

## MINUTES

Regular Meeting  
City Hall Council Chamber

June 20, 2016  
Monday, 6:00 p.m.

**Present:** Mayor O. Stanhope Anthony III, presiding; Council Members David W. White, David Causby, Ben Kittrell, 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 Human Resources Deborah C. (Deb) Jolly, Director of Water Resources David W. Hux, Police Chief Jeffrey H. (Jeff) Ledford, Assistant Fire Chief Jacob E. (Jake) Whisnant, 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 and Dennis C. Bailey

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. Kittrell led the *Pledge of Allegiance*.

**A. Approval of agenda:**

- 1) Motion to adopt the proposed agenda

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

**B. Special Presentation:**

- 1) Recognition of Artis Cornulius Dawson on the occasion of his retirement from employment with the City of Shelby: Resolution No. 27-2016

Mayor Anthony called upon Artis Cornulius (“Butter”) Dawson. Mr. Dawson recognized his wife and his daughter in attendance. The Mayor formally read and presented framed Resolution No. 27-2016 to Mr. Dawson. He then presented the key to the City and a City lapel pin to him in honor of and with heartfelt appreciation for 29 years of dedicated service to the City of Shelby within the Field Operations Division of the Utilities Department.

Humbled by the recognition, Mr. Dawson expressed his appreciation to all.

C. Public Comment: None

D. Public Hearings:

- 1) Consideration of a resolution of intent to submit applications for Building Reuse Community Development Block Grant (CDBG): Resolution No. 29-2016

Mr. Scharer introduced Resolution No. 29-2016 for Council's consideration. He stated the purpose of this hearing is to receive citizen comments on the submittal of applications for Community Development Block Grant funds to the North Carolina Department of Commerce. The CDBG Downtown Redevelopment Fund is designed to return vacant or underutilized commercial buildings to economic use for new and/or expanding business. The ultimate goal of the CDBG Downtown Redevelopment Fund is the prevention or elimination of slum and blight.

Mr. Scharer further stated City staff, working with the Uptown Shelby Association, has identified two property owners and their respective properties having expressed an interest in this program. These properties are located at 112 North Lafayette Street, known as the Campbell Building, and at 14 West Marion Street, known as the Sterchi Building.

Following the close of the hearing, Mr. Scharer requested Council approve the resolution authorizing the City to make application for these grants.

Mayor Anthony opened the public hearing at 6:08 p.m. and invited comments from the public:

Mike Philbeck who resides at 1805 Arbor Way Drive in Shelby, North Carolina spoke in support of the projects and the CDBG Program as a means to continue the revitalization of Uptown Shelby.

Mayor Anthony closed the public hearing at 6:10 p.m.

**ACTION TAKEN:** Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Resolution No. 29-2016 entitled, "A RESOLUTION OF INTENT TO SUBMIT APPLICATIONS FOR BUILDING REUSE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)".

- 2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina and granting a Special Use Permit for 915 Fallston Road: Ordinance No. 27-2016

Mayor Anthony opened the public hearing at 6:14 p.m. and sworn testimony was given as follows:

Mr. Scharer introduced a proposed conditional use amendment to the City's Unified Development Ordinance (UDO) for 915 Fallston Road. Utilizing both location and zoning maps, he pointed to the subject property at the corner of Fallston Road and Vale Street, which is the site of a former single-family dwelling. The property was zoned Neighborhood Business-Conditional Use (NB-CU) for a restaurant in the 1990s and has been vacant for several years. The applicant is proposing amending the conditional uses to include child care and office use in addition to the current restaurant use. Mr. Scharer stated surrounding zoning in the area includes the Residential 8 (R8) District, General Business 2 (GB 2) District, and Neighborhood Business (NB) District. He further stated staff recommended the proposed amendment to the Special Use Permit and the Planning and Zoning Board recommended this proposed amendment as well.

Upon questioning, Mr. Scharer responded the Comprehensive Land Use Plan currently has this area depicted as a Medium Density Residential area. However, the Neighborhood Business (NB) District is established as a district in which to allow small, limited retail service land uses that provide goods and services primarily to surrounding residential neighborhoods.

Sharnelle Tate-Hunt who resides at 921 Sundance Drive in Gastonia, North Carolina spoke as the applicant in support of her application requesting a zoning map amendment and proposed land use as a child care facility.

Patricia Suzan Bumgardner who resides at 914 Fallston Road in Shelby, North Carolina spoke against the proposed zoning amendment, stating the requested conditional use for a child care facility is not in conformity with the Shelby Comprehensive Land Use Plan. Mrs. Bumgardner expressed her concerns including possible loss of property value and safety issues with regard to traffic if a child care facility is allowed.

Mike Philbeck who resides at 1805 Arbor Way Drive in Shelby, North Carolina spoke in support of the proposed zoning map amendment and proposed land use as a child care facility. Mr. Philbeck provided a history of the property from a residential dwelling to its conditional use as a restaurant. It has been vacant for several years and is currently in foreclosure. He stated the property had been upgraded for a similar usage. Mr. Philbeck further stated the property will most likely not return to its original residential use, citing the Shelby Comprehensive Land Use Plan.

Mayor Anthony closed the public hearing at 6:20 p.m.

**Mr. White commented Fallston Road has very heavy traffic in that area and he expressed his concerns for the safety of the children at a child care facility.**

**Mr. Philbeck responded there are requirements in place for the back area to be fenced for the children's safety when outdoors.**

**ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 27-2016 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA AND GRANTING A SPECIAL USE PERMIT FOR 915 FALLSTON 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 June 6, 2016**
- 2) Approval of a resolution adopting and maintaining the policies, procedures, and plans of the Community Development Block Grant (CDBG) Programs for the City of Shelby, June 2016 – June 2019: Resolution No. 30-2016**
- 3) Approval of a resolution adopting Isothermal Planning and Development Commission Consortium's Analysis of Impediments to Fair Housing including Counties of Cleveland, McDowell, Polk, and Rutherford and Cities of Shelby and Kings Mountain: Resolution No. 31-2016**
- 4) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Maco Sewer Extension Project: Ordinance No. 28-2016**
- 5) Approval of a resolution authorizing submission of a grant application to the North Carolina Department of Commerce Rural Grants/Programs Section: Resolution No. 32-2016**
- 6) Approval of a resolution authorizing submission of a grant application to the North Carolina Economic Infrastructure Grants Program: Resolution No. 33-2016**
- 7) Approval of Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council**

**END CONSENT AGENDA**

**F. Unfinished Business: None**

**G. New Business:**

- 1) Request from MACO Incorporated for City Council consideration of a waiver of the voluntary annexation requirement under the provisions found in Resolution No.7-2012**

**Mr. Howell introduced the subject matter for discussion purposes. As background information, he stated the City has been working with MACO Inc. and Matt Blackwell of the Cleveland County Economic Development Partnership (CCEDP) on the possibility of a sewer extension to serve MACO's current location at 521 Plato Lee Road. MACO is considering an expansion of existing operations and to accommodate the growth at this location, access to public sewer is required. MACO requested the City of Shelby consider an extension of public sewer infrastructure necessary to accommodate the Phase I expansion and future growth opportunities at the existing facility. MACO also requested the City of Shelby consider a waiver of voluntary annexation and approval of a 10-year payment in lieu of an annexation agreement pursuant to Resolution No. 7-2012 and the referenced policy.**

**Mr. Howell explained City policy adopted via Resolution No. 7-2012 does require a property owner outside the current City limits to voluntarily annex the property. This policy does provide a provision for a waiver for specifically defined industrial properties if the City cannot fully serve them with the like services found within the City limits. The waiver is at Council's discretion and if granted, would require the business to enter into an agreement that would oblige them to pay an annual amount equal to 10 percent of the taxes they would have paid to the City for a period of 10 years.**

**Mr. Howell reiterated it has been determined by City staff that "like or similar" City services can be provided to MACO just as currently provided to KSM Castings, Modern Densifying, PPG Industries, and the Foothills Commerce Center. The property is already served with a City water line as well as police and fire services.**

**Mr. Howell recommended that MACO's waiver request be denied as the policy provision applies primarily to new industries, not existing industries. He considers it reasonable for the City to have the expectation that a property that can be served by City sewer be voluntarily annexed into the City.**

Discussion followed and included the intent of the policy, the advantages and disadvantages of annexation for the City as well as properties outside the City limits, growth of the City's property tax base and customer base, and the inability to expand through City-initiated annexation.

Next, Mr. Blackwell, Director of Business Services with the CCEDP, provided the details of MACO's request to extend public sanitary sewer to its facility and its proposed industrial expansion. He stated MACO is a local existing industry with 79 employees and several part time employees, having been in business since 1979. MACO is a metal fabrication company with half of their sales in the power generation sector which supports nuclear power. Due to this area of their business, MACO has an opportunity to grow and expand through a strategic, incremental three-year plan. If the sewer connection is available, Mr. Blackwell stated Phase I of the planned expansion is guaranteed with an approximate new investment of \$1.5 million in real and personal property and 17 new jobs at an average wage of \$19/hour. Historically, Cleveland County does well with this industry cluster in metal working. Although not certain at this time, Mr. Blackwell shared the details of MACO's projections for 2017 which include an additional \$700,000 investment and 10 new jobs, and the projections for 2018 estimated to be a \$2.5 million investment plus equipment and 40 new jobs at an average wage of \$26/hour.

Mr. Blackwell stated although not the most ideal circumstance considering the City's financial cost to extend and maintain infrastructure, it is an overall positive and important to foster and show support for an existing business.

Mr. Blackwell further stated if the sewer connection is not available, the MACO expansion will be challenged due to the fact that the septic system on site and the drain field cannot be used for the parking lot. There is no room for septic field relocation on the existing site that is feasible thereby limiting or hindering future expansion. Mr. Blackwell said access to sewer and the 10-year payment in lieu of an annexation agreement provides the greatest flexibility and opportunity to MACO.

It was clear from the continued discussion that Council reestablished the policy and practice of the City that sewer service will not be extended to property owners outside of the City limits unless the property owner petitions for annexation. Mr. Howell proposed if MACO voluntarily annexed and continued to expand operations, the company would be eligible for an economic development incentive grant from the City.

By consensus, Council took no action.

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

- 1) Mr. Howell reported the Randolph Road property has gone through the ElectriCities Smart Sites review process, an economic development qualification program. The documentation has been prepared and submitted to the City. The results will be scheduled for discussion with Council in the fall.
- 2) Mr. Howell updated Council on the progress of construction at the Police Department's new building at 130 West Warren Street. He stated the Narcotics Unit is expected to move out of the leased space at the Metropolitan Life building on North Lafayette Street and into their offices this week. The remaining divisions will follow in incremental order. All construction, except for the Communications Center, is expected to be completed by September 23, 2016.
- 3) Mr. Howell informed Council the Rotary Club of Shelby received grant funding from Rotary District 7680 in the amount of \$10,000. The Rotary Club of Shelby provided matching funds for the specific purpose of developing a public safety memorial. He expected a formal request from the Rotary Club to the City to place the memorial at the Raper Roark Plaza. Both the Raper and Roark family members will be included in the discussions.
- 4) Mr. Howell updated Council on the Eastside Water Tank Project, stating it was on schedule and under budget.
- 5) Mr. Howell said the grant application for funding assistance with the Shelby Police Department's 911 Communications Center has been submitted to the North Carolina 911 Board for consideration. A response is anticipated later this summer.

**I. Council Announcements and Remarks:**

- 1) Mayor Anthony announced the North Carolina Department of Transportation (NCDOT) will hold a public meeting on June 21, 2016 from 4:00 p.m. to 7:00 p.m. at Jefferson Elementary School Cafeteria. The DOT proposes improvements to realign the existing intersection of NC 150 (Peach Street) and US 74 Business (East Marion Street). The Mayor encouraged all to attend.

**J. Closed Session:**

- 1) To approve the Minutes and General Account of the Closed Session of April 18, 2016

- 2) To consult with the City Attorney in order to preserve the attorney-client privilege pursuant to North Carolina General Statute 143-318.11 (a) (3)
- 3) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered pursuant to North Carolina General Statute 143-318.11 (a) (4)
- 4) To establish or 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. Amaya made a motion to enter into a closed session pursuant to the appropriate North Carolina General Statutes as cited. Mayor Anthony consulted with Mr. Yelton who advised the topics met the statutory requirements for a closed session. The Mayor invited all Council members present along with Mr. Howell, Mr. Yelton, and Mrs. Parduski to attend. The motion passed unanimously and Council moved into closed session at 6:58 p.m.

Council returned to the regular session at 7:23 p.m.

**K. Adjournment:**

- 1) Motion to adjourn

**ACTION TAKEN:** Upon a motion made by Mr. Amaya, City Council voted unanimously to adjourn the meeting at 7:24 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC  
City Clerk

O. Stanhope Anthony III  
Mayor