

MINUTES

Regular Meeting
City Hall Council Chamber

June 6, 2011
Monday, 6:00 p.m.

Present: Mayor W. Ted Alexander, presiding; Council Members Christopher H. (Chris) Mabry, O. Stanhope (Stan) Anthony, III, Jeanette D. Patterson, Dennis C. Bailey, Joel R. Shores, Jr., Andrew L. Hopper, Sr.; City Manager Rick Howell, City Attorney Robert W. (Bob) Yelton, City Clerk Bernadette A. Parduski, MMC, Director of Finance Theodore B. (Ted) Phillips, CPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Utilities Brad R. Cornwell, PLS, EI, Fire Chief William P. Hunt, Director of Parks and Recreation Charlie Holtzclaw, Director of Planning Services Walter (Walt) Scharer; and media representatives

Mayor Alexander called the meeting to order at 6:00 p.m., welcomed all who were in attendance, and commemorated the anniversary of World War II's D-Day this date, June 6th.

Mrs. Patterson gave the invocation and Mr. Anthony led the *Pledge of Allegiance*.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

ACTION TAKEN: Upon a motion by Mrs. Patterson, second by Mr. Hopper, City Council voted unanimously to approve the agenda as presented.

B. Special Presentation:

- 1) Comprehensive Stormwater Management Program Report – Brad Cornwell, Public Utilities Director, and Ben Yarboro, Civil Engineer

Mr. Howell introduced the staff presentation for “Developing Shelby’s Phase II Stormwater Program” as well as the Comprehensive Stormwater Management Program Report. Mr. Howell reminded Council that since 2009 the City of Shelby anticipated being designated as a Phase II Stormwater community. Shelby was designated as a MS4 (municipal separate storm sewer system) by the Environmental Management Commission (EMC) in January 2010. Mr. Howell explained this is a prescriptive and mandatory program passed down through the North Carolina Department of Environment and Natural Resources (NCDENR) from the U S Environmental

Protection Agency (EPA). Since that time, staff has been working to develop a Comprehensive Stormwater Management Program and Report as part of the City's designation and permit application process. Mr. Howell noted that while there are challenges with implementing a new program there are also opportunities. The opportunity with the Phase II designation is to better educate the public about the importance of protecting the quality of water in streams, lakes, creeks, and rivers. In addition it also offers the opportunity to develop a better overall plan and mechanism to ensure that future development adequately constructs and maintains stormwater control facilities. Mr. Howell said the presentation is a required part of the permitting process and is meant to be educational for the elected governing body as well as the public.

Next, as part of the educational process, Mr. Cornwell played a video entitled, "After the Storm: A Citizen's Guide to Understanding Stormwater" co-produced by the EPA and The Weather Channel.

Next Mr. Yarboro began his presentation by defining stormwater as rain falls, it creates runoff from impervious surfaces. This runoff is referred to as stormwater. As stormwater flows, it collects pollutants and stormwater runoff ends up in local streams, creeks, rivers, and lakes as untreated water.

Mr. Yarboro reviewed the legal history of stormwater management as follows:

- Rivers and Harbors Act of 1899
- Public Health Service Act of 1912
- Oil Pollution Act of 1924
- Federal Water Pollution Control Act of 1948
- Water Quality Act of 1965
- Clean Water Act (Federal Water Pollution Control Amendments) –1972
- Phase I –1990, communities serving 100,000 or more
- Phase II –1999, urban areas serving 50,000 or more

Mr. Yarboro stated that identification of Phase II cities comes from Session Law 2006-246, Section 5 of the North Carolina General Statutes. The EMC shall identify a city as a candidate for designation as a regulated city if the municipal separate storm sewer system (MS4) either:

- Discharges stormwater that has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that causes or contributes to a violation of water quality standards, including, but not limited to, any activity that impairs designated uses or that has a significant biological or habitat impact.

- Serves a city that has not been designated pursuant to subdivision (1) of this section and in Shelby's case, a population of more than 10,000.

Mr. Yarboro then presented a sequence of maps depicting the progression of North Carolina Division of Water Quality's protection strategies for stormwater since 2005 to the current Phase II map. He also provided information on the interaction among local municipal, county, and state stormwater programs and the administration of compliance issues.

As an operator of a Phase II designated MS4, Mr. Yarboro stated the City must submit a permit application and a Comprehensive Stormwater Management Program Report to NCDENR by July 2011 and begin implementation after the permit is returned to the City by NCDENR.

With regard to the Phase II permit, Mr. Yarboro reviewed the Standard Conditions including:

- Duty to comply with the Clean Water Act
- Duty to mitigate discharges that threaten health or the environment
- Civil and criminal liabilities for non-compliance
- Duty to provide information to the Division of Water Quality
- Permit actions – may be modified, revoked, reissued, or terminated for cause

Mr. Yarboro said operators of regulated MS4s are required to develop a Stormwater Management Plan (SWMP) that includes measurable goals and to implement stormwater discharge management controls known as best management practices (BMPs). The process of developing, implementing, and evaluating a SWMP is complex and involves working with the State to achieve the City's goals.

Mr. Yarboro outlined the six MS4 program elements termed minimum control measures, citing numerous examples of the measurable goals for each control measure, including timeframes for implementation:

- Public Education and Outreach – 12 months
- Public Participation/Involvement – 24 months
- Illicit Discharge Detection and Elimination – 24 months
- Construction Site Runoff Control – 24 months
- Post-construction Runoff Control – 24 months
- Pollution Prevention/Good Housekeeping for Municipal Operations – 24 months

Permittees are required to assess their progress in achieving their program's measurable goals. Mr. Yarboro included the goals of a Phase II audit evaluation including:

- Determination of compliance status
- Assistance with permit issuance or the renewal process
- Phase II SWMP development assistance
- Assessing pollutants of concern
- Technical assistance

Mr. Yarboro concluded his presentation by sharing interesting, informative sites and sources on Stormwater Phase II as follows:

- North Carolina Session Law 2006-246, Senate Bill 1566 – Implementation of Federal Phase II Stormwater Management Requirements
- EPA website and publications – <http://cfpub.epa.gov/npdes/stormwater/swbasicinfo.cfm>
- DWQ Stormwater Permitting Unit website – <http://portal.ncdenr.org/web/wq/ws/su>
- University of North Carolina Environmental Finance Center – <http://www.efc.unc.edu/>

Next Mr. Cornwell continued the presentation by reviewing the Stormwater Phase II Information Guide Notebook as follows:

- Overview – which introduces Stormwater Phase II Final Rule with the EPA's Fact Sheet Series
- MS4 Program – Shelby owns a municipal separate storm sewer system (MS4) which is a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act (CWA) that discharges to waters of the United States.
- Six Minimum Control Measures
- Permitting – The Stormwater Phase II Final Rule requires operators of certain small municipal separate storm sewer systems (MS4s) to obtain

- National Pollutant Discharge Elimination System (NPDES) permit coverage because their stormwater discharges are considered “point sources” of pollution. All point source discharges are required under the Clean Water Act to be covered by federally enforceable NPDES permits.
- General Assembly Session Law
 - Delineated Municipal Sphere of Influence (MSI) around Shelby includes maps
 - Sample Permit – City of Gastonia draft
 - National Pollutant Discharge Elimination System (NPDES) Permit Application Form
 - City of Shelby Comprehensive Stormwater Management Program Report

Discussion followed and included the need for additional staff to administer the City’s Stormwater Program in the near future and the delineation of the MSI by the EMC in which post-construction stormwater requirements will apply in conjunction with the City’s Phase II permit.

Relating his own experiences as an architect, Mr. Anthony endorsed the Phase II Stormwater Program as positive for the City and complimented staff for their excellent presentation.

Council received the information and will consider a resolution approving and accepting the City of Shelby Comprehensive Stormwater Management Program Report and authorizing City staff to submit an NPDES Stormwater Permit Application for compliance with the Phase II stormwater requirements at their next meeting on June 20, 2011.

C. Consent Agenda:

ACTION TAKEN: Mayor Alexander presented the consent agenda. Mr. Mabry made a motion to approve the consent agenda and each item as presented. After a second from Mr. Hopper, the consent agenda and following items were unanimously approved:

- 1) Approval of the Minutes of the Regular Meeting of May 16, 2011
- 2) Approval of Special Event Permit Applications:
 - a. Shelby Sprint Triathlon and Shelby City Park Kids Fun Run, requested dates: July 29 and 30, 2011

- b. Mt. Calvary Baptist Church Community Explosion, requested date: July 16, 2011
- 3) Approval of a resolution honoring Debbie F. Patterson on the occasion of her retirement from employment: Resolution No. 29-2011
- 4) Approval of a resolution awarding the contract for the City of Shelby FY 2010-2011 Street Resurfacing Program: Resolution No. 30-2011
- 5) Approval of a resolution awarding the bid for the project entitled City of Shelby State and Tribal Assistance Grant (STAG) Trickling Filter Renovation Project at the First Broad river Wastewater Treatment Plant (WWTP): Resolution No. 31-2011
- 6) Approval of a resolution authorizing submission of grant application to the North Carolina Economic Infrastructure Program: Resolution No. 32-2011
- 7) Adoption of a budget ordinance amendment for the City of Shelby's Clearwater Water Line Improvement Project: Ordinance No. 19-2011
- 8) Adoption of a budget ordinance amendment for the City of Shelby's Clearwater Sewer Line Improvement Project: Ordinance No. 20-2011

END CONSENT AGENDA

D. Unfinished Business:

- 1) Consideration of appointments to City advisory boards:
 - a. Planning and Zoning Board

Mrs. Parduski reminded Council that there is a vacancy remaining for a new term which expires June 2014. Applications on file in the Clerk's Office include that of Peter Potemkin and Carl Whaley.

Mr. Bailey nominated Carl Whaley.

By consensus, Council continued the nominations.

- b. Zoning Board of Adjustment

Mrs. Parduski reported that the terms of four incumbents, David Beam, Martha Davis, Bill McCarter, and Eric Bester, are set to conclude July 2011.

Mr. Beam, Ms. Davis, and Mr. McCarter wish to continue their service while Mr. Bester wishes to complete his service. There are no applications on file.

Mrs. Patterson nominated David Beam, Martha Davis, and Bill McCarter.

ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mr. Mabry, City Council voted unanimously to close the nominations and to accept the nominees by acclamation, and to continue the nominations for the vacant alternate position.

E. New Business:

- 1) Consideration of a resolution naming a certain City Park facility in honor of Coach Bill Proctor: Resolution No. 33-2011**

Mayor Alexander acknowledged Chair Allen Langley, Vice Chair Marie Hendrick, and Gene Matheny of the Parks and Recreation Advisory Board in attendance.

Mr. Holtzclaw introduced Resolution No. 33-2011 for Council's consideration. On March 14, 2011 Mr. Holtzclaw said he received a Facility Naming Application Form requesting that the Parks and Recreation Advisory Board consider renaming the National League Baseball Field at Shelby City Park to "Bill Proctor Field". Per the Facility Naming Policy, the advisory board held three consecutive monthly community workshops to discuss and review the application. During these meetings on March 16, April 20, and May 18, citizens appeared and endorsed the naming recommendation to the board.

At the third and final workshop on May 18, the advisory board took action and voted unanimously to recommend to City Council that the request be approved. As indicated on the application, Bill Proctor volunteered his time for over 50 years as a youth coach, starting in the Dover Community and then for decades at City Park. Over those years he coached three sports including baseball, football, and basketball. While many have given significant time and effort to youth sports, Mr. Holtzclaw knew of no other volunteer that has reached this milestone. He added approximately five years ago the Volunteer Coach of the Year Award was named in his honor. Mr. Holtzclaw said it was learned that Coach Proctor truly loved his time coaching little league baseball on the National League Field and hence the request for this particular venue. Mr. Holtzclaw reiterated no other person has ever given as much time to the youth of Cleveland County through volunteer coaching as Coach Bill Proctor. Having adhered to policy, the Shelby Parks and Recreation Advisory Board wholeheartedly endorsed this naming application on May 18, 2011.

Mr. Holtzclaw recommended and requested that consideration be given to the approval of the recommendation to rename the National League Baseball Field at Shelby City Park to “Bill Proctor Field”. Should this request be approved, staff will obtain and install the appropriate signage and ensure that a dedication ceremony take place at the appropriate time.

Mr. Holtzclaw concluded by acknowledging Chair Allen Langley, Vice Chair Marie Hendrick, Gene Matheney of the advisory board as well as Coach Bill Proctor and his family in attendance.

Following Mr. Holtzclaw’s presentation, several Council members shared their personal memories and paid tribute to Coach Bill Proctor, culminating in a standing ovation.

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 33-2011 entitled, “A RESOLUTION NAMING A CERTAIN CITY PARK FACILITY IN HONOR OF COACH BILL PROCTOR”.

Speaking on behalf of the Proctor family, Mitzi Josey, daughter of Coach Bill Proctor, expressed their deep appreciation for this honor.

F. City Manager’s Report:

1) Presentation of the City Manager’s Fiscal Year 2011-2012 Budget Message and Proposed Budget Ordinance and Supplemental Budget Ordinance

Mr. Howell presented his Fiscal Year (FY) 2011-2012 Budget Message dated May 5, 2011 (which is hereby incorporated by reference and made a part of these Minutes) as well as the significant points bearing mention within the proposed budget ordinance and line item budgets. Council has provided their direction through the FY 2011-2012 goals and priorities statement. However, because of the continued economic challenges facing the City and with limited resources, it will be difficult to meet many of these goals without significant additional funding. He stated the City’s budget is balanced, conservative, reasonable, and continues service at the current levels while meeting all the applicable requirements of the North Carolina Local Government Budget and Fiscal Control Act.

Next, Mr. Howell cited some examples of significant expenditure and revenue trends impacting the FY 2011-2012 budget and future fiscal years as follows:

- High costs of fuel due to dramatic price fluctuations, mainly increases, within the past year in particular. Price fluctuations for a gallon of

regular unleaded gasoline have varied by 55 percent within the current fiscal year and by 58 percent for a gallon of diesel fuel. Fuel consumption by City departments has remained relatively flat, approximately 200,000 gallons annually, with little variation over the past five years.

- A continuing decline in Powell Bill revenues from the State of North Carolina has exacerbated the backlog of street resurfacing and maintenance projects. Powell Bill revenues have decreased 21 percent since 2007.
- The property tax base continues to grow only slightly and since it is the major source of revenue in the General Fund it is unlikely services can be maintained at current levels without tax rate increases, a reduction in services, or a combination thereof. The rate has remained at 43.5 cent per \$100 valuation since July 1, 2007.

Mr. Howell summarized the utility enterprise funds as follows:

- **Water Enterprise Fund Revenues – Water Charges** – There is no water rate increase included in this budget. The water customer base has been flat for several years and overall consumption is expected to continue to decline slightly.
- **Sewer Enterprise Fund Revenues – Sewer Charges** – There is no sewer rate increase included in this budget. The sewer customer base has been flat for several years and overall consumption is expected to continue to decline slightly.
- **Electric Enterprise Fund Reserves – Electric Charges** – A 7.5 percent rate increase is recommended in this budget. A 5 percent wholesale power cost increase from the North Carolina Municipal Power Agency 1 becomes effective July 1, 2011. The proposed rate increase will account for this increase as well as offset the remaining portion of the revenue loss from 2009 when the 5 percent wholesale cost was not passed on to customers. The electric customer base is flat and overall usage is expected to remain steady with only incremental growth.
- **Natural Gas Enterprise Fund Reserves – Margin Rate Charges** – A 5 percent reduction in the natural gas operating margin rate structure is included in the budget. Customer base growth in this fund is flat. Natural gas consumption is very susceptible to weather and market price fluctuations therefore annual net margin profits can vary widely.

The Natural Gas Fund Transfer is approximately \$1.8 million this fiscal year. This transfer is equivalent to approximately 11 cents on the property tax rate.

Mr. Howell concluded by stating Council has scheduled a hearing to receive public comment on the FY 2011-2012 proposed budget for June 20, 2011. Additionally, the budget documents are available for viewing at the City's website and for public inspection at City Hall.

G. Council Announcements and Remarks: None

H. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Bailey, City Council voted unanimously to adjourn the meeting at 7:50 p.m.

Respectfully submitted,

Bernadette A. Parduski, MMC
City Clerk

W. Ted Alexander
Mayor

Minutes of June 6, A. D. 2011