

MINUTES

Regular Meeting
City Hall Council Chamber

February 6, 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, Joel R. Shores, Jr., Dicky Amaya; City Manager Rick Howell, City Attorney Robert W. (Bob) Yelton, City Clerk Bernadette A. Parduski, MMC, Interim Director of Finance Elizabeth B. (Beth) Beam, CPA, 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, Director of Public Works Daniel C. (Danny) Darst, Director of Parks and Recreation Charlie Holtzclaw, Director of Development Services Brian L. Pruett, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

Absent: Council Member Dennis C. Bailey

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 former Mayor Les Roark 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, seconded by Mr. Shores, City Council voted unanimously to approve the agenda as presented.

B. Special Presentations:

- 1) Annual Audit Report and Comprehensive Annual Financial Report (CAFR) for Fiscal Year (FY) ended June 30, 2011 – J. P. Jones, Senior Accountant, Martin Starnes & Associates, CPAs, P. A.

Mr. Howell introduced Mr. Jones of Martin Starnes & Associates who conducted and prepared the City's annual audit report for FY ending June 30, 2011, noting the departure of a long term Finance Director, the appointment of an Interim Finance Director, and the hiring of a new auditing firm as key factors affecting the time and effort of the auditing process.

Mr. Jones began his presentation of the City's 2011 audited financial statements by highlighting that the Martin Starnes' report yielded an unqualified opinion on the fair presentation of the basic financial statements in all material respects in conformity with accounting principles generally accepted in the United States. It is also Martin Starnes' responsibility under federal and state regulations, to test controls and compliance with the requirements of laws, regulations, contracts, and grant agreements that have a direct and material effect on the administration of the City's major federal and state programs. Martin Starnes has issued a report on the City's compliance in which no questioned costs were noted.

Mr. Jones described the audit process, which continues year round, and includes planning and risk assessment, interim procedures, as well as final procedures.

Next Mr. Jones summarized and compared General Fund revenues and expenditures for 2010 and 2011, commenting that revenues are flat. He stated fund balance, including non-spendable, restricted, committed, assigned, and unassigned classifications, serves as a measure of the City's available financial resources. Available fund balance as defined by the Local Government Commission (LGC) is calculated as Total Fund Balance less Non-spendable, less Stabilization by State Statute (restricted) which then equals Available Fund Balance. This calculation is utilized as the basis for comparing Shelby to other units of similar size as well as calculating fund balance percentages. The City's total fund balance in 2011 was \$7,920,457 with fund balance available for appropriation at \$4,346,331. The City's available fund balance percentage is at 23.82 percent for 2011.

The audit revealed the top three sources of revenue as property taxes, other taxes and licenses, and unrestricted intergovernmental revenues. Mr. Jones noted the City's top three expenditures were public safety, transportation, and culture and recreation.

Lastly Mr. Jones reviewed the City's enterprise funds, Water, Sewer, Electric, Gas, and Housing Assistance, each showing a positive change in net assets.

Mr. Jones concluded his presentation by encouraging Council to contact him with any questions or concerns about the 2011 audit.

Council received the information and took no action.

2) Shelby's 2012 Big Tree and Goofiest Looking Tree Contests – Don Costner, Chair, Keep Shelby Beautiful (KSB) Commission

Mr. Costner reminded Council that the KSB Commission has been promoting trees as a resource for beautification for many years. KSB has worked on tree ordinances for the City as well as landscaping ordinances and has sponsored the City's Big Tree Contest since 2010.

Mr. Costner announced that KSB wishes to celebrate trees once again by conducting the 2012 Big Tree and Goofiest Looking Tree Contests. The contests are designed to promote awareness of urban trees by searching for the largest tree by circumference or the goofiest looking tree in the City and Extraterritorial Jurisdiction (ETJ).

The 2012 Big Tree and Goofiest Looking Tree Contests begin February 7, 2012 and end March 16, 2012, which is North Carolina Arbor Day.

Winners of the contest will be announced on Saturday, April 28, 2012, at the Arts on the Square Festival with the winners receiving a framed certificate and a small tree. Signs will be placed by the winning trees if allowed by the property owners.

Mr. Costner provided the notable details from the 2011 Big Tree Contest:

- Braxton Clifton, for the Biggest Tree, a Tulip Poplar tree measuring 17 feet and 9 inches in circumference. The tree is located at 1321 Kings Circle.
- Jake Appling for Boy Scout Troop 100, for the biggest Dogwood tree measuring 40 inches in circumference. The tree is located at 1702 East Marion Street.

Mr. Costner said nomination forms will be distributed this week to the elementary and intermediate schools located in the City limits, to Boy Scout and Girl Scout Troops, and the Girls and Boys Clubs. Forms will also be available on the KSB website at www.cityofshelby.com/ksb or by contacting KSB Coordinator Mary Byrnes.

Lastly Mr. Costner said KSB has been awarded for the eighth year in a row, the 2011 Keep America Beautiful President's Circle Recognition Award that recognizes the standards of excellence KSB achieved as an affiliate of Keep America Beautiful. The dollar value of KSB's 2011 programs and project benefits was over \$70,000. This is based on total volunteer hours and donated in-kind services for 2011. The award plaque will be hung in the foyer area of Council Chamber.

Mr. Costner expressed his appreciation to the Mayor and City Council for

their continued support of Keep Shelby Beautiful.

C. Public Hearings:

- 1) **Consideration of an ordinance to extend the corporate limits of the City of Shelby, North Carolina: Ordinance No. 1-2012**

Mr. Scharer confirmed that the owner of the Owl's Eye Vineyard and Winery, LLC has submitted a petition for satellite annexation to voluntarily annex approximately 31 acres located at 1414 Metcalf Road. Utilizing a vicinity map, Mr. Scharer pointed to the subject property, which is adjacent but not contiguous to the City limits and is zoned Residential 20 (R20).

Mayor Anthony opened the public hearing at 6:19 p.m. and invited comments from the public.

Mayor Anthony closed the public hearing at 6:21 p.m.

ACTION TAKEN: Upon a motion made by Mr. Amaya, seconded by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 1-2012 entitled, "AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF SHELBY, NORTH CAROLINA".

- 2) **Consideration of a resolution confirming the City of Shelby's intent to offer an economic development incentive grant: Resolution No. 1-2012**

Mr. Howell stated this public hearing was scheduled in accordance with North Carolina General Statutes by Council to consider the award of an industrial development incentive grant to Baldor Electric Company. The incentives are being offered for an anticipated net new valued investment of approximately \$17 million and the creation of 166 new full-time permanent employment positions over the next five (5) years, which is to take place at 4401 East Dixon Boulevard, the site of the former Copeland facility. If approved, the agreement would provide an incentive grant valued at 65 percent of the previous year's taxes paid for over a ten (10) year period. The final grant will be based on the actual net new investment less applicable depreciation. After that time, 100 percent would be retained by the taxing entities, the City of Shelby and Cleveland County. Mr. Howell concluded by stating the proposed Incentive Agreement is in keeping with the City's policy, the past practice of matching the percentage of incentive grant offered by Cleveland County, and the referenced statute. He recommended approval of the resolution as well as the proposed agreement between the City of Shelby and Baldor Electric Company as presented.

Mayor Anthony opened the public hearing at 6:26 p.m. and invited comments from the public.

Mayor Anthony closed the public hearing at 6:27 p.m.

ACTION TAKEN: Upon a motion made by Mrs. Patterson, seconded by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 1-2012 entitled, "A RESOLUTION CONFIRMING THE CITY OF SHELBY'S INTENT TO OFFER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT".

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. After a second from Mr. Shores, the consent agenda and following items were unanimously approved:

- 1) Approval of the Minutes of the Regular Meeting of December 19, 2011
- 2) Approval of the Minutes of the Special Meeting of January 20, 2012
- 3) Approval of Special Event Permit Applications:
 - a. Shelby Art on the Square and Broad River European Classic Car Show, requested date: April 28, 2012
 - b. Uptown Shelby Association's 2012 Events Calendar
- 4) Adoption of an ordinance authorizing demolition of a dwelling located at 233 Putnam Street: Ordinance No. 2-2012
- 5) Adoption of an ordinance establishing a capital project and budget for the City of Shelby's Airport Grant 36237.16.11.1 Project: Ordinance No. 3-2012
- 6) Adoption of Fiscal Year 2011-2012 Budget Ordinance Amendment No. 7: Ordinance No. 4-2012
- 7) Approval of a resolution adopting the Cleveland County Multi-Jurisdictional Hazard Mitigation Plan for the City of Shelby: Resolution No. 2-2012
- 8) Approval of a resolution adopting and maintaining a Language Access Plan for the City of Shelby: Resolution No. 3-2012

- 9) Approval of a resolution proclaiming a celebration of the City's trees with The Big Tree and The Goofiest Looking Tree Contests: Resolution No. 4-2012
- 10) Approval of a resolution honoring the Girl Scouts of the United States of America (GSUSA) on their 100th Anniversary: Resolution No. 5-2012

END CONSENT AGENDA

E. Unfinished Business:

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

a. Keep Shelby Beautiful (KSB) Commission

Mrs. Parduski reported one longstanding vacancy has rolled over to a new term concluding January 2015. Dana Scoggin has submitted an application for Council's consideration.

Mr. Shores nominated Dana Scoggin.

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

b. Shelby Cleveland County Regional Airport Advisory Board

Mrs. Parduski reported three terms are set to conclude February 2012. The incumbents, Dr. Robert Jones and Dennis Sessom, wish to continue their service. A vacancy was created due to Mr. Amaya's election to City Council and subsequent resignation.

Applications on file in the Clerk's Office include that of Eric Michael Bester and Tom Crider.

Mrs. Patterson nominated the incumbents, Dr. Jones and Dennis Sessom, and Eric Michael Bester.

Mr. Mabry nominated Tom Crider.

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

The vote was as follows:

Dr. Robert Jones received a unanimous vote and was reappointed.

Dennis Sessom received a unanimous vote and was reappointed.

Eric Michael Bester received one affirmative vote (Patterson).

Tom Crider received four affirmative votes (Mabry, White, Shores, and Amaya) and was appointed to a new term concluding February 2014.

2) City of Shelby Annexation Policy revisions

- a. Consideration of a resolution revising the City's policy on consideration of petitions for satellite or non-contiguous annexation of areas into the City of Shelby: Resolution No. 6-2012

In an effort to provide more clarity and certainty regarding when voluntary annexation is to be allowed and/or required, Mr. Howell introduced proposed revisions to the City's annexation policies for Council's consideration.

Mr. Howell stated from time to time, owners of real property outside the City limits may desire to petition for satellite or non-contiguous annexation into the City limits. Current City policy restrictions governing satellite annexation only allows for consideration of areas within the City's extraterritorial jurisdiction (ETJ) or those that directly abut or adjoin the ETJ. It is evident this standard is no longer valid and should be amended to better reflect current conditions.

Mr. Howell recommended establishing as the policy and practice of the City of Shelby that the City follow the provisions of North Carolina General Statute 160A-58.1 when considering a petition. A non-contiguous area proposed for annexation must meet all of the following standards:

- The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the City of Shelby.
- No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the City of Shelby, except as provided by statute where a lawfully adopted agreement with the neighboring city has been adopted.

- The area must be so situated that the City of Shelby will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- If the area proposed for annexation, or any portion thereof, is a subdivision as defined in North Carolina General Statute 160A-376, all of the subdivision must be included.
- The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten (10) percent of the area within the primary corporate limits of the City of Shelby.

Next the City Manager will conduct an analysis to determine if the foregoing criteria are met by the property owner and if immediate annexation of the property is in the best interests of the City. Factors to be considered include geographic proximity to the existing primary City limits and the cost or practicality of extending the full range of municipal services to the property. If annexation is deemed appropriate at that time, the request for annexation will be forwarded to the City Council for consideration. Every petition received and considered by the City must stand on its own merit and will be duly acted upon by the City Council taking into consideration the best interests of the City. City Council shall take into account the financial impact on the City and will evaluate and assess whether or not such annexation would otherwise be in the best interest of the City.

There was discussion regarding expanding the City's ETJ as allowed for under State law, and as approved by the Cleveland County Commissioners.

ACTION TAKEN: Upon a motion made by Mr. Mabry, seconded by Mr. Amaya, City Council voted unanimously to approve and adopt Resolution No. 6-2012 entitled, "A RESOLUTION REVISING THE CITY'S POLICY ON CONSIDERATION OF PETITIONS FOR SATELLITE OR NON-CONTIGUOUS ANNEXATION OF AREAS INTO THE CITY OF SHELBY".

- b. Consideration of a resolution revising the City's policy on consideration of petitions for satellite or non-contiguous annexation of areas into the City of Shelby: Resolution No. 7-2012

Mr. Howell stated it has been the informal policy of the City since May 2004 to require voluntary annexation of any property requesting the extension of sewer service. This policy has been generally followed except in cases where industrial economic development has been present. Council has in these instances made exceptions to the policy.

The proposed policy formalizes and applies to all situations where a property outside the city limits requests an extension of the sewer system and/or applies for sewer service connection to an existing line from the City of Shelby.

Mr. Howell recommended establishing as the policy and practice of the City of Shelby that sewer service shall not be extended to property owners outside of the city limits unless the property owner first petitions for annexation. It is further established as the policy and practice of the City that connection to an existing sewer line by property owners outside the city limits may not occur unless the property owner first petitions for annexation. When a property owner contacts the City requesting sewer service and the property is located outside the city limits, the City will first make a determination as to whether or not extension of sewer service is feasible. If service is feasible, the applicant will be referred to the Planning Department to begin the voluntary annexation process. If a petition for voluntary annexation is not filed, the request for sewer service extension will not be forwarded to the City Council for consideration.

If provision of sewer service is feasible and an annexation petition is filed, staff will conduct an analysis to determine if immediate annexation of the property is in the best interests of the city. Factors to be considered include geographic proximity to the existing primary city limits and the cost or practicality of extending the full range of municipal services to the property. If annexation is deemed appropriate at this time and sewer service provision is feasible, the request for annexation and sewer extension will be forwarded to the City Council for consideration.

If sewer service is feasible but annexation is not recommended by staff taking into consideration the factors mentioned, the request for sewer service extension will be forwarded to the City Council for their consideration with a stipulation that sewer service shall only be granted if the property owner executes a legally binding agreement granting the city permission to proceed with voluntary annexation of the property at any time in the future when it is determined that the full range of municipal services can be provided to the property. The agreement will be in recordable form and will be recorded upon execution. The City Attorney shall be responsible for drafting and executing the necessary agreement.

At any time the City so chooses, properties which have been granted sewer service and which were party to an annexation agreement with the City may be annexed.

Nothing in this policy shall be construed to prohibit the Council from considering other factors relevant to their decision to approve or deny the extension of sewer service to a property outside the city. Satisfaction of the annexation requirements outlined in this policy shall not be considered binding on the Council to approve provision of sewer service.

In instances where industrial recruitment or expansion is facilitated by the extension of City sewer service, special consideration will be granted to the applicant when the conditions below are met:

- To qualify as an industrial project, the applicant's primary business must be manufacturing as classified by the 2010 Standard Occupational Classification System where the first two digits of the applicants business classification code are 51.
- Applicant agrees to comply with all sections of this policy.

Applicants who meet the conditions of industrial recruitment or expansion shall be granted the following considerations:

- Applicants will be eligible to sign a ten-year payment in lieu of annexation agreement; and shall remit an annual fee in an amount equal to 10 percent of annual tax levy based upon current real and personal tax value and the current ad valorem tax rate to the City of Shelby. The applicant's property may not be annexed while the agreement is in effect. Renewals of the payment in lieu of annexation agreement shall be at the discretion of the then-current City Council.

ACTION TAKEN: Upon a motion made by Mr. Amaya, seconded by Mr. Shores, City Council voted unanimously to approve and adopt Resolution No. 7-2012 entitled, "A RESOLUTION REVISING THE CITY'S POLICY ON CONSIDERATION OF PETITIONS FOR SATELLITE OR NON-CONTIGUOUS ANNEXATION OF AREAS INTO THE CITY OF SHELBY".

F. New Business: None

G. City Manager's Report:

- 1) Mr. Howell reminded Council their annual retreat begins Friday, February 10, 2012, at 10:30 a.m. and continues Saturday, February 11, 2012, at 8:30 a.m. at the Airport Terminal Building. The agenda will be made available February 7, 2012.

H. Council Announcements and Remarks:

- 1) Mr. White mentioned the possibility of Council extending an invitation to Don Peeler, the commercial broker who handled the sale of the site known as Buffalo Valley, Inc., to share at a future meeting the proposed plans for the new business, L & L U-Pull-It.

I. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Shores, seconded by Mr. Mabry, City Council voted unanimously to adjourn the meeting at 7:15 p.m.

Respectfully submitted,

Bernadette A. Parduski, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of February 6, 2012