

## MINUTES

Regular Meeting  
City Hall Council Chamber

June 17, 2013  
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 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, MPA, Director of Public Works Daniel C. (Danny) Darst, Jr., Director of Parks and Recreation Charlie Holtzclaw, 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., recognized former Mayor Ted Alexander, and welcomed all who were in attendance. The Mayor gave the invocation and Mr. Mabry 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, City Council voted unanimously to approve the agenda as presented.

**B. Public Comment:**

- 1) Rev. John Hayes who resides at 219 Putnam Street in Shelby, North Carolina expressed his concerns about the Southside community. Rev. Hayes stated two houses, 218 and 222 Putnam Street, under the Section 8 Housing Program are creating nuisances in his neighborhood. He requested the City's assistance in rectifying the situation with the properties and to increase police patrols.

**C. Public Hearings:**

- 1) Consideration of an ordinance amending the zoning map of the City of Shelby, North Carolina for 141 Ross Grove Road: Ordinance No. 15-2013

Utilizing a map of the area, Mr. Scharer pointed to the subject property located at 141 Ross Grove Road. The property owner is proposing to change the zoning of the portion of this property that fronts on Ross Grove Road, which is approximately six acres in area, to the RO Residential-Office District. The remainder of the property will maintain the R10 Residential District.

Mr. Scharer stated the RO Residential-Office District is primarily intended to accommodate high density multi-family residences; offices; public and institutional; business, professional, and personal services; and limited support retail businesses. Permitted residential uses include single-family detached dwellings, modular homes, apartments, townhomes, and condominiums. He previously provided a list of all RO permitted uses for Council's consideration at this hearing.

Mr. Scharer added the R10 Residential District is primarily intended to accommodate low density to moderate density single-family detached dwellings and modular homes.

Mr. Scharer concluded by stating the Planning and Zoning Board recommended the proposed zoning map amendment.

Mayor Anthony opened the public hearing at 6:07 p.m. and invited comments from the public:

Mark Patterson whose office is located at 108 West Warren Street in Shelby, North Carolina spoke in support of the rezoning application. Mr. Patterson stated he represents both Dr. Emile Gebel, the property owner, and Young & Associates Family Dental Practice, the party interested in developing two acres of this tract for dental offices.

Mayor Anthony closed the public hearing at 6:08 p.m.

**ACTION TAKEN:** Upon a motion made by Mr. Bailey, City Council voted unanimously to approve and adopt Ordinance No. 15-2013 entitled, "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

2) Consideration of an ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 16-2013

Utilizing a map of the area, Mr. Sharer pointed to the subject property located at 1408 South Lafayette Street. Currently there is a vacant single-family dwelling on this 1.4 acre tract with approximately 207 feet of frontage

on South Lafayette Street. Land uses in the area include single-family residential, retail businesses, service businesses, office businesses, South Lafayette Street United Methodist Church, and the Shelby Middle School.

The requested zoning is General Business. The GB Business District is established as a district in which to accommodate a wide range of retail; business, professional, and personal services; office; and limited wholesale and warehousing uses. Mr. Scharer stated the proposed zoning map amendment is consistent with the Comprehensive Land Use Plan.

Mr. Scharer concluded by stating the Planning and Zoning Board recommended the proposed zoning map amendment.

Mayor Anthony opened the public hearing at 6:11 p.m. and invited comments from the public:

Jackson Smith whose office is located at 610 East Morehead Street in Charlotte, North Carolina spoke as a representative of the applicant, Ashton Properties, Inc., and in support of the application.

Joyce Turner who resides at 1409 Aladdin Street in Shelby, North Carolina spoke against the rezoning application. Mrs. Turner stated her property is located behind the Badcock Home Furniture Store and she does not wish another business to build beside her residence.

Mayor Anthony closed the public hearing at 6:13 p.m.

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted 5 to 1 (Patterson) to approve and adopt Ordinance No. 16-2013 entitled, "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

### **3) Proposed Fiscal Year (FY) 2013-2014 Annual Operating Budget for the City of Shelby**

Following Council's discussion and direction, which took place at the last meeting of June 3, 2013, Mr. Howell provided the formal budget ordinance, which sets the City's level of spending including appropriations, estimated revenues, and the property tax levy, and the supplemental budget ordinance, which sets the City's fees schedule, rates, and level of staffing, for the fiscal year beginning July 1, 2013.

For review purposes, Mr. Howell stated the proposed budget includes:

**Revenues:**

- The current property tax rate of 43.5 cents per \$100.00 property valuation remains unchanged.
- Modest increases in parks and recreation fees, with outside City charges increasing by a higher amount than inside City charges, are included in the fees schedule.
- An appropriation of \$440,000.00 from fund balance available is included.
- An increase in the transfer from the Natural Gas Fund from \$1,800,000.00 to \$2,150,000.00, representing an annual increase of \$350,000.00, is included.
- An increase in the tipping fee charged per ton by Cleveland County from \$33.00 to \$37.65 will result in an annual increased cost to the City of approximately \$55,000.00 based upon previous tonnage reports. It is proposed this cost be passed along to both residential and commercial customers of the City by increasing the monthly collection fee by .58 cents.
- No water or sewer rate increases are included.
- A 5.1 percent increase in the cost of wholesale power from the North Carolina Municipal Power Agency 1 is being passed directly onto customers. Estimated average monthly increase is \$6.03. The total increase in cost to the City from NCMPA 1 is \$847,000.00. This has been reduced from the initial estimate of 6 percent with the reduction of capital as a component of the rate increase.

**Expenditures:**

- A one-time employee performance pay bonus is included and budgeted as non-recurring.
- There is an 8 percent increase in the cost of the employee health insurance plan.
- There is a 6 percent increase in electric utility costs. This includes anticipated rate increases for both the City and Duke Energy, which will affect all City departments.

- Reduction of City funding to Uptown Shelby Association (USA), estimated at \$35,000.00.
- Reduction of the minimum housing code program, reflecting a 50 percent cut in funding available for demolition of dilapidated homes, estimated cost reduction of \$17,000.00.
- A net increase of \$23,000.00 for Police Department lease of office space and other associated costs.
- Reduction in costs across a number of departments including deferring building maintenance/repairs, buildings and grounds maintenance, etc., estimated net cost of reduction at \$70,000.00.
- An increase of \$55,000.00 in annual tipping fees charged at the Cleveland County landfill is included. This increase is offset by the monthly trash charge increase.

Mr. Howell stated the budget must be adopted by Council on or before June 30. If the adoption of the budget is delayed then Council must make interim appropriations for the purpose of paying the City's financial obligations.

Mayor Anthony opened the public hearing at 6:17 p.m. and invited comments from the public:

Jay Gragg who resides at 1003 West Sumter Street in Shelby, North Carolina spoke as President of the Uptown Shelby Association, Inc. (USA) and against the City's major budget cut to USA. Mr. Gragg stated with the recent resignation of their Executive Director, the City's funding reduction severely affects USA's ability to hire and pay a qualified leader for the position at a competitive salary. The budget cut also cripples USA from moving forward with its mission. Mr. Gragg requested Council to reconsider restoring the City's funding to USA.

Ted Alexander who resides at 409 Beaumonde Avenue in Shelby, North Carolina voiced his concern regarding the City's funding reduction to USA, having worked for both USA and the City of Shelby. Former Mayor Alexander provided background information relating to USA's annual appropriation from the City of Shelby after North Carolina discontinued the distribution of the state inventory tax and Cleveland County adopted an additional half-cent sales tax to replace the lost revenue from the state. The City then approved increasing its annual appropriation to USA equivalent to a percentage of the former reimbursement income. Mr. Alexander added USA has worked with the City for the past 30 years in making the Uptown area one of the best in

North Carolina. He requested Council to reconsider their funding proposal of USA, suggesting the money be appropriated from the City's reserves or transfer.

Hill Hudson who resides at 916 Elizabeth Road in Shelby, North Carolina voiced his concern regarding the City's funding reduction to USA. As one of the original founders of the association, Mr. Hudson stated USA has come to depend on the monetary assistance from the City especially after the USA decision to voluntarily reduce the Municipal Service District tax rate several years ago. This represented a substantial sacrifice; however, the organization continued to operate effectively and successfully. Currently USA has only one fulltime employee and finds itself at a crossroads at this point in terms of staffing, lacking the experience in management. Mr. Hudson requested Council to reconsider their funding proposal of USA.

Richard Hooker, Jr. who resides at 1520 King Arthur Court in Shelby, North Carolina voiced his concern regarding the City's funding reduction to USA as a member of the Board of Directors. Mr. Hooker echoed all the previous comments in support of funding USA. He articulated USA's need to advance the progress of the mission and vision and to stay competitive with a person who will provide leadership that will ensure USA remains a state model in economic development. Mr. Hooker requested Council to reconsider their funding proposal of USA.

Mayor Anthony closed the public hearing at 6:26 p.m.

- a. Consideration of City of Shelby FY 2013-2014 Budget Ordinance No. 17-2013

Mr. White began the discussion by stating he was elected to represent the people, but he was also elected to represent the City of Shelby.

He quoted Oliver Wendell Holmes, Jr., Justice of the U S Supreme Court, on taxes: "I like to pay taxes; with them I buy civilization". "Taxes are the price we pay for a civilized society". Mr. White then asked, "If we don't pay taxes, do we become uncivilized?" "We have to pay taxes to survive". He does not want to see Shelby die.

Next Mr. White illustrated a parallel between the startup of his career and the establishment of Uptown Shelby Association during the 1980s. He did not support the proposed budget; but, for the sake of resolution was willing to vote for it, ultimately requesting to modify it to reinstate \$25,000.00 of funding to USA.

**Mr. Mabry commented that his main focus has been to adjust and adapt to where the City is, not just today, but for future generations and future councils. He said he is not comfortable with the proposed budget. The City is very fortunate to have reserves. If you do not have a solid, healthy background, the future is not going to be as bright as it could be. There is a balancing act with everything.**

**Mr. Bailey agreed with Mr. White's recommendation to reinstate a portion of the funding to USA. He expressed his appreciation to Mr. White for compromising his position on the proposed budget, stating compromise means everybody hurts a little bit. Mr. Bailey conceded the budget options were not easy to agree with, but it is the best alternative at this time.**

**Mr. Mabry added his support to reinstating USA's funding, as proposed, but acknowledged being in conflict with the budget presented.**

**Mr. Amaya stated he was still uncomfortable with the budget. He said a bad decision made with good intentions is still a bad decision. He believed the future of Shelby will be hindered by the budget decision today. He would be excited to spend the funds on capital improvements but to spend the funds on day-to-day expenses is against his principles.**

**Mr. Shores clarified his position of a balanced approach to the budget. He reiterated his early support of Option B which offered a balance of reductions and increased revenues. Mr. Shores provided advice to future councils: If a council gives budget direction to the City Manager, then it should stay the course throughout the budget process. Mr. Shores again stated he will not vote for a budget that raises taxes and utility rates in the same year. He supported Mr. White's recommendation of reinstating \$25,000.00 to USA.**

**Mayor Anthony expressed his appreciation to Council, Mr. Howell, and the City staff for their combined efforts during the entire budgeting process.**

**ACTION TAKEN: Upon a motion made by Mr. White, City Council voted 4 to 2 (Amaya and Mabry) to approve and adopt Ordinance No. 17-2013 entitled, "CITY OF SHELBY FY 2013-2014 BUDGET ORDINANCE", as amended to reinstate \$25,000.00 of funding to Uptown Shelby Association, Inc.**

**b. Consideration of City of Shelby FY 2013-2014 Supplemental Budget Ordinance No. 18-2013**

**ACTION TAKEN: Upon a motion made by Mr. Shores, City Council voted 5 to 1 (Mabry) to approve and adopt Ordinance No. 18-2013 entitled, "CITY OF SHELBY FY 2013-2014 SUPPLEMENTAL BUDGET ORDINANCE".**

**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 Special Meeting of May 29, 2013
- 2) Approval of the Minutes of the Regular Meeting of June 3, 2013
- 3) Approval of Special Event Permit Applications:
  - a. Uptown Shelby Association Alive After Five, rescheduled date: July 4, 2013
  - b. 7<sup>th</sup> Inning Stretch Festival and 5K, requested date: August 10, 2013
  - c. Cleveland Regional Medical Center Walk for Hope, requested date: September 14, 2013
- 4) Approval of a resolution accepting and approving a Pole Use Agreement between the City of Shelby, North Carolina and MCNC: Resolution No. 38-2013
- 5) Approval of a resolution accepting a State Revolving Loan for the construction of the City of Shelby Outfall Improvements Project: Resolution No. 39-2013
- 6) Adoption of FY 2012-2013 Budget Ordinance Amendment No. 9: Ordinance No. 19-2013
- 7) Approval of a reimbursement resolution with regard to installment financings for FY 2013-2014: Resolution No. 40-2013
- 8) Approval of a resolution for the establishment and maintenance of a Combined Utility Capital Reserve Fund for the City of Shelby: Resolution No. 41-2013
- 9) Approval of Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council

**END CONSENT AGENDA**



E. Unfinished Business: None

F. New Business: None

G. City Manager's Report: None

H. Council Announcements and Remarks:

- 1) Mayor Anthony announced the Community Math Academy Gala Celebration, celebrating six years of service, will be held on June 29, 2013 beginning at 6:00 p.m. at Shiloh Baptist Church. He encouraged Council members to attend.

Mayor Anthony shared information obtained from the North Carolina League of Municipalities regarding House Bill 998 Tax Simplification and Reduction Act. As the House and Senate negotiate over tax reform and the state budget, the League remains concerned over the Senate tax proposal which would reduce annual municipal revenues by over \$160 million when fully implemented. The Mayor encouraged Council members to support a tax reform plan that seeks to protect municipal revenues by staying informed on the outcome of the negotiations which are taking place, traveling to Raleigh at the request of the League, and staying connected to the local legislators at the General Assembly.

Mr. Howell also encouraged Council to continue letting legislators know the effect on cities and towns of eliminating the local privilege license tax, the local sales tax on food, and sales tax refunds for local governments. Mr. Howell stated the reduced revenues for Shelby are estimated to be \$700,000.00 over a five-year period and will have adverse consequences on services.

- 2) Mrs. Patterson said with regard to the budget, she wanted the citizens of Shelby to know the Council members still love each other and they were trying to do their best for them.

I. Closed Session:

- 1) To discuss matters relating to the attorney-client privilege exception pursuant to North Carolina General Statute 143-318.11 (a) (3)

**ACTION TAKEN:** Mr. Shores made a motion to enter into a closed session to preserve the attorney-client privilege pursuant to the appropriate North Carolina General Statute as cited. Council consulted with Mr. Yelton who

advised that the topic met the statutory requirement for a closed session. Mayor Anthony invited all Council members present, Mr. Yelton, Mr. Howell, and Mrs. Parduski to attend.

Council moved into closed session at 6:50 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 7:16 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC  
City Clerk

O. Stanhope Anthony III  
Mayor

Minutes of June 17, 2013