

MINUTES

Regular Meeting
City Hall Council Chamber

June 7, 2010
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 (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, Jr., Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

Mayor Alexander called the meeting to order at 6:00 p.m. and welcomed all who were in attendance. Mr. Anthony gave the invocation and Battalion Chief Chris Poston of the Shelby Fire & Rescue Department led the *Pledge of Allegiance*.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

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

B. Special Presentations:

- 1) RST Communications, Inc. – Dan Limerick

Mr. Howell introduced Mr. Limerick who represents RST Communications, a new local business venture which provides broadband fiber optic services.

Mr. Limerick began his presentation by distributing a handout to Council and stating that RST Communications is an independent fiber optic network service provider headquartered in Shelby. Mr. Limerick gave the company's overview as follows:

- Builds fiber optic networks for businesses, residences, municipalities, and utilities
- Has a proven management team

- Has world-class partnerships i.e. Motorola
- Currently developing its deployment plan – fiber optic cables installed underground to Grover Street

Mr. Limerick shared the long-term plan of RST Communications as follows:

- Provide a state-of-the-art fiber optic network
- Deliver affordable 1-gigabit Fiber to the Home (FTTH) interface to every home
- Deliver affordable 1-10 gigabit Fiber to the Business (FTTB) interface to every business
- Deliver a network capable of interfacing to the power utility and provide network energy services management

Mr. Limerick said his proposal has the potential for Cleveland County to have the most advanced fiber optic network and internet services in North America.

Next Mr. Limerick discussed the benefits of a fiber optic network as follows:

- Can reduce costs for legacy networks such as A T & T
- Can attract new information and technology businesses
- Can provide affordable, fast internet as well as new services for schools, hospitals, public safety, municipal services, and utilities
- Can save money by reducing energy consumption and better management of power utility resources
- Will gain regional and national recognition for this fiber optic network infrastructure as a model and leader

Mr. Limerick concluded his presentation by requesting Mayor Alexander and Council's support for his initial proposal, including a pole attachment agreement with the City, in order to extend fiber optic cables from the Magness Road facility to Dekalb Street to Keeter Stadium at Shelby High School. This would allow RST Communications to promote and accelerate deployment of fiber to homes and businesses along the way to test the system and provide RST with valuable feedback about moving the project forward.

Upon questioning, Mr. Howell responded that staff is in the process of reviewing the technical aspects of the project as well as negotiating a pole attachment agreement with RST. Mr. Limerick added that RST is in the process of negotiating a nationwide pole attachment agreement with A T & T.

Council received the information and took no action.

2) Cleveland County Economic Development Partnership (CCEDP) Quarterly Update – Kristin H. Fletcher, Executive Vice President, Economic Development, Cleveland County Chamber

Mrs. Fletcher began her presentation by distributing a handout to Council and stating that with regard to economic development in Cleveland County the collaborative efforts among all partners, public, private, state, and regional, will net the best results for Cleveland County, and CCEDP continuously strives to improve and build solid relationships with their partners.

In the area of new business recruitment, Mrs. Fletcher identified these accomplishments:

- Southern Company broke ground on new facility
- Bell Lines Trucking Company
- Duke Energy Generation Support Center
- Solaris Industries

In the area of existing industry, Mrs. Fletcher specified these accomplishments:

- Baldor Expansion Project
- Kerns Trucking Expansion Project
- Hosted the Industrial Safety Awards Banquet
- Hosted a seminar on Employee Free Choice Act
- Continued existing industry visitation program

Mrs. Fletcher introduced Ken Mooney who was recently hired as the Manager of Existing Industry Relations.

Mrs. Fletcher mentioned other accomplishments in the area of communications and technology as follows:

- Launched new website www.ccedp.com
- Purchased EcoDev Project Management Software
- Improved electronic Request for Proposal (RFP) submissions
- Purchased a state-of-the-art geographic information system (GIS) and mapping technology
- Coordinated e-blasts to site consultants
- Created new prospect packets and brochures and marketing materials for business parks
- Hosted “Experience Cleveland County” tour
- Responded to over 74 project inquiries in 2009

- Began promoting Cleveland County through social media, Facebook and LinkedIn

Mrs. Fletcher provided a summary of projects to date:

- 24 preliminary projects which include 22 new businesses and 2 existing industries
- 20 active projects which include 14 new industries and 6 existing industries

Mrs. Fletcher concluded her presentation by reviewing several CCEDP's 2010 action items as follows:

- Maintain and enhance CCEDP's website
- Study and develop methods and activities that will enhance economic development activities of the community
- Participate in a domestic and/or international marketing mission with the Charlotte Regional Partnership and/or North Carolina Department of Commerce

C. Public Hearing:

- 1) Consideration of a resolution confirming the City of Shelby's intent to offer an industrial incentive grant: Resolution No. 33-2010

Mayor Alexander announced that at the request of the company, through its officials, which would be the recipient of the proposed industrial incentive grant, it is recommended that Council delay conducting this public hearing and taking action on said resolution until June 10, 2010 at 10:00 a.m.

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Hopper, City Council voted unanimously to reconvene on June 10, 2010 at 10:00 a.m. in Council Chamber to conduct the duly advertised public hearing in this matter.

D. Consent Agenda:

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

- 1) Approval of the Minutes of the Special Meeting of May 10, 2010
- 2) Approval of the Minutes of the Regular Meeting of May 17, 2010

- 3) Approval of the Minutes of the Special Meeting of May 18, 2010
- 4) Approval of the Minutes of the Special Meeting of May 26, 2010
- 5) Approval of Notice of Cancellation of Regular Meeting of July 5, 2010 in observance of the Independence Day holiday
- 6) Approval of a resolution honoring William Andrew Thomassen on the occasion of his retirement from employment: Resolution No. 34-2010
- 7) Approval of a resolution honoring Wayne E. Wilson on the occasion of his retirement from employment: Resolution No. 35-2010
- 8) Approval of a resolution accepting and entering into an Agreement with ElectriCities of North Carolina, Inc. and the City of Rocky Mount for a Member Cooperative Bid Agreement for Joint Purchasing of Utility Materials, Supplies, and Equipment: Resolution No. 36-2010

END CONSENT AGENDA

E. Unfinished Business:

- 1) Consideration of an order authorizing the issuance and sale by the City of Shelby, North Carolina of a \$8,346,400 Combined Enterprise System Revenue Bond, Series 2010 and authorizing the execution and delivery of certain documents in connection therewith: Resolution No. 37-2010

Mr. Howell stated that the Local Government Commission (LGC) of the State Treasurer's Office has notified him that the City's application requesting approval to allow consideration of an order authorizing the issuance and sale by the City of \$8,346,400 of Combined Enterprise System Revenue Bonds has been granted. The adoption of Resolution No. 37-2010 is essentially the last step necessary for Council before the financial closing that is scheduled for June 10, 2010. Mr. Howell reminded Council that these funds have already been expended to construct the Westside water and sewer projects as well as pay for the PPG natural gas regulator station which is now under design. The reserve funds for both water and sewer will be proportionately reimbursed as previously noted to Council. The natural gas project will be directly funded with the bond proceeds. It is important to note that the cash flow for the Westside water and sewer projects was used to accelerate construction of these two important projects and that the delay in the issuance of these bonds and subsequent reimbursement of the reserve funds was due to the market conditions and interest from prospective banks.

Previously, via Resolution No. 30-2010, Mr. Howell said the City requested the LGC to sell the Series 2010 Bond at private sale without advertisement to Bank of America, N. A., the successful low bidder.

ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mr. Mabry, City Council voted unanimously to approve and adopt Resolution No. 37-2010 entitled, "AN ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE CITY OF SHELBY, NORTH CAROLINA OF AN \$8,346,400 COMBINED ENTERPRISE SYSTEM REVENUE BOND, SERIES 2010 AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH".

2) **Consideration of appointments to City Advisory Boards and Commissions:**

a. **Keep Shelby Beautiful Commission**

Mrs. Parduski reminded Council that due to a resignation reported in April 2010, there remains a vacancy for the unexpired term concluding January 2011.

By consensus, Council will continue the recruitment process.

b. **Planning and Zoning Board**

Mrs. Parduski reported the terms of three incumbents, Marty Allen, Scott Bankhead, and Mike Royster, are set to conclude June 2010. All three incumbents wish to continue their service.

Mr. Shores nominated Marty Allen, Scott Bankhead, and Mike Royster for reappointment to new terms concluding June 2013.

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

3) **Consideration of the City Manager's Proposed Budget for Fiscal Year 2010-2011**

Mr. Howell presented his Budget Message dated May 28, 2010, which is hereby incorporated by reference and made a part of these Minutes, and summarized the following:

All Funds

- The overall City budget of \$60,344,150 is down 2% or approximately \$1,300,000 from the current adopted budget of \$61,625,402.
- Employee raises are not included in the budget. Performance pay raises have not been available in 5 out of the last 6 years.
- Employee health insurance benefits are reduced.
- No new positions are funded.

General Fund

- The current property tax rate is recommended to remain the same at 43.5 cents per \$100 of assessed valuation.
- It is recommended that the garbage collection fee be increased by \$1.00 from \$5.70 to \$6.70 per month to cover the tipping fee increase at the Cleveland County landfill. Customers will see an annual increase of \$12.
- Local sales tax receipts are down approximately \$400,000 or 12 percent and are expected to remain flat or decline slightly.

Water Fund

- A debt service payment increase is included to cover the cost of the Westside Industrial Water Improvement Project recently completed.
- With the proposed 12 percent increase, the average customer using 5,000 gallons per month will see their bill rise by \$2.09 per month effective with the July billing cycle.

Sewer Fund

- A debt service payment increase is included to cover the cost of the Westside Sewer Industrial Expansion Project recently completed.
- With the proposed 12 percent increase, the average customer using 5,000 gallons per month will see their bill rise by \$3.56 per month effective with the July billing cycle.

Electric Fund

- The purchase of wholesale power by the City from the North Carolina Municipal Power Agency 1 increased by 4.8% on July 1, 2009 and will increase again by 5.1% on July 1, 2010. The City's cost of purchasing power has increased by approximately \$1,200,000 over the past two years.

- With the proposed 7 percent increase, the average customer using 1,000 Kwhs per month will see their bill rise by \$6.79 per month effective with the July billing cycle.

Natural Gas Fund

- There will be no increase in facility and base rate charges for natural gas customers.

Mr. Howell concluded by stating Council has scheduled a hearing to receive public comment on the FY 2010-2011 Proposed Budget for June 21, 2010 at 6:00 p.m.

F. New Business:

- 1) Consideration of a resolution authorizing acceptance of additional wastewater flow from the Town of Lawndale: Resolution No. 38-2010

Mr. Howell reminded Council of a request for City acceptance of an additional 10,175 gallons of wastewater flow from the Town of Lawndale which was received in March 2010. The request and the information provided were reviewed to determine if the City could accept the requested flow. The proposed resolution would authorize the issuance of a flow acceptance letter to the Town of Lawndale for the stated amount. This action is necessary before the North Carolina Department of Environment and Natural Resources will allow the Town to put their Phase III system expansion into service.

In order to protect capacity within the City's wastewater plant for future use, Mr. Howell suggested Council give consideration to selling capacity for a fee. Wastewater system capacity features include collection systems and mains as well as treatment and discharge facilities. Under North Carolina law, public enterprise water systems are given authority to set rates and fees to cover the costs of operating their system. This authority includes the use of water and sewer impact fees often referred to as capacity fees or system development fees. Ideally, the fee would have some reasonable connection to the size of the demand exerted on system capacity.

Council discussed the sewer service rate paid by the Town of Lawndale and requested the sewer service governmental rate schedule for their review.

ACTION TAKEN: Upon a motion by Mr. Mabry, second by Mr. Anthony, City Council voted unanimously to approve and adopt Resolution No. 38-2010 entitled, "A RESOLUTION AUTHORIZING ACCEPTANCE OF ADDITIONAL WASTEWATER FLOW FROM THE TOWN OF LAWNDALE".

- 2) Consideration of a resolution declaring the intent of the City Council of the City of Shelby to consider the permanent abandonment of a utility easement on a portion of the former Congress Street: Resolution No. 39-2010

Mr. Cornwell reminded Council that pursuant to North Carolina General Statutes a portion of Congress Street was closed via Resolution No. 48-2001. He explained, as part of the resolution, a utility right-of-way was reserved on top of the portion of Congress Street which was closed. This is customary procedure for the City with regard to street closings. The function serves to protect any existing utilities as well as provide for a means for any future utility extensions which could benefit from the closed public right-of-way. City staff received a request from Mr. Yelton who is representing a private client. Mr. Yelton's client inquired about the potential abandonment of the utility easement which was reserved in the former street closing. To this date, the City has not utilized this reserved right-of-way, nor does the City have any existing utilities within this reserved right-of-way. Mr. Yelton's client owns the properties on either side of the former Congress Street, and is desirous of combining both properties for new development. This proposed development would be sited on the middle of both properties once combined, and be on top of the area which was reserved for the utility right-of-way. Mr. Cornwell reviewed this request with his staff and each utility with the City, and found no need for this reserved utility easement to remain. The parcels in question are surrounded by each of the four City utilities, and the City has no need to create any additional loop of any of the systems. As duly noted, staff can find no just reason to reserve this utility right-of-way for an indefinite period of time.

While there are no formal procedures outlined in the General Statutes for the abandonment of utility rights-of-way, Mr. Yelton, in his capacity as City Attorney, advised that the City follow the formal procedure for abandonment of streets as founded in North Carolina General Statute 160A-299. Staff recommended approval of the Resolution of Intent to conduct a public hearing on this matter on July 19, 2010.

ACTION TAKEN: Upon a motion by Mr. Anthony, second by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 39-2010 entitled, "A RESOLUTION DECLARING THE INTENT OF THE CITY COUNCIL OF THE CITY OF SHELBY TO CONSIDER THE PERMANENT ABANDONMENT OF A UTILITY EASEMENT ON A PORTION OF THE FORMER CONGRESS STREET".

G. City Manager's Report

- 1) Mr. Howell reminded this year's attendees, Mr. Hopper, Mr. Anthony, and Mr. Bailey, that the North Carolina League of Municipalities Town Hall Day is set for June 16, 2010.

H. Council Announcements and Remarks:

- 1) Upon questioning by Mr. Mabry, Mr. Howell responded that construction of the new airport terminal is anticipated to be complete about August 1, 2010 and opening events will be planned accordingly.

I. Recess:

- 1) Motion to recess

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mrs. Patterson, City Council voted unanimously to recess to reconvene on Thursday, June 10, 2010, at 10:00 a.m. in Council Chamber.

Respectfully submitted,

Bernadette A. Parduski, MMC
City Clerk

W. Ted Alexander
Mayor

Minutes of June 7, A. D. 2010