

MINUTES

Regular Meeting
City Hall Council Chamber

August 24, 2015
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David W. White, 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, Director of Human Resources Deborah C. (Deb) Jolly, Director of Energy Services Julie R. McMurry, Director of Water Resources David W. Hux, Director of Public Works Daniel C. (Danny) Darst, Director of Parks and Recreation Charlie Holtzclaw, Director of Planning and Development Services Walter (Walt) Scharer, AICP; Reporter Casey White of The Shelby Star, Broadcasting and Cable Access Director Greg Tillman of Cleveland Community College/C19TV

Absent: Council Member Jeanette D. Patterson

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

Mr. Bailey requested Item D-3 be removed from the Consent Agenda and placed under Special Presentations as Item B-4 (a) for discussion purposes, as follows:

- Consideration of a resolution to adopt the Polkville Road Interchange Small Area Plan: Resolution No. 53-2015

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

B. Special Presentations:

- 1) Recognition of Wayne Douglas Hull on the occasion of his retirement from employment with the City of Shelby: Resolution No. 42-2015

Mayor Anthony called upon Mr. Hull, who recognized his wife in attendance. The Mayor formally read and presented framed Resolution No. 42-2015 to Mr. Hull. He then presented a shadow box, which displays the key to the City and several job-related mementos, to Mr. Hull in honor of and with heartfelt appreciation for his 34 years of dedicated service to the City of Shelby in both the Public Works and the Parks and Recreation Departments.

Humbled by the recognition, Mr. Hull expressed his appreciation to his family, to past and present co-workers, and to the youth sports players and their parents for supporting him over the years.

2) Recognition of Ronnie Duel Davis on the occasion of his retirement from employment with the City of Shelby: Resolution No. 43-2015

Mayor Anthony called upon Mr. Davis, who recognized his wife in attendance. The Mayor formally read and presented framed Resolution No. 43-2015 to Mr. Davis. He then presented a shadow box, which displays the key to the City and several job-related mementos, to Mr. Davis in honor of and with heartfelt appreciation for his 30 years of dedicated service to the City of Shelby in the Natural Gas Department.

Humbled by the recognition, Mr. Davis expressed his appreciation to the City, to Council members, to the City Manager, and to Director Julie McMurry for supporting him over the years.

3) Recognition of Freddie Ray Ellis on the occasion of his retirement from employment with the City of Shelby: Resolution No. 44-2015

Mayor Anthony called upon Mr. Ellis who recognized his friend in attendance. The Mayor formally read and presented framed Resolution No. 44-2015 to Mr. Ellis. He then presented a plaque to Mr. Ellis in honor of and with heartfelt appreciation for 28 years of dedicated service to the City of Shelby in the Warehouse and the Electric Department.

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

4) Polkville Road Interchange Small Area Plan – Walt Scharer, Director, Planning and Development Services Department and Korrie Becht, Planner/GIS Analyst, Planning and Development Services Department

Mr. Scharer introduced the subject matter of this presentation namely the Polkville Road Interchange Small Area Plan (PRISAP), which is a roadmap for future development in response to the existence of the new US 74 Bypass currently under construction. He noted the progress of the project to date,

citing the Shelby Strategic Growth Plan, the Shelby Comprehensive Land Use Plan, and the Cleveland County Land Use Plan did not foresee the bypass construction until 2025. However, the PRISAP goals reflect the actions, policies, and strategies of these planning documents and the recommendations support the goals that should be pursued by the City of Shelby in order to plan for the development associated with each of the five interchanges and the US 74 Bypass in general. Mr. Scharer also mentioned the previously approved Washburn Switch Road Interchange Small Area Plan, which was the first of the five small area plans brought to Council for consideration.

Next Miss Becht began her presentation by utilizing the Comprehensive Land Use Plan Future Land Use Map which reserved land for the Bypass. She identified the Polkville Road Interchange Study Area, describing the boundaries as well as the employment, institutional, commercial, and conservation development areas.

Utilizing the Polkville Road Interchange Small Area Plan Vision Map and gathering the information provided during committee meetings and input from residents at the public open houses, Miss Becht detailed the policy recommendations identified to meet the overall PRISAP goals as follows:

- **Land Use Goal – Encourage land uses in strategic locations with convenient transportation access and adequate facilities.**
 - **Key recommendation – Adopt the Polkville Road Interchange Small Area Plan Vision Map to also include these areas: Open space, agriculture, residential low density, and mixed uses.**
- **Transportation Goal – Protect and enhance major routes as viable transportation corridors by ensuring their safety, capacity, and coordination with the adjacent land uses.**
 - **Key recommendation – Create an overlay zoning district to regulate transportation recommendations and design guidelines.**
- **Utility Services Goal – Maintain high quality utility services within the Polkville Road Interchange study area.**
- **Community Character Goal – Insist on a better quality of development to continue creating attractive entryways leading into the community with distinctive buildings, well-groomed landscaping, attractive signage, plentiful street trees, and roadsides free of clutter and litter.**

- **Key recommendations –**
 - **Amend and create sign standards**
 - **Create an attractive interchange/entryway into the City**

Miss Becht concluded her presentation by stating the intention of this small area plan is to get ahead of the curve as to what kind of change might take place with the development associated with the interchanges of the new US 74 Bypass and to determine a strategy for how that change should happen over time.

Mr. Bailey raised a concern regarding Transportation Recommendation 2.3 – Require shared driveways to limit the amount of curb cuts along Polkville Road to encourage internal connectivity between and within developments.

Miss Becht responded this recommendation is a carryover from the Washburn Switch Interchange Small Area Plan and refers to commercial and industrial construction.

Mr. Scharer reiterated shared driveways are intended for commercial construction purposes.

Mayor Anthony requested the plan clarify the distinction between residential and commercial shared driveways.

Mr. Bailey also raised a concern regarding Community Character Recommendation 4.2 regarding Design Guidelines, referring to legislative bills which prohibit cities and towns from requiring design and aesthetic controls on any structure.

Miss Becht responded this recommendation refers to screening for mechanical equipment, building orientation toward a street, signage, and landscaping of an area. These design guidelines cover a very broad spectrum.

Mr. Howell clarified and explained any specific policy development would come before Council for consideration as an amendment to the City's Unified Development Ordinance (UDO).

- a. **Consideration of a resolution to adopt the Polkville Road Interchange Small Area Plan: Resolution No. 53-2015**

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Resolution No. 53-2015 entitled, "A RESOLUTION TO ADOPT THE POLKVILLE ROAD INTERCHANGE SMALL AREA PLAN".

C. Public Comment: None

D. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of August 3, 2015
- 2) Approval of Special Event Permit Application:
 - a. Churchill Drive Block Party, requested date: September 5, 2015
- 3) REMOVED AND PLACED UNDER SPECIAL PRESENTATIONS AS ITEM B-4 (a)

Approval of a resolution to adopt the Polkville Road Interchange Small Area Plan: Resolution No. 53-2015
- 4) Approval of a resolution directing the City Clerk to determine sufficiency of a voluntary annexation petition from Shantaben, Inc.: Resolution No. 54-2015
- 5) Adoption of Fiscal Year (FY) 2015-2016 Budget Ordinance Amendment No. 2: Ordinance No. 43-2015

END CONSENT AGENDA

E. Unfinished Business:

- 1) Consideration of appointments to City advisory boards and commissions:
 - a. Zoning Board of Adjustment

Mrs. Parduski reported the terms of three incumbents, Morris Hudson, Noel MacArthur, and Roger Holland, concluded July 2015. All three incumbents wish to continue their service.

Mrs. Parduski also stated there is a previous vacancy among extraterritorial jurisdiction (ETJ) members for a new term. However, there are no applications on file in the Clerk's Office.

Mr. White nominated Morris Hudson, Noel MacArthur, and Roger Holland for reappointment.

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

2) City of Shelby East Elevated Water Tank Project:

Mr. Howell introduced Ordinance No. 44-2015, Resolution No. 55-2015, and Resolution No. 56-2015 for Council's consideration. All three items are related to the construction of a 500,000 gallon elevated water storage tank on property owned by the City at the corner of Kemper Road and East Marion Street near the Cleveland Community College. The project will serve to alleviate the portion of the water distribution system which is located along NC Highway 180 (Post Road). Customers in this area have experienced reduced water pressure when system flows are increased or when the City experiences peak water demands. Mr. Howell stated it has been documented by the City's Water and Sewer Asset Management Plan and determined the construction of a water tank in the Post Road area and larger main feed waterline need to be constructed to alleviate water pressure issues and provide adequate water supply to the area. The construction of an elevated storage tank in the Post Road area would be considered the priority of the two projects.

Mr. Howell further stated it is in the best interest of the City to move forward with the construction of a 500,000 gallon spheroidal water tank for adequate protection of existing facilities on the Eastside as well as the future demands stemming from construction and economic development. He recommended a budget ordinance amendment be created for the City of Shelby East Elevated Water Tank Project to add construction funding as the City completes the required financing paperwork for this project. Mr. Howell anticipated the funding would be provided by revenue bonds from local institutions. He also recommended the tentative construction contract for a 500,000 gallon elevated spheroidal water tank be awarded to CB&I Constructors, Inc. of The Woodlands, Texas.

Discussion followed about the construction timeline of 10 months and attractive screening and landscaping of the tank due to its prominent location.

- a. Consideration of a budget ordinance amendment for the City of Shelby's Eastside Water Tank Project: Ordinance No. 44-2015

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 44-2015 entitled, "A BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY'S EASTSIDE WATER TANK PROJECT".

- b. Consideration of a resolution making certain findings and determinations, authorizing the filing of an application with the Local Government Commission, requesting the Local Government Commission to sell bonds at private sale and authorizing the solicitation of bids in connection with the issuance of revenue bonds of the City of Shelby, North Carolina: Resolution No. 55-2015

ACTION TAKEN: Upon a motion made by Mr. Kittrell, City Council voted unanimously to approve and adopt Resolution No. 55-2015 entitled, "A RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS, AUTHORIZING THE FILING OF AN APPLICATION WITH THE LOCAL GOVERNMENT COMMISSION, REQUESTING THE LOCAL GOVERNMENT COMMISSION TO SELL BONDS AT PRIVATE SALE AND AUTHORIZING THE SOLICITATION OF BIDS IN CONNECTION WITH THE ISSUANCE OF REVENUE BONDS OF THE CITY OF SHELBY, NORTH CAROLINA".

- c. Consideration of a resolution of tentative award for the East Elevated Water Tank Project to CB&I Contractors: Resolution No. 56-2015

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to approve and adopt Resolution No. 56-2015 entitled, "A RESOLUTION OF TENTATIVE AWARD FOR THE EAST ELEVATED WATER TANK PROJECT TO CB&I CONTRACTORS".

- 3) Consideration of Fiscal Year (FY) 2015-2016 Budget Ordinance Amendment No. 3: Ordinance No. 45-2015

Mr. Howell introduced Ordinance No. 45-2015 for Council's consideration. If approved, this ordinance would appropriate \$93,800 from the Sewer Fund Net Retained Earnings to be used for a Sewer Flow Monitoring Plan in the

area of Windsor Drive where the City has experienced a past sanitary sewer overflow which resulted in a citizen lawsuit under the federal Clean Water Act. The case developed and went into mediation where the City, the respective parties, and the courts agreed to resolve the litigation in accordance with the terms of a Consent Decree. In conjunction with the Decree requirements, the City obtained a proposal for flow monitoring services along with data assessment by an engineer on a quarterly basis for one year.

There was discussion regarding the City's cost benefit if renting or purchasing the sewer flow monitoring equipment was an option. It was determined under the circumstances the proposal, as submitted, was acceptable.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 45-2015 entitled, "FISCAL YEAR (FY) 2015-2016 BUDGET ORDINANCE AMENDMENT NO. 3".

F. New Business:

1) City of Shelby College Avenue Bridge Gas Line Replacement/Relocation Project:

Mrs. McMurry introduced Ordinance No. 46-2015 and Resolution No. 57-2015 for Council's consideration. As background information, she stated the City's natural gas system currently has seven bridge crossings where natural gas distribution lines are attached to bridges. These gas lines are exposed and require inspection several times per year in addition to leak testing which is done on an annual basis. Mrs. McMurry explained in an effort to do a more thorough inspection of these crossings in 2014, the City hired an outside contractor to inspect these bridge crossings. The results of the testing verified excessive corrosion on the College Avenue line. Due to the location of the valves in that area of the system and the inability to re-route flow, it was determined the line should be replaced.

Mrs. McMurry recommended Council appropriate the funding and authorize the award of this bid to Applying Boring Company, Inc. of Forest City, North Carolina for the replacement/relocation of the natural gas line currently attached to the north side of the College Avenue Bridge, crossing the First Broad River.

- a. Consideration of Fiscal Year (FY) 2015-2016 Budget Ordinance Amendment No. 4: Ordinance No. 46-2015

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 46-2015 entitled, “FISCAL YEAR (FY) 2015-2016 BUDGET ORDINANCE AMENDMENT NO. 4”.

- b. Consideration of a resolution awarding the bid for the College Avenue Bridge Gas Line Replacement/Relocation Project: Resolution No. 57-2015

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to approve and adopt Resolution No. 57-2015 entitled, “A RESOLUTION AWARDED THE BID FOR THE COLLEGE AVENUE BRIDGE GAS LINE REPLACEMENT/RELOCATION PROJECT”.

- 2) Discussion of proposed amendments to the City of Shelby Code of Ordinances regulating Chapter 10 – Business, Article III – Sidewalk Cafes, Division 3 – Operation, Section 10-133 – Days and hours of operation and Chapter 16 – Environment, Article II – Noise, Section 16-32 – Loud or disturbing acts prohibited; permits for temporary variances

At the request of Mr. Bailey, Mr. Howell introduced two sections of the City Code with regard to the hours of operation of sidewalk cafes and unlawful noise for discussion purposes. Specifically Mr. Bailey received comments and concerns from residents of residential units adjacent to sidewalk cafes about the lack of restrictions as to late night service. He suggested sidewalk cafes should stop serving at 10:00 p.m. and close their outdoor operations at 11:00 p.m. Currently the hours of operation of a sidewalk café may be the particular restaurant’s normal operating business hours Monday through Saturday and after 12:00 noon on Sundays. Mr. Howell interpreted the word, may, as allowing flexibility in his authorization to amend an individual sidewalk café permit during the permitting process on a case-by-case basis. Mr. Bailey disagreed, stating the current language of the ordinance was too vague and may cause turmoil.

Discussion followed about addressing noise issues in a proactive manner, remaining business friendly and less regulatory.

Mr. Howell added discretion in interpreting City ordinances, especially as to sidewalk café permits, which are issued as a privilege to use the public’s sidewalks rather than a right, is when Council’s discretion is even more justified. He recommended adding a sentence to the sidewalk café permit to limit the hours of operation. By consensus, Council directed Mr. Howell to draft said language for their consideration.

G. City Manager’s Report:

- 1) **Mr. Howell commended the three retirees honored at tonight's meeting, stating they were the backbone of their respective departments and filled critical roles for the City of Shelby. As the "baby boomers" continue to retire, the City is challenged with replacing the loss of experience and capacity of these employees.**

Mr. White commented the City must find a way to provide more competitive incentives and salaries to its employees.

- 2) **Mr. Howell expressed his appreciation to Julie McMurry and David Hux for assuming their respective new roles and new responsibilities, commending each one for an excellent job.**
- 3) **Mr. Howell mentioned the bidding process for the Mass Grading Project at the Foothills Commerce Center will begin in September 2015.**
- 4) **Mr. Howell provided an update with regard to the current status of the City's water supply. Recent rains have provided some relief and the First Broad River flow is good. Staff will continue to monitor the river level to determine if any restrictions are necessary, considering the long term weather forecast.**
- 5) **With regard to the First Broad River Wastewater Treatment Plant Compost Building Improvements Project, Mr. Howell reported the project was recently re-advertised. Mr. Hux is currently in negotiations, utilizing the value engineering concept with the apparent low bidder.**

H. Council Announcements and Remarks:

- 1) **Mayor Anthony requested all to remember Mrs. Patterson, who is recovering from recent surgery, in their thoughts and prayers.**

During his weekend run through the City, the Mayor spotted Walt Scharer and his son watering trees on West Warren Street and gave Mr. Scharer an "atta boy" for his dedication.

- 2) **Mr. White raised the issue of nuisances he finds all around the City of Shelby. Discussion followed and included all aspects of code enforcement action and available resources and capacity. The time period for compliance varies depending on the specifics of a case. The City's general practice is to abate certain nuisances not corrected by the owners of property. Ultimately the property owner is responsible for all abatement expenses, which may be attached as a lien to the property.**

Council requested staff to research the possibility of maximizing the penalties and accelerating the process. Mr. Howell reminded Council this item is included as one of their goals and objectives for Fiscal Year 2015-2016.

- 3) Mr. Bailey reported he attended a joint meeting of the North Carolina League of Municipalities General Government Legislative Action Committee and the Regulatory Action Committee on August 21, 2015. Echoing the League's advocacy goals, he continued to urge elected officials to contact legislators regarding municipalities' need for revenue flexibility and revenue options in an effort to preserve the fiscal health of cities and towns.

Mr. Bailey also spoke to a Cleveland County Commissioner about his concerns related to the expansion of the extraterritorial jurisdiction (ETJ) and the attractiveness and control of the City's corridors and entranceways located in the ETJ.

- 4) Mr. Amaya reported receiving a number of complaints about noise from the racetrack located at the Cleveland County Fairgrounds on Friday nights. There was discussion, noting the Cleveland County Board of Commissioners is aware of the situation.
- 5) Mr. Kittrell said the ETJ item mentioned by Mr. Bailey is an ideal item to be placed and discussed on the agenda for the joint meeting between the City and County elected officials, which is in process and yet to be scheduled.

Mr. Kittrell was very complimentary of the great success of the 2015 American Legion World Series (ALWS).

Mayor Anthony added he received a note from Mayor Senn of Newberry, South Carolina expressing how impressed he was with Shelby as host city. The Chapin/Newberry team went on to become the 2015 ALWS champions.

- 6) Mr. Amaya expressed his appreciation to the Shelby Police Department for posting a reminder of the laws related to stopped school buses on the City's Facebook page.

I. Closed Session:

- 1) To approve the Minutes and General Account of the Closed Session of June 1, 2015

- 2) To discuss matters relating to the location or expansion of an industry or other business pursuant to North Carolina General Statute 143-318.11 (a) (4)

ACTION TAKEN: Mr. White made a motion to enter into a closed session pursuant to the appropriate North Carolina General Statute 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 and Mr. Howell, Mr. Yelton, and Mrs. Parduski to attend. The motion passed unanimously and Council moved into closed session at 7:32 p.m.

Council returned to the regular session at 7:49 p.m.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Bailey, City Council voted unanimously to adjourn the meeting at 7:49 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of August 24, 2015