

MINUTES

Regular Meeting
City Hall Council Chamber

December 3, 2012
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, 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 Planning Services and Interim Director of Development Services Walter (Walt) Scharer, AICP; and media representatives

Absent: Council Member Joel R. Shores, Jr.

Mayor Anthony called the meeting to order at 6:00 p.m., welcomed all who were in attendance, and recognized former Council Member Kevin Allen. The Mayor gave the invocation and Mr. Mabry led the *Pledge of Allegiance*.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

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

B. Special Presentations:

- 1) US 74 Bypass Project – Dan Grissom, PE, Division Construction Engineer, North Carolina Department of Transportation (NCDOT)

Mr. Howell introduced the subject matter as an informational presentation relating to the construction of the US 74 Shelby Bypass, noting the first phase of the project is within a couple of months from a start date.

Dan Grissom, Division Construction Engineer of the Division of Highways with the NCDOT, began his presentation with a funding snapshot. He summarized the transportation needs which have been identified, including highways and non-highways for 2015 through 2020, total \$54 billion. Mr. Grissom estimated

only \$10.5 billion is available in revenue for this timeframe. NCDOT Division 12 receives approximately \$45 million a year. Altogether this represents a great deal of work to be done in North Carolina.

Mr. Grissom provided historical background information regarding the bypass, stating the concept was introduced in the 1979 Shelby Thoroughfare Plan as a northern route. In 1991 the NCDOT prepared a feasibility study which recommended a southern route. The Shelby Thoroughfare Plan of 1994 adopted by the NCDOT set the route to the north. Mr. Grissom added the draft Environmental Impact Study (EIS) was approved on October 1, 1998 and the final EIS was approved on January 25, 2008.

Mr. Grissom explained the US 74 Shelby Bypass is being built as a four-lane divided highway to interstate standards from Sandy Run Creek on the west side of the City, crossing Buffalo Creek on the east, and ending at US 74 Business in Kings Mountain, North Carolina. The bypass crosses both creeks at their existing bridge locations. The US 74 Bypass interchanges include: Peach Tree Road, Washburn Switch Road, NC 18, Bethlehem Road, existing 74 Bypass, NC 226, and NC 150.

Mr. Grissom discussed the costs associated with the US 74 Shelby Bypass which total \$295,900,000 including construction at \$238,300,000 and right-of-way acquisitions at \$57,600,000.

Next Mr. Grissom elaborated on the segments, being built from west to east, and the timelines as follows:

- R-2707AA from Sandy Run Creek to west of Westlee Street – right-of-way acquisitions are currently underway; construction will begin in February 2013
- R-2707AB from Westlee Street to Artee Road – right-of-way acquisitions are currently underway; construction will begin in August 2013
- R-2707B from Artee Road to east on NC 226 (combined with R-2707AB) – right-of-way acquisitions are currently underway; construction will begin in August 2013
- R-2707C from NC 226 to NC 150 – right-of-way acquisitions will begin in January 2015 with construction to begin in January 2019

- R-2707D from NC 150 to Long Branch Road – right-of-way acquisitions will begin in January 2028 with construction to begin in January 2030
- R-2707E from Long Branch Road to US 74 Business – right-of-way acquisitions will begin in January 2028 with construction to begin in January 2030
- R-2707F paves R-2707 AB and R-2707B – Opens bypass to NC 226 with construction to begin in February 2017
- R2707G paves R-2707C – Opens bypass to NC 150 with construction to begin in January 2030
- R-2707H paves R-2707D – Completes bypass with construction to begin in January 2030

The presentation concluded with discussion about limited access (at interchanges only) and the extended lapses during the construction of the US 74 Shelby Bypass Project.

Council received the information and took no action.

2) Shelby Fire & Rescue Department Strategic Plan Update – Fire Chief William P. Hunt, MPA

Chief Hunt began his presentation with a review of the Shelby Fire & Rescue Department Strategic Plan 2010-2015, which was adopted by Council in September 2010 for the department and set forth management expectations toward achieving accreditation. The plan, utilizing the community-driven strategic planning process, was developed and implemented in conjunction with the department's ongoing efforts toward accreditation through the Center for Public Safety Excellence (CPSE). The Shelby Fire & Rescue Department is a registered agency with CPSE.

Chief Hunt stated the Fire & Rescue Department is in the second year of its five-year Community Driven Strategic Plan. The plan outlines the goals and objectives for completion during the planning period. He added as goals and objectives are management tools, they should be updated on an on-going basis to identify what has been accomplished and to note changes within the organization and the community. Since its adoption, Chief Hunt said the department has made progress on a number of the goals outlined in the plan. He elaborated as to the completion of these objectives as well as those that remain to be completed.

Council received the information and took no action.

Mayor Anthony shared the compliments written in a recent letter he received from Attorney Richard Craver for the outstanding service the Cravers experienced involving the Shelby Fire & Rescue Department as related to an incident at their home on Thanksgiving Day.

3) Code Red Emergency Notification System – Police Chief Jeffrey H. (Jeff) Ledford

Chief Ledford provided preliminary information about an emergency notification system known as Code Red. Emergency Communications Network (ECN) has developed affordable notification services capable of reaching citizens in minutes utilizing current technology and Code Red has emerged as the best product and fit for Shelby. Chief Ledford explained this system allows City officials to telephone either all subscribers or geographically-targeted areas of the City in case of an emergency situation requiring immediate action. The City can determine which neighborhoods or areas are affected and can create a recorded message that describes the emergency and provides directions to the public.

Chief Ledford said the next step in the Code Red Emergency Notification System is to publicize information about the program to the public utilizing all media outlets and to introduce the Community Notification Enrollment process.

Mr. Howell concluded by stating Code Red is an affordable plan for the City of Shelby and will be funded by a grant for the first three years of operation. He added a policy governing Shelby's Code Red access and use will be developed in the very near future.

Council received the information and took no action.

C. Public Hearing:

1) Consideration of a resolution and order permanently closing a partially opened right-of-way on South Lafayette Street: Resolution No. 74-2012

Utilizing a map of the area, Mr. Scharer stated the property owners adjacent to the right-of-way on South Lafayette Street have petitioned the City to close same. He also reminded Council of their previous approval declaring the intent to close a right-of-way known as Everette's Way/Ruby Drive on South Lafayette Street and to schedule this public hearing for the consideration of

same. After review of the matter, staff had no objection to permanently closing this unopened right-of-way, which establishes a new cul-de-sac when closed. However, the City does retain a 20 foot utility easement (10 feet on each side of the line) for any existing infrastructure that may lie within the right-of-way to be closed.

Mr. Scharer recommended Council's approval of the resolution and order.

Mayor Anthony opened the public hearing at 6:58 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:59 p.m.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 74-2012 entitled, "A RESOLUTION AND ORDER PERMANENTLY CLOSING A PARTIALLY OPENED RIGHT-OF-WAY ON SOUTH LAFAYETTE STREET".

D. 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 November 19, 2012
- 2) Approval of Special Event Permit Application:
 - a. The Step One 5K, requested date: September 7, 2013
- 3) Approval of a resolution authorizing the Mayor and City Clerk to sign a reimbursement agreement: Resolution No. 75-2012

END CONSENT AGENDA

E. Unfinished Business:

- 1) Consideration of appointments to City advisory boards and commissions:
 - a. Firefighters' Relief Fund Board of Trustees

Mrs. Parduski reported the term of one incumbent, Andrew Hopper, Sr., concludes January 2013. Mr. Hopper wishes to continue his service.

There are no applications on file in the Clerk's Office.

Mr. Amaya nominated Mr. Hopper for reappointment.

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

b. Keep Shelby Beautiful Commission

Mrs. Parduski reported the terms of four incumbents, Mike Lowery, Jr., Lillian Corprew, Linda Price, and Peter Potemkin, conclude January 2013. All the incumbents wish to continue their service.

There are no applications on file in the Clerk's Office.

Mr. White nominated Mr. Lowery, Mrs. Corprew, Ms. Price, and Mr. Potemkin for reappointment.

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

- 2) Consideration of a resolution making certain findings and determinations, authorizing the filing of an application with the Local Government Commission (LGC), requesting the Local Government Commission to sell bonds at a private sale, approving the financing team and authorizing the distribution of a preliminary official statement in connection with the issuance of revenue refunding bonds by the City of Shelby, North Carolina:
Resolution No. 76-2012**

Mr. Merritt presented Resolution No. 76-2012 for Council's consideration. He then reminded Council of the presentation by a Wells Fargo Securities representative in June 2012 when it was determined the City had an opportunity to realize significant debt service savings through advance or current refunding of Series 2004, Series 2005, Series 2008 revenue bonds, and 1995 State Revolving Fund loans.

Mr. Merritt said an important step in this process is the approval of a preliminary resolution for refunding approximately \$19 million of existing

combined utility system debt. The term of the debt will not be extended beyond the current maturity date of 2029 but will yield, according to current market conditions, approximately \$1 million in interest savings to the City. Specifically, this resolution defines what bonds will be refunded and states that Council does wish to proceed with the refunding. The resolution also sets some basic guidelines such as reasonable cost estimates will be used, no rate increases will be associated with the refunding, and sets a minimum for net present value savings for the refunding. Lastly, the resolution authorizes the City Manager, Finance Director, and City Attorney to file an application with the LGC to move forward with the refunding.

Mr. Merritt added this is a first in a series of actions that will need to be taken by Council as staff continues through the refunding process and with each action he will provide more detailed information to Council.

As an option, Mr. Merritt further stated a parallel refinancing of this debt with a private bank placement is also being pursued. It is possible that instead of the public debt issuance it may ultimately be in the City's best interest from a long-term savings standpoint to pursue this route. He said proposals for the private placement bank refinancing are expected to be submitted within the next week. However, Mr. Merritt advised it is still necessary to approve the proposed resolution so that the public debt refunding track can be followed should the private placement financing not prove more beneficial.

ACTION TAKEN: Upon a motion made by Mr. Bailey, City Council voted unanimously to adopt and approve Resolution No. 76-2012 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 A PRIVATE SALE, APPROVING THE FINANCING TEAM AND AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT IN CONNECTION WITH THE ISSUANCE OF REVENUE REFUNDING BONDS BY THE CITY OF SHELBY, NORTH CAROLINA".

3) Consideration and approval of Foothills Farmers Market Pavilion Design Concept

Mr. Howell introduced Mark Patterson as the project architect for the proposed Foothills Farmers' Market (FFM) Pavilion. As previously arranged, Mr. Howell stated prior to the lease agreement with the City being finalized and before this project went out for bidding, Mr. Patterson would present his pavilion conceptual design to Council for approval.

Next Mr. Patterson provided renderings, including the plan and elevation, of the future FFM Pavilion to be located on City owned property at the corner of East Marion Street and North Morgan Street. He began by stating a great deal of planning and effort have been put forth by many including the FFM Board members, City staff, and the FFM vendors. The multi-use facility is made up of two structures: a steel frame structure and a timber (post and beam) structure. Mr. Patterson detailed the amenities such as the pods for restrooms, storage, office space, a cooler, and a freezer. As for parking, a total of 91 parking spaces will remain and 21 parking spaces will be dedicated to the FFM. There will be 44 vendor spaces. The natural slope of the parking lot location allows for viewing of the proposed stage area which will include lighting and a sound system. The overall dimensions are 130 feet in length and 64 feet in width including 8,800 square feet of space with varying heights of both 11 and 17 feet. The City will provide streetscaping for the project.

To conclude, Mr. Patterson sought for the pavilion to be designed as an iconic building for Uptown Shelby. The bidding process for the project will begin in January 2013.

Discussion followed about grading the slope, maximizing the frontage for a retail standpoint, truck access, and the round entrance section in the metal roof being problematic.

Overall Council provided positive feedback which led to their consensus of the design concept as presented by Mr. Patterson.

F. New Business:

- 1) Consideration of a proposed ordinance to amend the City of Shelby Code of Ordinances in regard to requirements for sidewalks and planting strips: Ordinance No. 73-2012**

As background information, Mr. Scharer reviewed Shelby's Strategic Growth Plan of 2005 which identified sidewalks as a priority in maintaining a sound transportation system within the City. Based on the recommendations of the Strategic Growth Plan, the City of Shelby then completed a Comprehensive Pedestrian Plan in 2007. Utilizing a map, Mr. Scharer stated this plan created eleven pedestrian oriented districts throughout the City. The plan also recommended installation of sidewalks within each district and to connect the districts together. Staff has been including sidewalks as part of conditional use and special use projects since completion of the Comprehensive Pedestrian Plan.

Since sidewalks have been encouraged and desired in Shelby for many years, staff is proposing an ordinance that amends the City of Shelby Code of Ordinances to require sidewalks in new development projects. As part of the proposal, Mr. Scharer said staff has the flexibility to modify the requirements based on the site conditions specifically for topography, geography, drainage features, etc. Staff may also vary the planting strip requirements of the ordinance. He further stated sidewalk construction is not required for single family or two family construction on existing lots of record.

Discussion ensued concerning exemptions to the new requirements for certain development locations and types.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to adopt and approve Ordinance No. 73-2012 entitled, “A PROPOSED ORDINANCE TO AMEND THE CITY OF SHELBY CODE OF ORDINANCES IN REGARD TO REQUIREMENTS FOR SIDEWALKS AND PLANTING STRIPS”.

G. City Manager’s Report: None

H. Council Announcements and Remarks:

1) Mayor Anthony made the following announcements:

- Council members were encouraged to participate in the 2012 Uptown Shelby Christmas Parade on December 16, 2012 at 3:00 p.m.
- Council members were reminded to attend the Fred Blackley Keep Shelby Beautiful 2012 Service Award Luncheon on December 5, 2012 at 12:00 noon at the Don Gibson Theatre
- Council members were reminded to attend the City’s Annual Christmas Luncheon on December 13, 2012 at Shelby City Park from 11:00 a.m. to 2:00 p.m.

The Mayor commended City staff for decorating for the Christmas season throughout City Hall as well as in the Uptown Shelby area. It was noted the Uptown decorations were made possible by Uptown Shelby Association and an anonymous donor.

2) As Shelby’s Lake Norman Rural Planning Organization (RPO) Transportation Advisory Committee (TAC) member, Mr. Mabry reported he attended a joint meeting of both the Gaston Urban Area Metropolitan

Planning Organization (MPO) and the Lake Norman RPO on November 29, 2012. Agenda items discussed included an update on the restructuring of the RPO and MPO as well as an update from NCDOT Highway Division 12 Engineer, Mike Holder, on the US 74 Shelby Bypass Project.

Mr. Scharer, who also attends these meetings, elaborated on the MPO/RPO restructuring process and explained the changes in the proposed boundaries for Cleveland, Gaston, and Lincoln counties in which Shelby will become part of a more centralized geographical area. He added the proposal includes a name change and a continuation of joint meetings.

I. Closed Session:

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

ACTION TAKEN: Mr. Bailey made a motion to enter into a closed session to discuss industrial recruitment pursuant to the appropriate North Carolina General Statute as cited. Mayor Anthony consulted with Mr. Yelton who advised the topic met the statutory requirement for a closed session. The Mayor invited all Council members present, Mr. Yelton, and Mr. Howell to attend. The motion passed unanimously and Council moved into the closed session at 7:44 p.m.

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

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to adjourn the meeting at 8:15 p.m.

Respectfully submitted,

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

**O. Stanhope Anthony III
Mayor**

Minutes of December 3, 2012