

MINUTES

Regular Meeting
City Hall Council Chamber

February 18, 2013
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Christopher H. (Chris) Mabry, David W. White, Dennis C. Bailey, Joel R. Shores, Jr.; City Manager Rick Howell, City Attorney Andrea Leslie-Fite, City Clerk Bernadette A. Parduski, NCCMC, MMC, Director of Finance Justin S. Merritt, MPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Utilities Brad R. Cornwell, PLS, EI, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, Director of Public Works Daniel C. (Danny) Darst, Jr., Director of Parks and Recreation Charlie Holtzclaw, Director of Planning Services and Interim Director of Development Services Walter (Walt) Scharer, AICP; and media representatives

Absent: Council Members Jeanette D. Patterson 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. Bailey led the *Pledge of Allegiance*.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

Mayor Anthony announced the following changes to the agenda:

- The removal of Item B-2 under Special Presentations
- The addition of a Closed Session as permitted under North Carolina General Statute 143-318.11(a) (3) to preserve the attorney-client privilege in the matter of James Darryl Lackey versus the City of Shelby et al

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

B. Special Presentations:

- 1) Recognition of Stephen R. Sherman on the occasion of his retirement from employment with the City of Shelby: Resolution No. 6-2013

Mayor Anthony called upon Mr. Sherman, who recognized members of his immediate family in attendance. The Mayor formally read and presented framed Resolution No. 6-2013 to Mr. Sherman. He reminisced with Mr. Sherman about a 1968 copy of The Cleveland Observer which featured a photograph of their Optimist Club Little League team. The Mayor then presented the key to the City and a City lapel pin to Mr. Sherman in honor of and with heartfelt appreciation for more than 27 years of dedicated service to the City of Shelby Parks and Recreation Department at the Royster Memorial Golf Course.

Humbled by the recognition, Mr. Sherman expressed his appreciation to the City for supporting him over the years as well as for the overall support given to the Parks and Recreation Department.

2) REMOVED; TO BE RESCHEDULED

Cleveland County Tourism update – Jackie Sibley, Executive Director,
Cleveland County Travel and Tourism

C. Public Comment:

- 1) Louis Hargrove, who did not state his address, spoke as a representative of the Washington Heights development located south of Holly Oak Park. The development had been annexed into the City and several years ago the residents and property owners had petitioned the City to expand the sewer collection system to include this area. Mr. Hargrove requested the City reconsider and readdress this situation due to the numerous septic system failures.
- 2) Emanuel Hunt, Jr. who resides at 843 Lincoln Drive in Shelby, North Carolina spoke in support of Mr. Hargrove and reiterated his request for the expansion of the City's sewer collection system into Washington Heights. In addition, Mr. Hunt requested neighborhood sidewalks and signs and enforcement with regard to dumping in the area. He suggested the establishment of a partnership between the City and Washington Heights to bring these requests to fruition.

D. Public Hearing:

- 1) Consideration of an ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 2-2013

Utilizing a map of the area, Mr. Scharer pointed to the subject property, which is a 100 acre site located near Washburn Switch Road. The parcel lies within the City's Extraterritorial Jurisdiction and is currently zoned as the Residential 20 (R20) District. The property was purchased by Cleveland County in 2012 for a future industrial site and it is currently being marketed as such by the Cleveland County Economic Development Partnership. Mr. Scharer stated two other adjacent tracts in Cleveland County's planning jurisdiction make this a very large potential industrial site. The two tracts are scheduled to be rezoned to the County's equivalent of Shelby's General Industrial (GI) District. The Comprehensive Land Use Plan designates this property as an Employment Area. The proposed zoning classification is consistent with the Comprehensive Land Use Plan. In an effort to be proactive about the prospect of this site, staff and the Planning and Zoning Board recommended this proposed zoning amendment.

Mr. Howell reminded Council the County previously purchased approximately 400 acres in order to allow development of a rail-served industrial site in the Washburn Switch Road area. As discussed and agreed with the County Manager, and in order to provide continuity in the allowed land use, staff initiated the process to rezone said property to the General Industrial (GI) District.

Mayor Anthony opened the public hearing at 6:17 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:18 p.m.

ACTION TAKEN: Upon a motion made by Mr. Bailey, City Council voted unanimously to approve and adopt Ordinance No. 2-2013 entitled, "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

E. Consent Agenda:

ACTION TAKEN: Mayor Anthony presented the consent agenda. Mr. Shores 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 February 4, 2013
- 2) Approval of Special Event Permit Application:
 - a. Dixie Rodders Car Show, requested date: June 8, 2013

- 3) Approval of a resolution honoring Ricky Brackett on the occasion of his retirement from employment: Resolution No. 10-2013
- 4) Approval of a resolution awarding the bid for the underground cable replacement (electric) in Country Club Gardens neighborhood: Resolution No. 11-2013

END CONSENT AGENDA

F. Unfinished Business:

- 1) Consideration of a resolution accepting and approving a Utility Relocation Agreement for water, sewer, and natural gas lines and a Use and Occupancy Agreement between the City of Shelby and the North Carolina Department of Transportation (NCDOT) for relocation of utilities in conflict with the proposed US 74 Bypass: Resolution No. 12-2013

Mr. Howell introduced Resolution No. 12-2013 for Council's consideration. If approved, this resolution would authorize the City to enter into two separate Utility Relocation Agreements with the NCDOT as they relate to the relocation of City owned utilities that lie within the path of the new US 74 Bypass. These agreements essentially formalize the implementation as to which entity will be responsible for relocation construction and how the relocated facilities will be designed.

Referencing Project R2707B US 74 Bypass utility relocations, Mr. Cornwell stated there are three agreements for Council's review and approval. The first is a Use and Occupancy Agreement which covers the section of waterline along Washburn Switch Road and a shorter section of waterline along Artee Road located approximately in front of the former Artee Industries building. This agreement is being utilized on this portion due to the fact the City is including these waterline relocations within the NCDOT construction contract. The design for the relocation work will be handled by the City's engineer and this work will be done at the expense of the NCDOT due to the City's existing private easements.

Mr. Cornwell stated the second agreement is a Utility Relocation Agreement which will cover relocation of the City's water and sewer facilities where they cross Artee Road and are along the Foothills Commerce Center. He said the City will bid and complete the construction of these relocations by employing a City contractor and completing the relocation work prior to construction of the NCDOT project.

Mr. Cornwell stated the third agreement is a Utility Relocation Agreement for relocation of the City's natural gas lines along Artee Road and Washburn Switch Road. The City will be able to complete relocation of these lines prior to construction of the NCDOT project and likewise have private easements on the natural gas line in this area.

In the end, Mr. Cornwell said the City will submit to NCDOT for reimbursement on the two Utility Relocation Agreements once the City's construction is completed and there will be no exchange of money on the Use and Occupancy Agreement.

Mr. Cornwell concluded by stating staff recommended acceptance and adoption of the subject agreements. He added the proposed construction of US 74 Shelby Bypass is scheduled to be let to contract on August 20, 2013 with construction beginning October 1, 2013.

ACTION TAKEN: Upon a motion made by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 12-2013 entitled, "A RESOLUTION ACCEPTING AND APPROVING A UTILITY RELOCATION AGREEMENT FOR WATER, SEWER, AND NATURAL GAS LINES AND A USE AND OCCUPANCY AGREEMENT BETWEEN THE CITY OF SHELBY AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR RELOCATION OF UTILITIES IN CONFLICT WITH THE PROPOSED US 74 BYPASS".

- 2) Consideration of a resolution approving a lease agreement between the City of Shelby and Foothills Farmers Market, Inc. for property located on West Marion Street: Resolution No. 13-2013

Mr. Howell introduced Resolution No. 13-2013 for Council's consideration. If approved, it would allow for the execution of a ten-year lease with Foothills Farmers' Market (FFM), Inc. It was agreed between the parties to include an option to renew, which allows the FFM to extend the term of the lease for an additional ten years. Mr. Howell recommended approval of same as presented.

ACTION TAKEN: Upon a motion made by Mr. Shores, City Council voted unanimously to approve and adopt Resolution No. 13-2013 entitled, "A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF SHELBY AND FOOTHILLS FARMERS MARKET, INC. FOR PROPERTY LOCATED ON WEST MARION STREET".

F. New Business: None

G. City Manager's Report:

- 1) **Mr. Howell provided a brief review of the City's Monthly Financial Summary for the Fiscal Year to date at December 31, 2012, noting both the electric revenue margin and natural gas revenue margin as numbers to be mindful of. Otherwise, he said the City is on track from a budgetary standpoint.**
- 2) **Mr. Howell provided a status update regarding the road striping of Patton Drive and Warren Street. The City is in the process of a design striping plan to be submitted to NCDOT for approval. Once approved, a project timetable can be established.**
- 3) **Mr. Howell reminded Council of their direction at the request of the Project Safe Neighborhood group to explore the need for a curfew in Shelby pertaining to youth. Both Mr. Howell and Chief Ledford agreed that the research conducted has shown both pros and cons of curfew and curfew discussions are complex. It was noted that the majority of cities that have seen changes or reduction in crime have been the larger ones. Shelby's statistics show that crimes involving juveniles represent only a small percentage of its overall crime picture. Chief Ledford said when making the decision on recommending a curfew, the internal impact is worth discussing. A clear understanding of roles and responsibilities would need to be reached prior to implementation. There are hurdles that must be overcome and processes put in place to accommodate juveniles being held for extended periods of time. Another point to be considered is that there are curfews already in place for juveniles who have committed crimes. The Shelby Police Department is working out a plan for officers to help the court counselors make home visits and enforce the curfews for the more at-risk juveniles in the program. Chief Ledford recommended an option to curfew would be to work with the current systems in place and attempt to make them more effective.**

Council discussion followed and concluded with a consensus to monitor the current situation for at least six months.

H. Council Announcements and Remarks:

- 1) **Mayor Anthony expressed his appreciation to the Council members who attended the Cleveland County Chamber Legislative Breakfast on February 15, 2013, emphasizing both the importance of monitoring current legislative activity and building relationships with legislators.**

The Mayor encouraged attendance at the North Carolina League of Municipalities Town Hall Day on March 27, 2013. He also announced

“District Days” organized by League District to meet with legislators and to attend relevant committee meetings in Raleigh, North Carolina. The anticipated kickoff date for District Days is April 9, 2013.

- 2) Mr. Bailey reported as a General Government Legislative Action Committee member, he attended a remote meeting on February 15, 2013 and will attend a meeting on March 6, 2013 in Raleigh, North Carolina.
- 3) Mr. Mabry requested information on upcoming clean-up activities around the City. Mr. Scharer responded the Great American Clean-up Committee of the Keep Shelby Beautiful Commission is currently meeting and setting plans for 2013. Information will be forthcoming.

I. Closed Session:

- 1) To consult with the City Attorney in order to preserve the attorney-client privilege in the matter of James Darryl Lackey versus the City of Shelby et al pursuant to North Carolina General Statute 143-318.11(a)(3)

ACTION TAKEN: Mr. Shores made a motion to enter into a closed session to preserve the attorney-client privilege in the matter of James Darryl Lackey versus the City of Shelby et al pursuant to the appropriate North Carolina General Statute as cited. Council consulted with Mrs. Fite who advised that the topic met the statutory requirement for a closed session. Mayor Anthony invited all Council members present, Mrs. Fite, Mr. Howell, Mrs. Parduski, and Mrs. Jolly to attend.

Council moved into closed session at 7:00 p.m.

ACTION TAKEN: Upon a motion made by Mr. Shores, City Council voted unanimously to return to regular session.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Shores, City Council voted unanimously to adjourn the meeting at 7:30 p.m.

Respectfully submitted,

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

**O. Stanhope Anthony III
Mayor**

Minutes of February 18, 2013