

MINUTES

Regular Meeting
City Hall Council Chamber

November 19, 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, 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 Utilities Brad R. Cornwell, PLS, EI, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, 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., welcomed all who were in attendance, and recognized former Council Member Betsy Fonvielle. The Mayor gave the invocation and Mrs. Patterson 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) (4) pertaining to matters related to the location of industry in the area served by City of Shelby

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 Rhonda Lingerfelt on the occasion of her retirement from employment with the City of Shelby: Resolution No. 66-2012

Mayor Anthony called upon Mrs. Lingerfelt, who recognized her husband, Smith, close friends, and former co-workers as members of her extended family. The Mayor formally read and presented framed Resolution No. 66-

2012 to Mrs. Lingerfelt. He also presented the key to the City and a City lapel pin to Mrs. Lingerfelt in honor of and with heartfelt appreciation for more than 25 years of dedicated service to the City of Shelby in the Utilities, Customer Services, and Finance Departments.

2) REMOVED; TO BE RESCHEDULED

US 74 Bypass Project – Dan Grissom, PE, Division Construction Engineer, North Carolina Department of Transportation

3) Annual Audit Report and Comprehensive Annual Financial Report (CAFR) for Fiscal Year (FY) ended June 30, 2012 – Gaye Dagenhart, CPA, Staff Accountant, Martin Starnes & Associates, CPAs, P. A.

Mrs. Dagenhart began her presentation of the City's 2012 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, grant agreements, and other matters 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.

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

Next Mrs. Dagenhart summarized and compared General Fund revenues and expenditures for 2011 and 2012. She 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 2012 was \$7,701,814 with fund balance available for appropriation at \$4,601,273. The City's available fund balance percentage is at 24.21 percent for 2012.

The audit revealed the top three sources of revenue as property taxes, other revenues, and other taxes and licenses. Mrs. Dagenhart emphasized the

City's continued diligence in the collection of property taxes by maintaining a collection percentage near 98 percent positively influenced the total unrestricted governmental net assets. She noted the City's top three expenditures were public safety, other expenditures, and transportation.

Lastly Mrs. Dagenhart stated the City of Shelby uses enterprise funds to account for its water, sewer, electric, and natural gas operations, as well as its housing assistance program, which the US Department of Housing and Urban Development requires to be accounted for in an enterprise fund. She reviewed the unrestricted net assets at the fiscal year-end in the Water Fund which were \$3,498,615; in the Sewer Fund were \$1,214,179; in the Electric Fund were \$4,980,447; and the Gas Fund were \$10,495,901.

Mrs. Dagenhart concluded her presentation by encouraging Council to contact her with any questions or concerns about the 2012 audit.

Council received the information and took no action.

C. Public Comment:

- 1) Susan Mellon who resides at 806 McGowan Road in Shelby, North Carolina expressed her concerns regarding speeding and excessive traffic in the Kenwood Heights neighborhood. Since the 1970s, along with an increasing population and the construction of Walmart and the Lowe's Home Improvement Store, the traffic issues have multiplied significantly to become an even greater matter of public safety. Mrs. Mellon stated the City's previous traffic study of the area was flawed due to its location, which produced estimates that were too low in her opinion. She provided a petition signed by her neighbors and produced her own video for review. Mrs. Mellon reiterated that Kenwood Heights, including McGowan Road, is considered a neighborhood and not a main road. She suggested the City consider the alternatives to rectifying the traffic issues which include speed humps and/or traffic calming.

D. Consent Agenda:

ACTION TAKEN: Mayor Anthony presented the consent agenda. Mr. Amaya 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 5, 2012
- 2) Approval of Special Event Permit Application:

a. 2013 Cleveland County March for Babies 5K and Walk, requested date:
October 5, 2013

3) Approval of a resolution revising the City of Shelby Customer Services
Policy Manual: Resolution No. 71-2012

END CONSENT AGENDA

E. Unfinished Business:

1) First Broad Wastewater Treatment Plant Improvements and Outfall
Improvements Projects:

Mr. Howell introduced several items related to the First Broad Wastewater Treatment Plant Improvements and Outfall Improvements Projects for Council's consideration. He reminded Council that at their annual retreat and at subsequent meetings, staff has discussed the need for the Wastewater Treatment Plant upgrades as well as the outfall improvements to meet new and more stringent treatment limits that will become effective for the City of Shelby on August 1, 2016. Action on these items is necessary for staff to proceed with moving these projects forward and meeting that deadline.

Next Mr. Howell reviewed the financing for these two related projects which will come from the Clean Water State Revolving Fund (CWSRF) in the form of a 0 percent loan over a 20-year term. The total of the two projects is preliminarily estimated to be \$11,949,300 which breaks down as \$8,550,660 for the plant improvements and \$3,398,640 for the sewer outfall rehabilitations. Initial repayment of these loans will be no sooner than six months after the completion of the projects. The City has received written confirmation that these funds will be loaned to it by the CWSRF.

Upon questioning, Mr. Howell responded it is anticipated that any impact on future sewer rates due to these projects may be mitigated significantly because of the possibility of refinancing outstanding debt or the payoff of existing sewer debt in the spring of 2016.

Mr. Howell stated, if approved, Ordinance No. 71-2012 would establish a budget for improvements to be made at the Wastewater Treatment Plant. This ordinance recognizes the anticipated proceeds from the City's approved financing through the CWSRF to pay the cost of engineering and construction and appropriates the funds from the Sewer Fund reserves to pay the closing costs associated with this project. This ordinance authorizes the expenditure of the identified funding for this specific project.

Mayor Anthony clarified the funding is contingent on approval of the loan through the Local Government Commission (LGC) as well as on meeting all of the milestones, the first milestone being the submittal of an engineering report on January 2, 2013.

- a. Consideration of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's First Broad Wastewater Treatment Plant Improvements Project: Ordinance No. 71-2012

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 71-2012 entitled, "AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S FIRST BROAD WASTEWATER TREATMENT PLANT IMPROVEMENTS PROJECT".

- b. Consideration of a resolution authorizing selection of HDR Engineering, Inc. based on qualifications for the First Broad Wastewater Treatment Plant upgrades: Resolution No. 72-2012

Mr. Howell stated, if approved, Resolution No. 72-2012 would authorize the City Manager to enter into contract negotiations with the recommended engineering firm, HDR, to provide engineering services for the First Broad Wastewater Treatment Plant upgrade project. A Request for Qualifications (RFQ) process was followed in accordance with the North Carolina General Statutes and HDR was recommended by City staff. This process allows the City to first and foremost consider the qualifications of engineering firms interested in the project and then to negotiate a fair and reasonable fee for these services. If unable to negotiate a fair and reasonable fee with HDR then another qualified firm may be selected for negotiation. This process also allows the City the opportunity to select the most qualified firm for the specific parameters of the project and ensures that the City is able to negotiate from a position of strength. Mr. Howell added it is the ultimate goal to contract with a firm that has significant experience with comparable projects and is willing to commit qualified personnel at a fair and reasonable cost to the City.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Resolution No. 72-2012 entitled, "A RESOLUTION AUTHORIZING SELECTION OF HDR ENGINEERING, INC. BASED ON QUALIFICATIONS FOR THE FIRST BROAD WASTEWATER TREATMENT PLANT UPGRADES".

- c. **Consideration of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Outfall Improvements Project: Ordinance No. 72-2012**

Mr. Howell stated, if approved, Ordinance No. 72-2012 would establish a budget for improvements to be made to the First Broad River sewer outfall and the Hickory Creek sewer outfall. This ordinance recognizes the anticipated proceeds from the approved financing through the CWSRF to pay the cost of engineering and construction and appropriates the funds from the Sewer Fund reserves to pay the closing costs associated with this project. This ordinance authorizes the expenditure of the identified funding for this specific project.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 72-2012 entitled, "AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S OUTFALL IMPROVEMENTS PROJECT".

- d. **Consideration of a resolution authorizing selection of McGill Associates, P. A. based on qualifications for the Sewer Collection System upgrades: Resolution No. 73-2012**

Mr. Howell stated, if approved, Resolution No. 73-2012 would authorize the City Manager to enter into contract negotiations with the recommended engineering firm, McGill Associates, to provide engineering services for the Sewer Outfall Improvement project. As previously explained, a Request for Qualifications (RFQ) process was followed in accordance with the North Carolina General Statutes and McGill was recommended by City staff. This process allows the City to first and foremost consider the qualifications of engineering firms interested in the project and then to negotiate a fair and reasonable fee for these services. If unable to negotiate a fair and reasonable fee with McGill then another qualified firm may be selected for negotiation. This process also allows the City the opportunity to select the most qualified firm for the specific parameters of the project and ensures that the City is able to negotiate from a position of strength. Mr. Howell added it is the ultimate goal to contract with a firm that has significant experience with comparable projects and is willing to commit qualified personnel at a fair and reasonable cost to the City.

ACTION TAKEN: Upon a motion made by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 73-2012 entitled, "A RESOLUTION AUTHORIZING SELECTION OF MCGILL ASSOCIATES, P. A.

BASED ON QUALIFICATIONS FOR THE SEWER COLLECTION SYSTEM UPGRADES”.

Mr. Howell concluded by stating the approval of this project is significant for the City to first and foremost meet the new environmental discharge standards that go into effect August 1, 2016. It is equally important to note that the upgrade of this 50 year old facility is necessary to continue to make Shelby competitive in attracting industry. The City's ability to treat wastewater discharges from business and industry in an effective and environmentally compliant manner is an important factor in Shelby's economic development efforts. Without updated wastewater treatment facilities the City's ability to compete would be greatly diminished. The availability of adequate capacity and treatment capability is always a key factor in discussions with both new and existing industries.

F. New Business: None

G. City Manager's Report:

1) Mr. Howell provided a brief review of the City's Monthly Financial Summary of the Fiscal Year to date at October 31, 2012, noting the Sales Tax Collections Budgeted and Collected. These figures have slightly exceeded the budgeted numbers, showing some slight growth during the fiscal year 2012. Mr. Howell reiterated his concern given the current ad valorem distribution formula that divides sales tax receipts between Cleveland County and the municipalities based upon the overall tax levy. Significant capital investment in areas within Cleveland County, but outside the municipal limits, will further shrink Shelby's share of these taxes in the coming year. Discussion followed about the City's best approach toward the County Commissioners and/or the legislators to seek a change in the distribution method of the local option sales taxes within Cleveland County.

Mr. Howell noted the City's margin-based rate structure with the Gas Fund and revenues generated from its enterprise funds are typically seasonal by nature.

- 2) Mr. Howell mentioned the City's Five-year Capital Improvement Program is being developed by staff.
- 3) Mr. Howell briefed Mayor and Council on the status of the Job Ready Shell Building No. 2 at the Foothills Commerce Center, stating contract negotiations are ongoing with WHN Architects due to various site issues which were not encountered with the first building. He expected the

matter to be finalized in the very near future.

- 4) As part of the North Carolina Catalyst Program utilizing Community Development Block Grant (CDBG) funds, Mr. Howell and Mr. Scharer participated in a start-up visit on November 15, 2012 with Dennis Branch of the North Carolina Department of Commerce regarding the scope of the Shelby Catalyst Project.
- 5) Mr. Howell informed Mayor and Council that information for their review and response will be forthcoming in order to make preparations for conducting the “Budgetopolis for Real” session.
- 6) Mr. Howell announced future agenda items will include:
 - North Carolina Department of Transportation presentation regarding the US 74 Bypass Project
 - Chief Hunt’s presentation regarding an update on the Shelby Fire & Rescue Department’s accreditation process
 - Chief Ledford’s presentation regarding the Code Red Emergency Notification System

H. Council Announcements and Remarks:

- 1) Mayor Anthony invited all to attend the Community Christmas Tree Lighting sponsored by Uptown Shelby Association on November 23, 2012 at 7:00 p.m. on the Court Square.

The Mayor and Chief Ledford attended an appreciation program hosted by Mt. Calvary Baptist Church on November 18, 2012. He expressed his thanks and gratitude to Pastor Lamont Littlejohn for recognizing the City of Shelby, the Shelby Police Department, and the Shelby Fire & Rescue Department for their dedicated service to the community.

I. Closed Session:

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

ACTION TAKEN: Mr. Shores 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 7:06 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. Shores, City Council voted unanimously to adjourn the meeting at 7:53 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

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