

MINUTES

Regular Meeting
City Hall Council Chamber

April 17, 2017
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David W. White, David Causby, Dennis C. Bailey, 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 Energy Services Julie R. McMurry, Director of Water Resources David W. Hux, Director of Engineering Services Benjamin (Ben) Yarboro, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Public Works Daniel C. (Danny) Darst, Jr., and Director of Planning and Development Services Walter (Walt) Scharer, AICP; and Director of Cable Programming Greg Tillman of Cleveland Community College and The Video Factory

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. Hendrick led the *Pledge of Allegiance*.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

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

B. Public Comment: None

C. Public Hearings:

- 1) Consideration of a resolution approving a financing agreement authorized by North Carolina General Statute 160A-20: Resolution No. 25-2017

Mr. Merritt introduced Resolution No. 25-2017 for Council's consideration. He stated as required by the Local Government Commission (LGC) before entering into a contract authorized under North Carolina General Statute 160A-20 involving real property, a public hearing is held to review the proposed financing terms. This financing agreement is specific to the financing over a 15-year term of \$7.7 million at a rate not to exceed 2.83 percent for the construction of Hanna Park.

Mr. Merritt further stated the City requested proposals from 20 lending institutions and received one proposal from Branch Banking and Trust Company (BB&T). The proposed term is 15 years and the interest rate is 2.83 percent. Closing costs are \$1,200. The loan is either pre-payable at any time at 1 percent premium or non-callable for the first half of the term and then callable at par for the remainder of the term. The financing will be secured by a first lien security interest on all property acquired with financing proceeds, all improvements to real estate that are constructed or improved with proceeds, and all real estate acquired with proceeds.

Mr. Merritt added this is a reasonable and competitive proposal. Various considerations may have limited the amount of proposals received by the City. The requested term of 15 years, the type of financing (160A-20), and the facility type, as parks can be considered “non-essential” facilities, were all factors that must be considered by a potential lender and may not fit within their lending structure.

Mr. Merritt concluded by stating if approved by Council, as recommended, the City will seek LGC approval at its May 2, 2017 meeting. Assuming approval at that meeting, the City may move forward with the closing of the loan and awarding of the construction contracts so that the project may move forward.

Council discussion followed and included the lack of proposals and the reasons for receiving only one bid, the LGC review process, the cash flow data and payment schedule.

Mr. Howell noted Council’s adoption and approval of this resolution does not obligate the City to borrow this money or award a construction bid.

Mayor Anthony opened the public hearing at 6:12 p.m. and invited comments from the public.

The public offered no comments. Mayor Anthony closed the public hearing at 6:13 p.m.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted 5 to 1 (Kittrell) to approve and adopt Resolution No. 25-2017 entitled, “A RESOLUTION APPROVING A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20”.

- 2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 30-2017

Mr. Scharer introduced a proposed map amendment to the Unified Development Ordinance (UDO) for several properties at the corner of East Grover Street and Frederick Street. Utilizing both location and zoning maps, he pointed to the subject properties near Bojangles Restaurant and Shelby Fire & Rescue Station 1, which have a total area of approximately 3 acres. The surrounding zoning is high and medium density residential along with commercial uses, primarily neighborhood business uses. The subject properties are currently a mixture of small businesses, vacant single-family dwellings, and occupied single-family dwellings. The current zoning is Residential 8 (R8) District and Residential-Office (RO) District. The applicant has requested a change to the Neighborhood Business (NB) District. Mr. Scharer stated the Comprehensive Land Use Plan designates this area as Medium Density Residential and Mixed Use. This proposed zoning map amendment is consistent with the Comprehensive Land Use Plan. Mr. Scharer further stated the Planning and Zoning Board recommended approval of the proposed zoning map amendment.

Mr. Scharer added while the Comprehensive Land Use Plan designates zoning classifications of Residential 10 and Residential 8 as corresponding with Medium Density Residential and designates none for Mixed Use, the Neighborhood Business zoning classification is compatible with this land use as it allows both neighborhood business uses and residential uses. Therefore, the existing uses will remain conforming uses.

Mayor Anthony opened the public hearing at 6:15 p.m. and invited comments from the public.

The public offered no comments. Mayor Anthony closed the public hearing at 6:16 p.m.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 30-2017 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

3) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 31-2017

Mr. Scharer introduced a proposed map amendment to the Unified Development Ordinance (UDO) for the property located at 518 South Dekalb Street near Uptown Shelby. The subject property, a total area of approximately .38 acres, currently has a vacant structure which was once a single-family dwelling and converted to a chiropractic office several years ago. Land uses in the area include single-family dwellings and office uses.

The applicant has requested a zoning map amendment from Residential Office (RO) District to General Business-Conditional Use (GB-CU) District. Mr. Scharer stated the Comprehensive Land Use Plan designates this property as an Uptown Master Plan District and the City Center Master Plan should be the guiding document for the future land uses, development, and redevelopment of this area. Mr. Scharer further stated the General Business Zoning District is not consistent with the City Center Master Plan and therefore inconsistent with the Comprehensive Land Use Plan. He concluded by stating the Planning and Zoning Board does not recommend this proposed zoning amendment.

Mayor Anthony opened the public hearing at 6:18 p.m. and invited comments from the public.

The public offered no comments. Mayor Anthony closed the public hearing at 6:19 p.m.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to deny Ordinance No. 31-2017 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

- 4) THE PUBLIC HEARING WAS NOT HELD DUE TO THE FACT THE REZONING REQUEST WAS DENIED BY ORDINANCE NO. 31-2017 AS ADVISED BY MR. YELTON.

Consideration of a resolution granting a Special Use Permit to Latisha Watson for 518 South Dekalb Street: Resolution No. 26-2017

D. Consent Agenda:

ACTION TAKEN: Mayor Anthony presented the consent agenda. Mr. Causby made a motion to approve the consent agenda. The consent agenda and following items were unanimously approved:

- 1) Approval of the Minutes of the Regular Meeting of April 3, 2017
- 2) Adoption of Fiscal Year (FY) 2016-2017 Budget Ordinance Amendment No. 17: Ordinance No. 32-2017
- 3) Approval of a resolution approving a financing agreement authorized by North Carolina General Statute 160A-20: Resolution No. 27-2017

- 4) Approval of a resolution adopting an assessment policy for the City of Shelby Community Development Block Grant Economic Development Project – Washburn Switch Business Park, Shelby, North Carolina: Resolution No. 28-2017
- 5) Approval of a resolution approving the execution of legally binding commitments between City of Shelby and Clearwater Paper regarding an Industrial Development Fund Grant and a Community Development Block Grant-Economic Development Grant as required by North Carolina Department of Commerce: Resolution No. 29-2017
- 6) Approval of a resolution awarding the bid for the electric line extension to serve Hanna Park: Resolution No. 30-2017
- 7) Approval of a resolution approving the filing of an application with the North Carolina Rural Infrastructure Authority for the North Carolina Department of Commerce Rural Building Demolition Grant Program: Resolution No. 31-2017
- 8) Approval of a resolution approving a Connect NC Bond Project Agreement between the City of Shelby and the North Carolina Department of Natural and Cultural Resources and accepting the grant funds of same: Resolution No. 32-2017

END CONSENT AGENDA

E. Unfinished Business:

- 1) Consideration of a resolution confirming the City of Shelby's intent to amend an economic development incentive grant: Resolution No. 33-2017

Mr. Howell introduced Resolution No. 33-2017 and the proposed amendments to the Economic Development Agreement with Clearwater Paper Corporation for Council's consideration. If approved, he stated Clearwater Paper Corporation will submit petitions for voluntary annexation for the property occupied by Clearwater's existing facilities and the project site according to the following amended schedule:

- A petition for voluntary annexation of two parcels will be submitted to the City of Shelby within 75 days (instead of 30 days) of the contract date of February 13, 2017, which expires on April 28, 2017.
- A petition for voluntary annexation of the project site (approximately 236 acres) will be submitted to the City of Shelby no later than seven

(7) days following conveyance of the project site from Cleveland County to Clearwater.

- A petition for voluntary annexation of the former Smurfit-Stone building will be submitted to the City of Shelby not later than February 13, 2020.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 33-2017 entitled, "A RESOLUTION CONFIRMING THE CITY OF SHELBY'S INTENT TO AMEND AN ECONOMIC DEVELOPMENT INCENTIVE GRANT".

F. New Business: None

G. City Manager's Report:

- 1) Mr. Howell said North Carolina honors its fallen law enforcement officers who die in the line of duty each year at the Peace Officers Memorial Day Ceremony. This year's ceremony will take place on May 4, 2017 at 11:00 a.m., First Assembly of God in Gastonia, North Carolina. The Mayor and Council members were invited to attend both the ceremony and the lunch which follows.

Mr. Howell mentioned the local Cleveland County law enforcement memorial service will be held on May 19, 2017 at 11:00 a.m. at the memorial for fallen law enforcement near Shelby City Hall.

- 2) Mr. Howell reported the Annual North Carolina Department of Labor Safety Awards Banquet was held on April 13, 2017 in Shelby. He commended City staff, recognizing Safety & Risk Management Coordinator Lisa Wassen, for promoting, achieving, and maintaining excellent safety efforts in the workplace. He announced the Silver and Gold Awards as follows:

SILVER AWARD:

- Shelby Utilities – Energy Services – First Year

GOLD AWARD:

- Shelby Public Works – First Year
- Shelby Administration – Second Year
- Shelby Utilities – Engineering Services – Second Year
- Shelby Parks and Recreation – Fourth Year
- Shelby Fire and Rescue – Fifth Year

- **Shelby Airport – Ninth Year**
- **Shelby Housing – Ninth Year**
- **Shelby Planning and Development Services – Ninth Year**

H. Council Announcements and Remarks:

- 1) **Mayor Anthony announced the National Day of Prayer is May 4, 2017. The City Hall Council Chamber will be opened at 12:00 noon for the prayer service.**
- 2) **Mr. Amaya began a discussion about how Council is conducting quasi-judicial hearings. It was his opinion that citizens and the general population are expected to represent themselves as lawyers. Mr. Amaya suggested Council be more polite and allow citizens to fully express themselves without interruption. Mr. Bailey disagreed, stating being honest with citizens about their testimony is not unkind. He said citizens must be fully prepared to present evidence and follow the quasi-judicial process just as Council is required, by law, to act like a court in its quasi-judicial capacity. Mr. Bailey added any changes to the process must be done at the legislative level, citing previous cases. Mayor Anthony acknowledged both valid points-of-view as well as an awareness purpose for Council. Mr. Yelton advised Council should not continue to hear or to listen to inadmissible evidence. Council must follow the rules of evidence set out in the State statutes.**
- 3) **Mr. Hendrick said that he and his son have ridden their bicycles to Uptown Shelby recently and found it to be both bicycle and pedestrian friendly. After these positive experiences on bicycles in Uptown Shelby, he believes Shelby is moving in the right direction.**

I. Closed Session:

- 1) **To establish or instruct staff in negotiating the 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. Bailey 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 6:41 p.m.

Council returned to the regular session at 7:30 p.m.

J. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to adjourn the meeting at 7:31 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of April 17, 2017