

## MINUTES

Regular Meeting  
City Hall Council Chamber

July 15, 2013  
Monday, 6:00 p.m.

**Present:** Mayor O. Stanhope Anthony III, presiding; Council Members Christopher H. (Chris) Mabry, David W. White, Jeanette D. Patterson, Dennis C. Bailey, Joel R. Shores, Jr., Dicky Amaya; City Manager Rick Howell, City Attorney Robert W. (Bob) Yelton, 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 and Development Services Walter (Walt) Scharer, AICP; and media representatives

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 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. Special Presentations:**

- 1) Recognition of Coach Jackson Martin and the 2013 Shelby High School Golden Lions Tennis Team: Resolution No. 33-2013

Mayor Anthony congratulated Coach Jackson Martin of the Shelby High School Golden Lions Men's Tennis Team, who introduced the team members present: Miles Poage, Ray Webb Parker, Will Lutz, as the seniors who recently graduated; as well as Aaron Assad, Charles Dixon, Hayes Mabry, Marshall Parker, Hill Morgan; and absent: Brandon Lewis and Alex Nanney.

The Mayor formally read and presented framed Resolution No. 33-2013 to Coach Martin and the Golden Lions as a tribute to their second consecutive undefeated season and back-to-back State championships. This

championship added to the Golden Lions' rich history in the sport, including three consecutive State championships from 2001 through 2003.

- 2) Blue Ridge Music Trails of North Carolina: A Guide to Music Sites, Artists, and Traditions of the Mountains and Foothills – Emily Epley, Executive Director, Destination Cleveland County, and Stan Lowery, Executive Director, Don Gibson Theatre

On behalf of Destination Cleveland County (DCC), Mrs. Epley announced the addition of Cleveland County to the Blue Ridge Music Trails of North Carolina: A Guide to Music Sites, Artists, and Traditions of the Mountains and Foothills. She said inclusion in the Blue Ridge Music Trails promotes Cleveland County's rich musical heritage throughout the book and features Shelby as the hub of one of the six regions. Mrs. Epley added The Blue Ridge Music Trails of North Carolina guidebook is brought to readers by the North Carolina Arts Council. As a cultural tourism project, the book shares the history of each territory in the Appalachian region and promotes its extraordinary culture to educate its residents and draw visitors. Mrs. Epley quoted Wayne Martin, Executive Director of the North Carolina Arts Council: "Shelby and Cleveland County were not included in the 2003 edition of the book, but because of the work by Destination Cleveland County in creating outstanding venues in memory of Don Gibson and Earl Scruggs, Shelby and Cleveland County are featured in the 2013 edition".

Next Mr. Lowery presented a copy of the Blue Ridge Music Trails of North Carolina: A Guide to Music Sites, Artists, and Traditions of the Mountains and Foothills to Mayor Anthony as he read the inscription written by DCC's board and staff.

Mayor Anthony recognized J. T. Scruggs, Earl Scruggs Center Chair, in attendance, and expressed his appreciation as well as the City's to Mrs. Epley, Mr. Lowery, and Mr. Scruggs for their laudatory efforts and work on behalf of the community.

Mrs. Epley concluded by stating the Blue Ridge Music Trails of North Carolina partners with the Blue Ridge National Heritage Area, which has funding to develop a region-wide system of interpretive signage to raise awareness of the National Heritage Area designation, help increase visitation, and deepen appreciation for the national significance of this region's heritage. Shelby was recently added as a new site to the program. She said look for a sign to be placed at Warren and Washington Streets, which is in process for installation.

- 3) Recognition of Justin S. Merritt, Finance Director, and the City of Shelby's Finance Department as recipients of the Certificate of Achievement for Excellence in Financial Reporting for the Fiscal Year ended June 30, 2012

Acknowledging a long legacy, Mayor Anthony was pleased to announce that the Government Finance Officers Association of the United States and Canada (GFOA) awarded the Certificate of Achievement for Excellence in Financial Reporting to the City of Shelby for its Comprehensive Annual Financial Report (CAFR) yet again. It is a testament to the commitment of past and present management and finance directors as to full public disclosure and communication of the financial condition of the City of Shelby.

Mayor Anthony recognized and congratulated Mr. Merritt as he accepted the Certificate of Achievement plaque on behalf of the City.

- 4) 2013 Tar Heel Leagues Girls Fast-Pitch State Tournaments – Charlie Holtzclaw, Director of Parks and Recreation Department

Mr. Holtzclaw announced Shelby City Park will host the Tar Heel Leagues 2013 Girls Fast Pitch Softball State Tournaments beginning July 18 and running through July 21, 2013 with five age brackets competing. These tournaments will feature five Shelby host teams and combine to have a total of 39 teams with nearly 600 players and coaches participating in the four-day event. Mr. Holtzclaw stated several hundred spectators are expected daily until the Sunday championship games. There will be a total of over 70 games played at both the Ball Field Complex and the Recreation and Sports Complex. In terms of economic development and travel tourism, Mr. Holtzclaw added this will be the largest youth sports tournament ever played at City Park and the local hotels are booked at near capacity. The teams will come from all across the state from the coast to the mountains and will also patronize Shelby's restaurants and businesses.

Mr. Holtzclaw reminded Council this would not be possible without the new Recreation and Sports Complex which opened in 2012 and played host to a hugely successful 25-team boys baseball State Tournament last summer.

Mr. Holtzclaw expressed his appreciation to all those involved in the planning process for this tournament including his staff and Jackie Sibley, Director of Travel and Tourism for the Cleveland County Chamber.

Mayor Anthony echoed Mr. Holtzclaw's comments, expressing the significant impact a tournament of this magnitude represents for Shelby.

Mr. Holtzclaw extended his personal invitation to attend the opening ceremonies for all teams set for July 18, 2013 at 12:30 p.m. at the City Park Recreation and Sports Complex while passing out reserved parking passes to the Mayor and Council.

**C. Public Comment:**

- 1) Bill Gray who resides at 802 Elmwood Drive in Shelby, North Carolina made reference to his attendance at the last City Council meeting of June 17, 2013 and requested clarification as to his opportunities to speak at future Council meetings.

Mayor Anthony requested Mr. Gray to submit his concerns in writing for his and/or Council's review and consideration.

**D. Public Hearing:**

- 1) Consideration of a proposed ordinance to amend the Unified Development Ordinance of the City of Shelby: Ordinance No. 20-2013

Mr. Scharer introduced Ordinance No. 20-2013 for Council's consideration prior to conducting a legislative hearing on a proposed text amendment to the Unified Development Ordinance (UDO) involving the regulation of dumpster screening. Section 14-5.3 of the UDO pertains to "Trash Container and Dumpster Screen/Buffers" in which dumpsters are currently required to be screened on three sides by an eight foot solid fence or wall. Mr. Scharer stated while enforcing this UDO section staff noticed a few areas of regulations which may need better interpretation. Staff reviewed this section with the Planning and Zoning Board in an effort to better define dumpster screening. The Planning and Zoning Board felt a few changes were necessary as well as an additional section to solve existing dumpster situations of property owners who have a difficult time complying with the existing regulations.

Mr. Scharer concluded by stating staff and the Planning and Zoning Board recommended this proposed text amendment.

Mayor Anthony opened the public hearing at 6:23 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:24 p.m.

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 20-2013 entitled, "A PROPOSED ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF SHELBY".

**E. Consent Agenda:**

**ACTION TAKEN:** Mayor Anthony presented the consent agenda. Mrs. Patterson 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 June 17, 2013
- 2) Approval of a resolution approving a revised and updated Agreement between the City of Shelby and the Cleveland County Board of Elections for the conduct of elections within the City: Resolution No. 42-2013
- 3) Approval of a resolution authorizing sale of a public utility easement from the City of Shelby to the North Carolina Department of Transportation: Resolution No. 43-2013
- 4) Approval of a resolution delegating licensing and contracting authority to the City Manager: Resolution No. 44-2013
- 5) Approval of a resolution directing the City Clerk to determine the sufficiency of a voluntary annexation petition from Carolina Retail Development LLC: Resolution No. 45-2013
- 6) Approval of a resolution supporting a traffic study: Resolution No. 46-2013
- 7) Adoption of an ordinance granting permission by the City Council of the City of Shelby, North Carolina to use the 10%/70% development option available in the City's Unified Development Ordinance: Ordinance No. 21-2013
- 8) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Foothills Farmers Market Shade Pavilion Project: Ordinance No. 22-2013
- 9) Approval of a resolution directing the City Clerk to determine the sufficiency of a voluntary annexation petition from KSM Castings NC Inc.: Resolution No. 48-2013

## END CONSENT AGENDA

### F. Unfinished Business:

#### 1) Consideration of appointments to City advisory boards and commissions:

Mrs. Parduski noted Mike Lowery passed away in April 2013. Mr. Lowery served on both the Keep Shelby Beautiful Commission and the Shelby Housing and Redevelopment Board. His passing has created a vacancy on each of these boards.

##### a. Keep Shelby Beautiful Commission

Mrs. Parduski reported there are two vacancies for unexpired terms concluding January 2015 and January 2016.

The applications on file in the Clerk's Office include:

- Doris Cheatham
- Anthony Franklin
- Chris Martin
- Joseph Linton Suttle IV

Mr. Mabry nominated Doris Cheatham for the unexpired term concluding January 2015.

Mr. White nominated Joseph Linton Suttle IV for the unexpired term concluding January 2016.

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

##### b. Shelby Housing and Redevelopment Board

Mrs. Parduski reported there is one vacancy for an unexpired term concluding March 2015.

The applications on file in the Clerk's Office include:

- Michael Shawn Collins
- Anthony Franklin
- Chavis Gash

**Mr. Mabry nominated Chavis Gash.**

**Mr. Amaya nominated Michael Shawn Collins.**

**ACTION TAKEN:** Upon a motion made by Mr. Amaya, City Council voted unanimously to close the nominations.

The vote was as follows:

**Michael Shawn Collins received four affirmative votes (White, Bailey, Shores, and Amaya).**

**Chavis Gash received two affirmative votes (Mabry and Patterson).**

**As a result, Michael Shawn Collins was appointed to the unexpired term concluding March 2015.**

**c. Shelby Planning and Zoning Board**

**Mrs. Parduski reported the terms of three incumbents, Mike Royster, Marty Allen, and Scott Bankhead, concluded June 2013. All wish to continue their service.**

The applications on file in the Clerk's Office include:

- **Anthony Franklin**
- **Chris Martin**
- **Peter Potemkin**

**Mr. White nominated the incumbents, Mike Royster, Marty Allen, and Scott Bankhead, to new terms concluding June 2016.**

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

**d. Shelby Zoning Board of Adjustment**

**Mrs. Parduski reported the terms of three incumbents, Burel Harris, Mike Philbeck, and Tom Martin, are set to conclude July 2013. All wish to continue their service.**

There are also two vacancies for alternates with unexpired terms, one inside alternate for July 2014 and one Extraterritorial Jurisdiction (ETJ) alternate for July 2015.

There is one application on file in the Clerk's Office and it is that of Chris Martin.

Mr. Amaya nominated the incumbents, Burel Harris, Mike Philbeck, and Tom Martin, to new terms concluding July 2016 and Chris Martin for the inside alternate term concluding July 2014.

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

Nominations will continue for the ETJ alternate with a term concluding July 2015.

- 2) Consideration of a resolution awarding the contract for construction of the Artee Road Water and Sewer Line Relocation Project for R-2707B (US Highway 74 Bypass): Resolution No. 47-2013

Mr. Howell introduced Resolution No. 47-2013 for Council's consideration. The project includes relocation of existing water and sanitary sewer lines located within the right-of-way of the future US Highway 74 Bypass along Artee Road near the Foothills Commerce Center. It must be completed to accommodate the proposed US 74 Bypass and will be the City's second project relocation for same. The funding for this project will be reimbursed to the City by the North Carolina Department of Transportation because the City held private easements acquired from property owners and in accordance with the existing Utility Relocation Agreement. Thus, they are not considered to be encroaching within the existing NCDOT right-of-way for Artee Road.

Mr. Howell stated the project has been in the design phase for a couple months and a public bid opening was held in June 2013, yielding three competitive bids. This project was approved at \$459,000.00, based upon previous engineering estimates. The lowest responsible bid was submitted by C & W Utilities Inc. in the amount of \$413,650.00. Mr. Howell noted C & W Utilities Inc. has completed similar water and sewer line projects for the City in the past and the City has been satisfied with their work.

Mr. Howell further stated funding for this project was appropriated via Project Budget Ordinance No. 48-2012. He recommended awarding this



construction contract to C & W Utilities Inc. for their bid amount of \$413,650.00.

**ACTION TAKEN:** Upon a motion made by Mr. Amaya, City Council voted unanimously to adopt and approve Resolution No. 47-2013 entitled, **A RESOLUTION AWARDED THE CONTRACT FOR CONSTRUCTION OF THE ARTEE ROAD WATER AND SEWER LINE RELOCATION PROJECT FOR R-2707B (US HIGHWAY 74 BYPASS)**”.

**F. New Business: None**

**G. City Manager’s Report:**

- 1) **Mr. Howell announced the City has recently received notification from the North Carolina Department of Commerce awarding an Industrial Development Fund grant in the amount of \$455,470.00 to extend water and sewer service to an industrial site on behalf of KSM Castings NC Inc.**

He also announced KSM Castings NC Inc. has scheduled their construction site groundbreaking located at 641 Plato Lee Road on July 17, 2013 at 10:00 a.m.

- 2) **Mr. Howell informed Council the North Carolina Department of Transportation, Division of Aviation contacted Mr. Cornwell with an informal grant funding offer for the construction of a T-Hangar Project in the amount of approximately \$1.4 million. The grant requires a 10 percent match and the City will request Cleveland County to consider an equal share in the required local match in keeping with previous practice. Mr. Howell noted T-hangars are listed as facility requirements on the Shelby-Cleveland County Regional Airport Layout Plan. He anticipated a staff presentation regarding the proposed project at a future Council meeting.**
- 3) **Mr. Howell reminded Council the City of Shelby was designated as a regulated public entity under the National Pollution Discharge Elimination System (NPDES) Phase II Stormwater Program. As such and under the Phase II permit, the City must develop and adopt a Stormwater Program Ordinance by December 1, 2013. He stated there are related costs and issues associated with fully implementing the requirements, regulations, and management of the program. The information will be forthcoming for discussion purposes and Council’s consideration.**
- 4) **With regard to the Foothills Commerce Center Shell Building No. 2 Project, Mr. Howell reported Cleveland County has received approval from the NC Small Cities Community Development Block Grant (CDBG)**

Program under the Economic Development Loan Category for its portion of the project funding. A Pre-Construction Conference with the contractor, Matthews Construction Company, as well as other interested parties has been scheduled for July 18, 2013.

- 5) With regard to the Police Department Roof Replacement Project, Mr. Howell provided an update about the renovations as being evaluated in the pre-bid process. Under consideration are three options including: slate repairs, prefinished metal, and asphalt shingles. He anticipated the project to bid in the very near future, with the bids being brought back to Council for their consideration.
- 6) Mr. Howell addressed the concerns relating to the Warren Street Restriping Project, including the parking spaces. The NC Department of Transportation has oversight of the project and its contractor is in the process of correcting the lanes, the turning lanes, and the parking spaces.

#### H. Council Announcements and Remarks:

- 1) Mr. Shores requested clarification of the City's contract with Cleveland County's Animal Control Department. Mr. Howell responded the City previously adopted and incorporated by reference the Cleveland County Animal Control Ordinance. Under the agreement, the County provides all necessary animal control services and enforcement of the City's Animal Control Ordinance, specifically including the City's leash law. With regard to Mr. Shores' concern regarding after-hours calls for livestock running at large, Mr. Howell offered to follow-up with the County Manager.
- 2) Mayor Anthony highlighted the return of the Midnight Basketball Program on June 21, 2013 at Shelby City Park. The program has evolved to include guest speakers from the community, which begins at 8:00 p.m. and runs through July 26, 2013. The Mayor encouraged Council members to attend and participate in the program.

The Mayor also encouraged Council members to attend the Shelby State of the Community Breakfast on July 18, 2013 at 7:30 a.m. at the Cleveland County Schools Administrative Building.

Mayor Anthony extended his invitation to attend the Tar Heel Leagues 2013 Girls Fast Pitch State Tournament Opening Ceremonies on July 18, 2013 at 12:30 p.m. at Shelby City Park Recreation and Sports Complex.

As previously mentioned, Mayor Anthony encouraged attendance at KSM Castings NC's groundbreaking ceremonies on July 17, 2013 at 10:00 a.m. at 641 Plato Lee Road.

- 3) Mrs. Patterson reported she received complaints of sewer overflows from a citizen who resides at the end of Windsor Drive.

Mr. Howell responded the City has had no recent reports from this area. He explained after experiencing a period of heavy rains in Shelby it is not unusual to have sewer issues occur. Mr. Howell advised any citizen can and should report a sewer spill to Customer Services and staff will respond day or night. He requested the citizen's contact information so as to provide follow-up assistance.

- 4) Mr. White reported he received complaints about the potholes on East Main Street.

Mr. Shores mentioned North Washington Street beside the Cleveland Regional Medical Center is in rough condition.

Staff responded East Main Street is scheduled for pothole repairs this summer and North Washington Street has been placed on the recently approved 2013 Street Resurfacing List.

I. Adjournment:

- 1) Motion to adjourn

**ACTION TAKEN:** Upon a motion made by Mr. Shores, City Council voted unanimously to adjourn the meeting at 6:58 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC  
City Clerk

O. Stanhope Anthony III  
Mayor