

## MINUTES

Regular Meeting  
City Hall Council Chamber

May 6, 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 Clerk Bernadette A. Parduski, NCCMC, MMC, City Attorney Robert W. (Bob) Yelton, Director of Finance Justin S. Merritt, MPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Utilities Brad R. Cornwell, PLS, EI, Assistant Director of Utilities – Operations David W. Hux, 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

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 members of Boy Scout Troop 101 chartered through First Baptist Church led the *Pledge of Allegiance*.

### A. Approval of agenda:

#### 1) Motion to adopt the proposed agenda

Mayor Anthony announced the following additions to the agenda:

- Approval of Amendment to Incentive Agreement between the City of Shelby and KSM Castings NC Inc. under the Consent Agenda as Item B-4
- Consideration of a resolution delegating leasing authority to the City Manager: Resolution No. 28-2013 under New Business as Item D-3

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

### B. 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 April 15, 2013
- 2) Approval of a resolution honoring Eugene Philbeck on the occasion of his retirement from employment with the City of Shelby: Resolution No. 25-2013
- 3) Adoption of an ordinance granting permission by the City Council of the City of Shelby, North Carolina to use the 10%/70% development option in the City's Unified Development Ordinance: Ordinance No. 7-2013
- 4) Approval of an Amendment to Incentive Agreement between the City of Shelby and KSM Castings NC Inc.

#### **END CONSENT AGENDA**

#### **C. Unfinished Business:**

- 1) Consideration of a resolution approving and adopting the City of Shelby Parks and Recreation Tobacco-free Policy: Resolution No. 26-2013

Mr. Holtzclaw prefaced the ongoing policy discussion by stating at the request of Council, he and his staff met and established an alternative recommendation based on their overall experiences, personal observations, and professional opinions relating to the City's parks. Upon questioning, he stated for many years tobacco products have been prohibited in all of the City's Parks and Recreation buildings and inside all athletic fields during activities. Also, smoking is not allowed at the Aquatics Center except in a designated area away from the majority of patrons. Mr. Holtzclaw noted staff has had very few complaints over the years pertaining to smoking/tobacco use in the parks.

Discussion raised the issue of too much government control, leading Mr. White to make a motion to table the approval of the Tobacco-free Policy until further complaints were registered.

Further discussion ensued about the staff recommendation being implemented into the policy, excluding the golf course and the ponds. Other issues discussed included promoting healthy living, protecting children and their families, the removal of litter, and utilizing the policy as educational.

Mr. White agreed to withdraw his motion and Mr. Howell advised Council they may wish to modify the policy and approve the amendments.

Mr. Bailey endorsed amending the policy to fully incorporate staff's recommendation and to clearly identify that the golf course is not considered an athletic field.

Mayor Anthony reiterated the recommendations presented by staff to include the following:

Effective July 1, 2013, the City of Shelby does not allow the use of tobacco products and they are prohibited at the following City of Shelby Parks and Recreation Buildings, Grounds, and Facilities:

- All buildings
- Within fifty (50) feet of all athletic fields (The Royster Memorial Golf Course is not included and is considered an exception), concession stands, and restrooms
- Inside all playground fences
- Carrousel and train rides
- Shelby Aquatics Center (except for designated area)

Mayor Anthony acknowledged Anne Short, Community Health Services Director, Alliance for Health Cleveland County Health Department, in attendance, who stated the policy, if revised accordingly, may not meet the North Carolina Community Transformation Grant criteria.

**ACTION TAKEN:** Upon a motion made by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 26-2013 entitled, "A RESOLUTION APPROVING AND ADOPTING THE CITY OF SHELBY PARKS AND RECREATION TOBACCO-FREE POLICY", as amended.

#### **D. New Business:**

- 1) Consideration of a resolution to update and accept the City of Shelby Pretreatment Enforcement Response Plan: Resolution No. 27-2013

Mr. Howell introduced Resolution No. 27-2013 for Council's consideration. If adopted, this resolution would formally adopt and establish a Pretreatment Enforcement Response Plan for violations of the Sewer Use Ordinance (SUO).

Mr. Hux stated the City updated its SUO in October 2011. Incidental to any such sewer use ordinance are subcategories of supporting documentation which follow such an ordinance. One of these sub-caveats is an Enforcement

**Response Plan (ERP). The Director of the Publicly Owned Treatment Works (POTW) is authorized under North Carolina General Statutes and the City's SUO to implement the pretreatment program and take appropriate enforcement action to ensure the safety of the City's workers, pipelines, and treatment facilities. The City's ERP is established as an element of the pretreatment program to provide for fair and equitable treatment of all users for anticipated enforcement situations. Mr. Hux added this plan will be provided to all pretreatment customers along with the SUO to allow them to have a working knowledge of their expectations and relationship with the City as a sewer customer.**

**Next Mr. Hux explained that pursuant to regulations stemming from the Clean Water Act, the City is required under federal law to have and operate a pretreatment program. These laws and rules, specifically the Code of Federal Regulations (CFR) under the General Pretreatment Regulations for Existing and New Sources of Pollution, were designed to establish responsibilities of industry and government to protect water quality by implementing National Pretreatment Standards. These standards require the development of a SUO and require POTW to develop and implement an ERP to investigate and respond to instances of industrial user non-compliance stemming from violation of the SUO. This ERP is a detailed enforcement procedure that lists key steps necessary to assure that wastewater dischargers maintain compliance with all local, state, and federal limitations.**

**As Mr. Hux noted, the City's SUO establishes the local pretreatment standards as required by the state and federal governments. As previously mentioned, in October 2011 this ordinance was extensively updated to include mandatory state and federal changes to the ordinance and other modifications deemed necessary by City staff. In doing so, staff reviewed the ERP for necessary changes following the State model for minimum requirements, tailored same to suit local conditions, and submitted the Plan to the State for approval.**

**Mr. Hux concluded by recommending the ERP be recognized via resolution by Council as a means for enforcement action by City staff. This recognition would also cover future changes and adaptations as required by the state and federal governments as well as provide the flexibility needed by the City of Shelby to maintain its ERP as a working policy statement.**

**ACTION TAKEN: Upon a motion made by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 27-2013 entitled, "A RESOLUTION TO UPDATE AND ACCEPT THE CITY OF SHELBY PRETREATMENT ENFORCEMENT RESPONSE PLAN".**

**2) Consideration of an ordinance to update the City of Shelby Code of Ordinances Article VIII Fats, Oils, and Grease Control: Ordinance No. 8-2013**

**Mr. Howell introduced Ordinance No. 8-2013 for Council's consideration. If adopted, this ordinance would formalize the standards relating to the introduction of fats, oils, and grease into the City's sewer collection system.**

**As background information, Mr. Hux stated the City of Shelby is required to develop a Fats, Oils, and Grease (FOG) Ordinance as it pertains to commercial discharges to the City's sanitary sewer system pursuant to the City's Wastewater Collection System Permit. Under the Permit, the City of Shelby is required to develop and implement an enforceable fats, oils, and grease program for non-residential users under which the City can specify design criteria for grease devices and also allows the City to take enforcement actions against users who have not properly installed, operated, and maintained grease traps or grease interceptors. The primary focus of this ordinance is placed on food service establishments in order to prevent excessive grease from being introduced into the sanitary sewer system. Mr. Hux further stated excessive contributions of oil and grease to the sanitary sewer system causes sewer line blockages and can contribute to sewer spills within the collection system.**

**Next Mr. Hux explained in the past a section was developed for fats, oils, and grease requirements in Chapter 44, Article IV of the Sewer Use Ordinance for the City of Shelby. In 2011 the Sewer Use Ordinance was updated to meet the changes in State requirements for pretreatment programs. In completing the update requirements, City staff reviewed the policies and elected to pull the fats, oils, and grease requirements out of the approved ordinance in order to form a more detailed City Code Article for regulation of FOG and its discharge to the sanitary sewer system.**

**Mr. Hux stated staff is proposing the FOG requirements be adopted by Council as Chapter 44, Article VIII of the City's Code of Ordinances. The formal adoption of the FOG Ordinance will fulfill the requirements of the City's Wastewater Collection System Permit and allow the City to utilize this ordinance to minimize the impacts of oil and grease on the City's sewer collection system.**

**Mr. Hux added substandard food service establishments in operation prior to the adoption of this ordinance will have a period of three years to come into compliance with this ordinance after its initial adoption.**

Mr. Howell reiterated the FOG Ordinance is a very important aspect of managing and maintaining an efficient and environmentally compliant sewer system. He added the introduction of FOG especially at industrial and commercial locations can cause significant permit compliance issues for a city.

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 8-2013 entitled, "AN ORDINANCE TO UPDATE THE CITY OF SHELBY CODE OF ORDINANCES ARTICLE VIII FATS, OILS, AND GREASE CONTROL".

3) Consideration of a resolution delegating leasing authority to the City Manager: Resolution No. 28-2013

Mr. Howell introduced Resolution No. 28-2013 for Council's consideration which would authorize him, as City Manager, to identify the specific space needs of the Shelby Police Department and to enter into a short-term lease agreement for building space. He explained the space issue has become time-sensitive due to the City receiving notice that the Police Substation located at the Cleveland Mall will no longer be available for their use as of June 10, 2013.

**ACTION TAKEN:** Upon a motion made by Mr. Mabry, City Council voted unanimously to approve and adopt Resolution No. 28-2013 entitled, "A RESOLUTION DELEGATING LEASING AUTHORITY TO THE CITY MANAGER".

E. City Manager's Report:

- 1) Mr. Howell reminded Council the roof of the Police Department building is in a state of disrepair and must be replaced in the very near future. The repair is essential due to protecting the City's significant investment in the technological and communications equipment housed within the building. This has been a deferred maintenance item and must be done in the coming fiscal year as a budget appropriation from reserves. He anticipated a project budget amendment will be prepared for consideration at the May 20, 2013 meeting.
- 2) With the approval of Resolution No. 28-2013 to address the Police Department's short-term space needs, Mr. Howell informed Council the department's long-term space and office requirements will need to be addressed simultaneously.
- 3) Mr. Howell reported that he and Mr. Yelton have been consulting on the proposed Animal Waste Ordinance and Ordinance governing the sale and

consumption of alcoholic beverages for special events (at the request of Uptown Shelby Association contained in a letter dated April 10, 2013). He anticipated both drafted proposals for Council's review and discussion at the next meeting of May 20, 2013.

- 4) Mr. Howell provided an update on the Foothills Farmers Market Pavilion Project. Architect Mark Patterson has revised his drawings and changed the scope, which have been submitted to the US Department of Agriculture for approval. Once approved, the project will re-bid while efforts continue to seek additional grant funding options.
- 5) Mr. Howell reported the Forest Hill Drive Sidewalk Grant Project will begin shortly with construction of one segment from Beaumonde Avenue to Marion Intermediate School.
- 6) In preparation for the annual audit process, Mr. Howell distributed and explained a communication addressed to Mayor Anthony and Council from the City's auditing firm, Martin Starnes & Associates, CPAs, P. A., encouraging contact and soliciting comments and concerns directly to the audit firm.
- 7) Mr. Howell mentioned the City was honored at the annual North Carolina Department of Labor Safety Awards Banquet on April 18, 2013 with Gold Awards presented to several departments including Administration, Airport, Fire & Rescue, Housing, Planning Services, and Police.
- 8) Mr. Howell provided background information regarding tax exemption on municipal bonds. He stated tax-exempt municipal bonds are the most important tool available for financing municipal infrastructure projects. This tax exemption encourages investors to invest in cities and provides much needed capital that could never be infused any other way. Proposals have been put forth to change that as a way to reduce the federal deficit and simplify the nation's tax code. Mr. Howell is in the process of preparing a resolution opposing a reduction or elimination of the tax exemption on municipal bond interest for Council's consideration and submission to US Representative Patrick McHenry and US Senators Richard Burr and Kay Hagan.
- 9) Mr. Howell requested Council consider scheduling a budget session before the next regularly scheduled meeting of May 20, 2013. By consensus, Council set May 17, 2013 at 9:00 a.m. in Council Chamber to hold a special meeting related to General Fund budget options for Fiscal Year 2013-2014.

- 10) Mr. Howell updated Council about the Foothills Commerce Center Shell Building No. 2 Project as to the bid opening on May 2, 2013. The final results and options are being tabulated by the architects. The low bid was within budget. Mr. Howell anticipated announcing and recommending the successful low bidder on May 20, 2013 with Council awarding the contract at that meeting.
- 11) Mr. Howell informed Council he has received notice for jury duty and most likely will have to perform his civic duty beginning May 8, 2013.
- 12) Mr. Howell announced the Cleveland County Law Enforcement Memorial Day Service honoring and remembering fallen law enforcement officers is May 17, 2013 at 11:00 a.m. near Raper-Roark Plaza.

**F. Council Announcements and Remarks:**

- 1) Mayor Anthony reminded Council members to attend the annual YMCA Community Prayer Breakfast on May 9, 2013 beginning at 6:45 a.m. at the LeGrand Center.

Mayor Anthony recently received a letter announcing the Certificate of Achievement for Excellence in Financial Reporting has been awarded once again to Finance Director Justin Merritt and the City of Shelby by the Government Finance Officers Association (GFOA) of the United States and Canada for the City's Comprehensive Annual Financial Report (CAFR). The Mayor congratulated Mr. Merritt, who will be recognized at a later date for this achievement.

Mayor Anthony shared some particulars about meeting President/CEO Mark Hausner of Schletter and their operation. The Mayor said the plant has started production while construction continues at the site. Mr. Hausner is planning a grand opening for the community in the fall.

- 2) Mrs. Patterson expressed her concern about a property owner on Grice Street painting a section of curbing with white paint and another considering painting their section a zebra stripe. She inquired if there was a City ordinance which restricts this type of activity.

Mr. Howell responded the curbing is considered City property and he will evaluate the situation.

**G. Adjournment:**

- 1) Motion to adjourn



**ACTION TAKEN:** Upon a motion made by Mr. Shores, City Council voted unanimously to adjourn the meeting at 7:09 p.m.

Respectfully submitted,

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

**O. Stanhope Anthony III**  
Mayor

**Minutes of May 6, 2013**