning, Mr. Scharer stated the applicant offered and proposed not to build the greenway. City staff provided the cost estimates to arrive at the \$25,000 fee.

Mr. Howell further explained Council would be receiving a fee in lieu of construction of this greenway which would enable the City to build a greenway in another location at the present. In the future, if an opportunity to build a longer greenway presents itself and additional easements can be obtained along with the existing greenway easement already in place, the City may be able to build a greenway in this location. Currently, the greenway would dead end on the property with no public access except from Victory Lane.

Mr. Causby stated the residents of the neighborhood were told they would get a greenway and they got a solar farm.

Mr. Amaya stated it is a greenway without a destination.

Mayor Anthony closed the public hearing at 7:03 p.m.

ACTION TAKEN: Upon a motion made by Mr. Causby, City Council voted 2 (Causby and Amaya) to 1 (White) to deny Resolution No. 23-2016 entitled, "A RESOLUTION GRANTING A SPECIAL USE PERMIT FOR A SOLAR ENERGY SYSTEM FARM AT 230 VICTORY LANE (1129 COUNTY HOME ROAD)".

E. Consent Agenda:

ACTION TAKEN: Mayor Anthony presented the consent agenda. Mr. White made a motion to approve the consent agenda and each item as amended. The consent agenda and following items were unanimously approved:

1) Approval of the Minutes of the Regular Meeting of May 2, 2016

2) Approval of Special Event Permit Applications:

a. REMOVED AND PLACED UNDER NEW BUSINESS AS ITEM G-1

Craft Beer Fest, requested date: July 9, 2016

- b. Churchill Drive Block Party, requested date: September 3, 2016
- c. Mush, Music & Mutts Festival, requested dates: October 14-15, 2016
- 3) Approval of a resolution adopting the Shelby Fire & Rescue Department 2016-2020 Strategic Plan: Resolution No. 24-2016
- 4) Approval of a resolution awarding the contract for the City of Shelby Fiscal Year 2015-2016 Street Resurfacing Program: Resolution No. 25-2016
- 5) Approval of a resolution accepting and approving an Agreement for Emergency Assistance between the City of Shelby and the public gas systems participating in the agreement established by Carolinas Public Gas Association (CPGA): Resolution No. 26-2016

END CONSENT AGENDA

F. Unfinished Business: None

G. New Business:

- 1) Consideration of a special event permit application, Craft Beer Fest, requested date: July 9, 2016

Upon further review, Mr. Howell pointed out the permittee has requested a road closure of South Washington Street between East Arey Street and East Marion Street. If the vendors on South Washington Street between East Arey Street and East Warren Street are beer vendors, they cannot sell beer on that block. He explained City Code allows for the sale and use of alcoholic beverages only on the portion of South Washington Street located between East Marion Street and East Warren Street when a Special Event Permit for the use of said area has been approved by Council.

Mr. Howell stated the second issue involves the request to close Warren Street from South Dekalb Street to South Lafayette Street with no vendors or activities listed on the proposed application. He explained any closure of Warren Street is extremely inconvenient for those Uptown businesses, especially during a "Second Saturday" event also scheduled for July 9, 2016.

Mr. Howell requested Council grant the permit and give him as City Manager the discretion to work with the permittee to ensure full compliance with the City Code and State statutes and to limit the road closures as much as practical.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve the special event permit application, Craft Beer Fest, requested date: July 9, 2016, as amended.

H. City Manager's Report:

- 1) Mr. Howell reminded Mayor and Council that a special meeting has been scheduled for May 23, 2016 at 4:00 p.m. to report the results of the City of Shelby Electric Rate Study conducted by Utility Financial Solutions through ElectriCities of North Carolina.
- 2) Mr. Howell also reminded all to attend the First Broad River Trail grand opening on May 21, 2016 at 10:00 a.m.
- 3) With regard to the East Gateway Enhancement Project, Mr. Howell reported the approval of the signal plans for the intersection at US Highway 74 Bypass and US Highway 74 Business (Marion Street) by the North Carolina Department of Transportation are pending. The next steps for the project include choosing the final design and a project budget ordinance for Council's consideration.
- 4) As Council was made aware, the City lost an economic development project very recently. As part of that project, the City planned a sewer line extension along Brushy Creek. Mr. Howell said it is important to secure grant funding and build the upper portion of the Brushy Creek sewer line from the Walmart lift station to the Washburn Switch Business Park property. Sewer on-site will assist with the future marketing of the business park. He added the Walmart lift station has limited capacity. Staff is in the process of preparing their recommendations for Council.

I. Council Announcements and Remarks:

- 1) Mayor Anthony also invited all to attend the First Broad River Trail grand opening on May 21, 2016 at 10:00 a.m.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to adjourn the meeting at 7:19 p.m.

Respectfully submitted,

**Bernadette A. Parduski, NCCMC, MMC
City Clerk**

**O. Stanhope Anthony III
Mayor**

Minutes of May 16, 2016