

MINUTES

Regular Meeting
City Hall Council Chamber

April 7, 2014
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric Hendrick, David W. White, Jeanette D. Patterson, Dennis C. Bailey, Ben Kittrell, Dicky Amaya; City Manager Rick Howell, City Clerk Bernadette A. Parduski, NCCMC, MMC, City Attorney Robert W. (Bob) Yelton, Director of Finance Justin S. Merritt, MPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Utilities Brad R. Cornwell, PLS, EI, Fire Chief William P. Hunt, MPA, Director of Public Works Daniel C. (Danny) Darst, Jr., Director of Parks and Recreation Charlie Holtzclaw, Director of Planning and Development Services Walter (Walt) Scharer, AICP; and media representatives

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 Mr. Kittrell led the *Pledge of Allegiance*.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

Mayor Anthony announced the addition of a Closed Session, Item I-1, as follows:

- To establish or instruct staff concerning the position to be taken by or on behalf of City Council in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease, as permitted under North Carolina General Statute 143-318.11(a) (5)

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

B. Special Presentation:

- 1) Earl Scruggs Center and Don Gibson Theatre updates – J. T. Scruggs, Destination Cleveland County Board of Directors/Earl Scruggs Center Chair; Stan Lowery, Executive Director, Don Gibson Theatre; and Emily Epley, Executive Director, Destination Cleveland County

Mr. Scruggs began the presentation with a brief history of the volunteer-driven, unique public-private partnership organization known as Destination Cleveland County (DCC), which began in 2006. After years of research and development, DCC began its fundraising campaign in 2008 with a goal of soliciting \$9.5 million for two catalyst projects, The Don Gibson Theatre and The Earl Scruggs Center. To date, Mr. Scruggs stated over \$8.5 million has been raised by DCC. The theatre, which was the first project completed, opened in November 2009 and will celebrate its fifth year anniversary this year.

On behalf of DCC, Mr. Scruggs expressed appreciation to all the volunteers and the City of Shelby for their assistance and continued support.

Next Mr. Lowery presented an update for calendar year 2013 which highlighted the happenings at the Don Gibson Theatre. He stated there were 19,780 visitors to the theatre, hosting 70 days of event rentals and producing 25 concerts with attendance averaging 72 percent of capacity. Reports from local hotels state the theatre generated 450 room nights of stay.

Mr. Lowery discussed the breakdown of the patrons who visit the theatre as follows:

- Shelby residents – 43 percent
- Travel less than 50 miles – 29 percent
- Travel more than 50 miles – 19 percent
- Out-of-state visitors with 21 states represented – 6 percent
- Visitors from Charlotte, North Carolina include 3 percent
- Visitors from six foreign countries

Mr. Lowery stated attendance for concert events has steadily increased by 11 percent over 2012, 24 percent over 2011, and more than 50 percent over 2010. He added Uptown Shelby restaurants boast a 35 percent increase in revenues on show nights.

Mr. Lowery said the theatre maintains strong partnerships and relationships with many organizations including the Shelby Police Department, Christian Cooperative Extension, the Boys and Girls Club, the Cleveland County Arts Council, the Foothills Merry Go Round Festival, Teen Summit, the Junior Charity League, and the Earl Scruggs Center.

Mr. Lowery elaborated on what is new about the theatre in 2014 including:

- The theatre is obligated to collect sales tax as of January 2014.

- A new ticketing company, Vendini, is in place with tracking system features.
- Website enhancements
- A bi-directional marketing campaign and joint tour efforts in conjunction with the Earl Scruggs Center
- A public art project funded by the Don Gibson American Music Foundation in which several large replicate LP records featuring the songs of Don Gibson will be painted by selected artists, displayed on Uptown streets for several months, and then auctioned at the annual fundraiser in November 2014 is in the planning stages.

Mr. Lowery concluded by inviting all to visit the theatre and attend an event, expressing his personal appreciation for the continued support.

Next Mrs. Epley began her presentation by providing an outline focusing on the highlights surrounding the newly opened Earl Scruggs Center. She detailed all the grand opening celebration festivities which took place on January 11, 2014 on the Court Square. Activities and events for that day included the dedication, music, designated picking venues, a ribbon cutting, an open house, and were capped off in the evening by “Remembering Earl: Music & Stories”, which featured nationally recognized artists.

With regard to public relations and marketing, Mrs. Epley said Shelby, North Carolina and the Earl Scruggs Center continue to be written about in various bluegrass publications and websites. The community’s story has been covered by The Shelby Star to The Tennessean to The New York Times to The Washington Post. There is also a strong bluegrass community in Japan which has recently launched a publication entitled, Moon Shiner Magazine, and included information about Earl Scruggs for its fan base.

Mrs. Epley reminded Council of her presentation about a book entitled, Blue Ridge Music Trails of North Carolina: A Guide to Music Sites, Artists, and Traditions of the Mountains and Foothills, in 2013. She said inclusion in the Blue Ridge Music Trails promotes Cleveland County’s rich musical heritage throughout the book and features the Earl Scruggs Center in Shelby as a hub location of one of the six regions. A corresponding website has been launched including the Center as a hub site as well. Mrs. Epley anticipated the signage provided by the Blue Ridge National Heritage Area will help increase visitation to the area.

Mrs. Epley stated marketing is currently being developed and directed to small groups and bus groups. Small groups consist of 10 to 30 people and bus groups will be arranged through Blue Ridge Music Trails, North Carolina Travel and Tourism, and bus tour associations.

With regard to education planning and school groups, Mrs. Epley stated it was critical to test North Carolina education standards prior to the promotion of these programs. A plan was developed for elementary through high school students. Test groups included 5th and 9th graders as well as community schools and charter schools.

Mrs. Epley explained how facility rentals are vital to the Center's operating income. The Center has been booking and hosting weddings, business meetings, class reunions, rehearsal dinners, church services, non-profit association meetings, etc. and can accommodate groups ranging in size from 10 to 250 people.

With regard to Cleveland County as a whole, the Center continues its efforts to reach out across the community in many and various ways. It offers free admission to residents on Wednesdays with extended hours from 10:00 a.m. through 6:00 p.m.

With regard to the Center's programming, Mrs. Epley encouraged signing up for a membership which offers early notification and discounts. Exhibits and programs will include anything and everything from music to science.

With the inaugural year in progress, Mrs. Epley emphasized the goal remains to bring local, regional, out-of-state, and international visitors to the Earl Scruggs Center and to send them out into the community to experience more of what Cleveland County has to offer.

Mayor Anthony expressed his appreciation to Mrs. Epley, Mr. Lowery, Mr. Scruggs, and Mr. Hopper for their strong leadership and laudatory efforts on behalf of the community.

Mr. Amaya viewed and complimented the recent television show, Life in the Carolinas' presentation of the "Shelby Town Square Special". He suggested the sponsors who brought the premier screening to the Don Gibson Theatre obtain a website link to the recording for general viewing.

Council received the information and took no action.

C. Public Hearing:

- 1) Consideration of a proposed ordinance amending the Charter of the City of Shelby to change the method of electing the mayor and members of Shelby City Council to nonpartisan primary and election as authorized by North Carolina General Statute 160A-101(7)

Mayor Anthony stated the purpose of the hearing is to consider public comment on the proposal to change the method of electing the mayor and members of Shelby City Council from the current nonpartisan election and runoff method to the nonpartisan primary and election method as authorized by North Carolina General Statutes.

Mayor Anthony opened the public hearing at 6:28 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:29 p.m.

Mr. Yelton advised that Council may consider approval of an ordinance to amend the City Charter at its next regular meeting to be held on April 21, 2014, as previously approved via Resolution No. 12-2014. He will draft the proposed ordinance for their consideration.

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 March 17, 2014
- 2) Approval of Special Event Permit Application:
 - a. Foothills Farmers Market, requested dates: April 5, 2014 through November 29, 2014
- 3) Approval of a resolution honoring Barry Hughes on the occasion of his retirement from employment with the City of Shelby: Resolution No. 15-2014
- 4) Adoption of an ordinance establishing a capital project ordinance and budget for the City of Shelby's Airport Grant 36237.16.12.1 Project: Ordinance No. 14-2014

- 5) Adoption of an ordinance establishing a capital project ordinance and budget for the City of Shelby's Airport Grant 36237.16.13.1 Project: Ordinance No. 15-2014

END CONSENT AGENDA

E. Unfinished Business:

- 1) Consideration of a proposed ordinance to amend the Unified Development Ordinance of the City of Shelby: Ordinance No. 16-2014

Mr. Scharer introduced Ordinance No. 16-2014 for Council's reconsideration of a recommendation from the Planning and Zoning Board for the regulation of Solar Energy Systems (SES) in the Unified Development Ordinance (UDO). He reminded Council the matter was referred back to the Planning and Zoning Board with comments from Council taken at the February 17, 2014 meeting. Specifically, Council considered the proposed ordinance and tabled this issue due to concerns about setbacks in the Industrial Zoning Districts and language in the decommissioning section.

Mr. Scharer stated a special review committee made up of solar industry leaders, environmental officials, county and municipal planners, and other state officials have developed a model SES ordinance that can be adapted and applied to communities in North Carolina. City staff analyzed this model ordinance and proposed several possibilities to the Planning and Zoning Board.

The proposed zoning amendment, creating a set of development standards, has been reviewed by the Planning and Zoning Board over the course of several months. The Planning and Zoning Board reviewed the sections under question and unanimously recommended changes to the setbacks within the Industrial Zoning Districts; however, unanimously recommended retaining the 100 foot setback from a single family dwelling. In addition, the Planning and Zoning Board unanimously recommended changes to the decommissioning section in consultation with the North Carolina School of Government, which changed the language from party responsible for decommission to SES developer.

Mr. Bailey reiterated that he cannot support the recommendation and requested the setback requirement from a single family dwelling adjacent to an Industrial Zoning District be changed to 50 feet because other industrial businesses can be as close as 30 feet to a resident's property line. He preferred the ordinance mirror current Light Industrial standards which are less restrictive than the current proposal.

Mayor Anthony urged Council to consider the proposed ordinance based on its merits and no other zoning issues at this time.

Discussion continued and led to the following revision under Table 10-9-2: Parcel Line Setbacks:

- For light and general industrial zoning districts, a 50 foot setback for SES equipment from any residential dwelling unit.

ACTION TAKEN: Upon a motion made by Mr. Bailey, City Council voted unanimously to approve and adopt Ordinance No. 16-2014 entitled, “A PROPOSED ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF SHELBY, as amended”.

- 2) Consideration of an ordinance establishing a capital project ordinance and budgets for the City of Shelby’s Foothills Commerce Center Roadway and Waterline Extension Projects: Ordinance No. 17-2014

Mr. Howell introduced Ordinance No. 17-2014 for Council’s consideration. If approved, this ordinance would appropriate funding for the extension of Commerce Center Drive to the south and Partnership Drive to the east. It would also extend a 12-inch waterline along Partnership Drive to the east. Mr. Howell explained these improvements were previously committed by Council by the Incentive Grant Agreement with Greenheck Fan. They are not only necessary for this project but also will serve future development sites within Foothills Commerce Center (FCC) and possibly adjoining properties. These extensions are mutually beneficial to the City and Greenheck as the FCC continues to develop.

Mr. Howell made reference to a map illustrating the limits of the anticipated work. He recommended creating two separate capital projects to account for these costs proposed as FCC Roads Project Phase 2 and FCC Waterline Project Phase 2, respectively.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 17-2014 entitled, “AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY’S FOOTHILLS COMMERCE CENTER ROADWAY AND WATERLINE EXTENSION PROJECTS”.

F. New Business:

- 1) Consideration of an ordinance of the City of Shelby, amending

Section 10-132 of Article III of Chapter 10: Ordinance No. 18-2014

Mr. Howell introduced the proposed ordinance amendment which pertains to the current Sidewalk Café requirements found in the City Code. In order to provide flexibility within the ordinance and address unique situations, he submitted the following recommendation. This amendment would essentially alter the “temporary barrier” requirement and allow the City Manager to specifically either require a barrier or not depending upon the circumstances. In some cases the barrier simply contributes an additional obstacle that takes up space on the sidewalk but in others it may make sense to require the barrier to avoid pedestrian congestion and collisions in very busy café settings.

Discussion concluded that the main concern is compliance with the five-foot-wide unobstructed contiguous walkway within the public sidewalk area for use by pedestrians and handicapped accessibility as required by the current code regardless of whether a chain or barrier is necessary or appropriate for the café setting.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted 5 to 1 (Patterson) to approve and adopt Ordinance No. 18-2014 entitled, “AN ORDINANCE OF THE CITY OF SHELBY, AMENDING SECTION 10-132 OF ARTICLE III OF CHAPTER 10”.

G. City Manager’s Report:

- 1) Mr. Howell provided brief updates on several completed and ongoing projects as follows:
 - All utility extensions to KSM Castings are complete and operational.
 - The second job ready shell building at Foothills Commerce Center is nearing completion and there continues to be very positive recruiting activity at the site.
 - Site selection for Shell Building No. 3 is in process and a recommendation to Council will follow in the very near future.
 - The First Broad River Wastewater Treatment Plant Upgrades Project is in the bidding process and bids are due April 15, 2014.
 - With regard to the Foothills Farmers Market Shade Pavilion Project, Area Specialist Marvin Hutchison with the US Department of

Agriculture Rural Development, who was in attendance, confirmed and announced he received a notice to proceed with construction today.

- The repairs to the City Park golf shop and tennis courts funded by the Friends of the Parks and the City are nearing completion.
- The City has reapplied for a Baseball Tomorrow grant that could assist in funding additional lighting at City Park's baseball fields.

H. Council Announcements and Remarks:

- 1) Mr. Hendrick acknowledged reporter, Molly Phipps, from The Star in attendance and expressed his appreciation to her for informing and keeping the citizens aware of City business.

He also acknowledged and welcomed the citizens in attendance.

- 2) Mr. Bailey reported on his attendance at the Gaston-Cleveland-Lincoln Metropolitan Planning Organization (MPO) meeting of March 27, 2014, stating there were no significant decisions made at this time; however, all public hearings have been conducted regarding the draft version of the 2040 Metropolitan Transportation Plan (MTP) and Conformity Determination Report and the public comments presented. He reiterated prioritization of projects is based on data only.

Mr. Scharer added the previous State Transportation Improvement Plan (STIP) projects have been scored and published. The next round of 500 projects, which are statewide and new, have been submitted by Divisions and MPOs. These projects will be scored and added to the list. Lastly, Divisions and MPOs assign points to the projects based on the scoring which are ultimately published.

- 3) Mr. Amaya recently visited the Shelby-Cleveland County Regional Airport and reported on the activities of bidders in town relating to the US 74 Shelby Bypass Project.
- 4) Mr. Kittrell reported on his attendance at the Keep Shelby Beautiful Tree Planting Day on April 5, 2014.

He urged his fellow Council members to patronize Destination Cleveland County venues and events and issued a challenge to each one to become a member of the Don Gibson Theatre Marquee Club.

I. Closed Session:

- 1) To establish or instruct staff concerning the position to be taken by or on behalf of City Council in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease pursuant to North Carolina General Statute 143-318.11 (a) (5)

ACTION TAKEN: Mr. Amaya made a motion to enter into a closed session pursuant to the appropriate North Carolina General Statute as cited. Council consulted with Mr. Yelton who advised that the topic met the statutory requirements for a closed session. The Mayor invited all Council members present and Mr. Howell, Mr. Yelton, and Mrs. Parduski to attend. The motion passed unanimously and Council moved into closed session at 7:00 p.m.

ACTION TAKEN: Upon a motion by Mr. Amaya, City Council voted unanimously to return to regular session at 7:21 p.m.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to adjourn the meeting at 7:22 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of April 7, 2014