

## MINUTES

Regular Meeting  
City Hall Council Chamber

January 7, 2019  
Monday, 6:00 p.m.

**Present:** Mayor O. Stanhope Anthony III, presiding; Council Members David W. White, David Causby, and Charles Webber; City Manager Rick Howell, ICMA-CM, City Attorney Robert W. (Bob) Yelton, City Clerk Bernadette A. Parduski, Director of Finance Justin S. Merritt, MPA, Director of Human Resources Deborah (Deb) Jolly, Director of Energy Services Julie R. McMurry, Director of Water Resources David W. Hux, 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 Department Walter (Walt) Scharer, AICP

**Absent:** Council Members Eric B. Hendrick, Violet Arth Dukes, and Dicky Amaya

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 the *Pledge of Allegiance*.

### A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

Mr. White requested the removal of Item H-1 under the Closed Session.

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

### B. Public Hearings:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (303 West Marion Street): Ordinance No. 1-2019

Mr. Scharer introduced this proposed zoning map amendment for the subject property located at 303 West Marion Street from Residential 10 (R10) Zoning District to Residential-Office (RO) Zoning District. Utilizing a map of the area, Mr. Scharer pointed to the .647 acre site which has a large single-family dwelling currently owned by Gardner-Webb University. The applicant,

Caulder & Valentino Law Firm, PLLC, wishes to convert the single-family dwelling into a professional service office.

Mr. Scharer concluded by stating the Planning and Zoning Board recommended approval of the proposed zoning map amendment for the property located at 303 West Marion Street from Residential 10 (R10) Zoning District to Residential-Office (RO) Zoning District. He further stated the proposed zoning map amendment is consistent with the Shelby Comprehensive Land Use Plan.

Mayor Anthony opened the public hearing at 6:03 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:04 p.m.

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 1-2019 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA”.

- 2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (1307 and 1309 Linton Barnette Sr. Drive): Ordinance No. 2-2019

Mr. Scharer introduced this proposed zoning map amendment for property located at 1307 and 1309 Linton Barnette Sr. Drive from Residential 6 Conditional Use District (R6-CUD) to Residential 10 (R10) Zoning District. Utilizing a map of the area, Mr. Scharer pointed to the subject property, along with three adjacent parcels, zoned R6-CU in 2001 to accommodate a daycare facility. The site is vacant and the applicants, William Scott and Pamela Wolfe Patterson, wish to build a single-family dwelling on the property. To staff’s knowledge, the properties never have been used as a daycare and one structure in the area has been operating as a non-conforming single-family residence since the establishment of the Conditional Use District.

Mr. Scharer concluded by stating the Planning and Zoning Board recommended approval of the proposed zoning map amendment for property located at 1307 and 1309 Linton Barnette Sr. Drive with Cleveland County Parcel Numbers 45547, 56424, and 55553 from Residential 6 Conditional Use District (R6-CUD) Zoning District to Residential 10 (R10) Zoning District. He further stated the proposed zoning map amendment is consistent with the Shelby Comprehensive Land Use Plan.

Mayor Anthony opened the public hearing at 6:06 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:07 p.m.

**ACTION TAKEN:** Upon a motion made by Mr. Causby, City Council voted unanimously to approve and adopt Ordinance No. 2-2019 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 (North Poston Street area of East Marion Street): Ordinance No. 3-2019

Mr. Scharer introduced this proposed zoning map amendment. Utilizing a map of the area, he pointed to the subject property located on North Poston Street, along with eleven surrounding parcels located on Wesley Street and Gilliatt Street, which were zoned Light Industrial (LI) District since the 1950s. The applicants, Speed Williams and Eric Gay, wish to build a single-family dwelling on the subject vacant parcel.

Mr. Scharer concluded by stating the Planning and Zoning Board recommended approval of the proposed zoning map amendment for the property located at 113, 115, 119, 121, 123, 127, 206, and North Poston Road; 1010 and 1012 Wesley Street; and 202 and Gilliatt Street from Light Industrial (LI) Zoning District to Residential 10 (R10) Zoning District. He further stated the proposed zoning map amendment is consistent with the Shelby Comprehensive Land Use Plan.

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

The public offered no comments and Mayor Anthony closed the public hearing at 6:09 p.m.

**ACTION TAKEN:** Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Ordinance No. 3-2019 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA”.

#### C. Consent Agenda:

**ACTION TAKEN:** Mayor Anthony presented the consent agenda. Mr. White

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 December 3, 2018
- 2) Approval of Special Event Permit Applications:
  - a. Dr. Martin Luther King Jr. Unity March, requested date: January 21, 2019
  - b. Broad River European Classic, requested date: April 27, 2019
- 3) Approval of a resolution honoring Coach Lance Ware and the Shelby High School 2018 Golden Lions Football Team: Resolution No. 1-2019
- 4) Approval of a resolution authorizing selection of White Beard K-9, Inc. to provide police canine training services for City of Shelby Police Department: Resolution No. 2-2019
- 5) Approval of a resolution for approving the 2017 Local Water Supply Plan for the City of Shelby: Resolution No. 3-2019
- 6) Approval of a resolution approving conveyance of property (City-owned lot on Gidney Street): Resolution No. 4-2019
- 7) Approval of a resolution approving conveyance of property (801 Craig Place): Resolution No. 5-2019
- 8) Adoption of an ordinance authorizing demolition of a dwelling (360 Washburn Switch Road): Ordinance No. 4-2019
- 9) Adoption of an ordinance authorizing demolition of a dwelling (714 Congress Street): Ordinance No. 5-2019
- 10) Approval of Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council

#### **END CONSENT AGENDA**

#### **D. Unfinished Business:**

- 1) Consideration of appointments to City advisory boards and commissions:
  - a. Isothermal Planning and Development Commission Board

Mrs. Parduski reported the resignation of Council Member Ben Kittrell created a vacancy on this Commission. She advised Council to consider appointing a new member to this Commission as the City's representative.

Mr. White nominated City Manager Rick Howell.

**ACTION TAKEN:** Upon a motion by Mr. White, City Council voted unanimously to close the nominations and accept Mr. Howell by acclamation.

**b. Raper-Roark Trust Board**

Mrs. Parduski reported Board Secretary, Tricia Butler, has submitted the following nominees: Carlos Scott, Jeff Roark, Danny Darst, Doris Moore, Linda Price, and Mark Patterson to serve as members of this board. Mrs. Parduski requested Council's approval of the nominees per the Trust Agreement.

Mr. White nominated the nominees as submitted.

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

**c. Keep Shelby Beautiful (KSB) Commission**

Mrs. Parduski reported the terms of four incumbents, Joe Linton Suttle, Kellie Ledford, Linda Price, and Peter Potemkin, conclude January 2019. All the incumbents are seeking reappointment to this board.

There are two applications on file in the Clerk's Office:

- Cheryl Yates
- Richard Baker, Jr.

Mr. White nominated Joe Linton Suttle, Kellie Ledford, and Linda Price for reappointment and Richard Baker, Jr. for appointment.

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to close the nominations and accept the nominees by acclamation.

2) Consideration of a resolution of the City Council of the City of Shelby, North Carolina, authorizing the purchase of natural gas from the Lower Alabama Gas District or the Black Belt Energy Gas District; approving the

execution and delivery of a gas supply agreement and other documents relating to said purchase; consenting to the assignment of certain obligations under the gas supply agreement in connection with the issuance of bonds by the Lower Alabama Gas District or the Black Belt Energy Gas District; and addressing related matters: Resolution No. 6-2019

Mr. Howell introduced Resolution No. 6-2019 for Council's consideration. He reminded Council that Resolution No. 50-2018 was previously adopted authorizing the City to participate in a prepay natural gas arrangement with Black Belt Energy Gas District. It essentially allowed the City to participate with a group of other cities leveraging tax exempt financing to pre-purchase natural gas at a significant discount, currently in the annual savings range of \$264,000. It appears a prepay agreement will close in early 2019. The City's public natural gas system counsel, McCarter & English, LLC, provided a revised resolution, adding the Lower Alabama Gas District as an option in the Gas Supply Agreement.

Mr. Howell recommended Resolution No. 6-2019 to allow the City to enter into a pre-purchase natural gas agreement with either Black Belt Energy Gas District or Lower Alabama Gas District.

**ACTION TAKEN:** Upon a motion made by Mr. Causby, City Council voted unanimously to approve and adopt Resolution No. 6-2019 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA, AUTHORIZING THE PURCHASE OF NATURAL GAS FROM THE LOWER ALABAMA GAS DISTRICT OR THE BLACK BELT ENERGY GAS DISTRICT; APPROVING THE EXECUTION AND DELIVERY OF A GAS SUPPLY AGREEMENT AND OTHER DOCUMENTS RELATING TO SAID PURCHASE; CONSENTING TO THE ASSIGNMENT OF CERTAIN OBLIGATIONS UNDER THE GAS SUPPLY AGREEMENT IN CONNECTION WITH THE ISSUANCE OF BONDS BY THE LOWER ALABAMA GAS DISTRICT OR THE BLACK BELT ENERGY GAS DISTRICT; AND ADDRESSING RELATED MATTERS".

**3) First Broad River Wastewater Treatment Plant Biosolids Improvements Project:**

Mr. Howell reviewed the First Broad River Wastewater Treatment Plant Biosolids Improvements Project by stating in consideration of the age and structural deterioration of the City's compost facility and having previously received authorization to apply for additional funding from the North Carolina Department of Environmental Quality (NCDEQ), he was requesting Council to move forward with the solids handling upgrades project. Mr. Howell provided the description of the project which includes demolition of the

existing compost building; installation of an improved solids handling system to include two covered anaerobic digesters with four mixers and gas removal system; sludge holding tank with a submersible mixer; a digester control building; a sludge heating system; a hot water boiler system; a dewatering facility; a filtrate pump station; and associated yard piping, site work, and electrical work.

Next, Mr. Howell introduced Resolution No. 7-2019, Ordinance No. 6-2019, and Resolution No. 8-2019 for Council's consideration.

If Resolution No. 7-2019 is approved, it would accept a modified loan amount from the State of North Carolina Clean Water State Revolving Fund for construction of the Wastewater Treatment Plant Bio-solids Improvement Project. The authorized loan amount would increase to \$19,837,400. The terms of this loan remain at 20 years and zero percent interest.

If Ordinance No. 6-2019 is approved, it would amend the current Project Budget Ordinance to reflect the updated project cost of \$19,837,400 and recognize the change in the revolving loan fund amount.

If Resolution No. 8-2019 is approved, it would tentatively award a contract for the City of Shelby Wastewater Treatment Plant Biosolids Improvement Project to Wharton-Smith, Inc. of Charlotte, North Carolina in the amount of \$18,007,000 contingent upon the Division of Water Infrastructure issuing an "Authority to Award" letter to the City.

- a. Consideration of a resolution authorizing submission of a revised loan application to the North Carolina Department of Environmental Quality – Division of Water Infrastructure for funding related to the First Broad River Wastewater Treatment Plant Biosolids Improvements Project:  
Resolution No. 7-2019

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 7-2019 entitled, "A RESOLUTION AUTHORIZING SUBMISSION OF A REVISED LOAN APPLICATION TO THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY – DIVISION OF WATER INFRASTRUCTURE FOR FUNDING RELATED TO THE FIRST BROAD RIVER WASTEWATER TREATMENT PLANT BIOSOLIDS IMPROVEMENTS PROJECT".

- b. Consideration of a budget ordinance amendment for the City of Shelby's Compost Facility Upgrade Project:  
Ordinance No. 6-2019

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 6-2019 entitled, “A BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY’S COMPOST FACILITY UPGRADE PROJECT”.

- c. Consideration of a resolution of tentative award for the First Broad River Wastewater Treatment Plant Biosolids Improvements Project to Wharton-Smith Inc.: Resolution No. 8-2019

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 8-2019 entitled, “A RESOLUTION OF TENTATIVE AWARD FOR THE FIRST BROAD RIVER WASTEWATER TREATMENT PLANT BIOSOLIDS IMPROVEMENTS PROJECT TO WHARTON-SMITH INC.”.

**E. New Business:**

- 1) Consideration of a proposed ordinance amending the Code of Ordinances of the City of Shelby, North Carolina: Ordinance No. 7-2019

Mr. Scharer introduced Ordinance No. 7-2019 for Council’s consideration. If approved, the ordinance would enact the 2018 North Carolina Building Code for use within the City of Shelby jurisdiction. He stated the City of Shelby currently enforces the 2012 North Carolina Building Code and the 2018 North Carolina Building Code went into effect on January 1, 2019.

Mr. Scharer added an adequate version of the adoption is as follows:

The North Carolina State Building Code, with all supplements and amendments thereto, ratified and adopted by the North Carolina Building Code Council, in full effect and having the force of law within the territorial jurisdiction of the city under the provisions of General Statute 143-138 and General Statute 160A-412, is affirmed to be the building code for the city and is incorporated by reference in this section as fully and completely as if written verbatim in this section.

**ACTION TAKEN:** Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Ordinance No. 7-2019 entitled, “A PROPOSED ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SHELBY, NORTH CAROLINA”.

**F. City Manager’s Report:**

- 1) Mr. Howell confirmed Council’s annual planning retreat has been

scheduled for Saturday, February 2, 2019, at 8:00 a.m., Shelby Cleveland County Regional Airport Terminal Building. He requested Council's feedback regarding the agenda content in order to include these topics for discussion purposes. Mr. Howell will present the 2018 year in review and provide an update on the status of various projects currently underway, along with his major budget assumptions for Council's consideration and direction.

- 2) Mr. Howell provided an update regarding the City's recycling program. This is the last year of an eight-year contract with Republic Services to provide curbside rollout recycling service. As such, he said it is important to evaluate the program to determine its long-term viability and to address operational and functional issues that have arisen. Republic Services has made the City aware that some Recycling Materials Recovery Facilities (MRF) have indicated they may refuse loads because of overseas market issues and bans on the import of solid waste as well as contamination. City staff is working to develop a strategy to simplify the recycling process through education as to which recyclables are more suitable and the overall importance of eliminating contamination in the stream.
- 3) With regard to Hanna Park, Mr. Howell reported the City has taken possession and is now in control of the site as of January 3, 2019. He reiterated it is not open to the public yet as there are items that cannot be dealt with by the contractor before spring weather. He anticipated a ribbon cutting ceremony and festivities for a date to be determined in late March 2019.
- 4) Mr. Howell presented the City's Sanitary Sewer Overflows Report, illustrating the spill history dating back to calendar year 2010 for review. He explained this year has been a challenging year with record rainfall that has exacerbated infiltration and inflow. The City has made progress but still has plenty of work to do when considering the overall age and condition of the system. The City has also dedicated significant resources to improve system performance, noting the results of the investments being made.

#### **G. Council Announcements and Remarks:**

- 1) Mayor Anthony mentioned the new Hanna Park is stunning and impressive, stating when it opens to the public, this park will become a significant asset for the entire community.

The Mayor reminded Council members to consider attending the North Carolina League of Municipalities 2019 Town & State Dinner on

Wednesday, February 20, 2019, at the Raleigh Convention Center, Raleigh, North Carolina.

Mayor Anthony also reminded Council members to attend the annual Martin Luther King Unity March and Program on Monday, January 21, 2019, at 10:00 a.m. from the Cleveland County Court House to Malcolm Brown Auditorium at Shelby High School.

The Mayor requested Council members to provide their topics and issues to Mr. Howell for the Council retreat agenda.

**H. Closed Session: REMOVED; TO BE RESCHEDULED WITH FULL BOARD ATTENDANCE**

- 1) To conduct the annual performance evaluation of the City Clerk pursuant to North Carolina General Statute 143-318.11 (a) (6)

**I. Adjournment:**

- 1) Motion to adjourn

**ACTION TAKEN:** Upon a motion made by Mr. Webber, City Council voted unanimously to adjourn the meeting at 6:35 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC  
City Clerk

O. Stanhope Anthony III  
Mayor

Minutes of January 7, 2019