

## MINUTES

Regular Meeting  
City Hall Council Chamber

March 19, 2012  
Monday, 6:00 p.m.

**Present:** Mayor O. Stanhope Anthony III presiding; Council Members Christopher H. (Chris) Mabry, David W. White, Dennis C. Bailey, Dicky Amaya; City Manager Rick Howell, City Attorney Andrea Leslie-Fite, City Clerk Bernadette A. Parduski, MMC, Director of Finance Justin S. Merritt, MPA, Assistant Director of Finance Elizabeth B. (Beth) Beam, CPA, Director of Human Resources Deborah C. (Deb) Jolly, Director 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, Director of Parks and Recreation Charlie Holtzclaw, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

**Absent:** Council Members Jeanette D. Patterson and Joel R. Shores, Jr.

Mayor Anthony called the meeting to order at 6:01 p.m., welcomed all who were in attendance, and recognized former Mayor Mike Philbeck. The Mayor gave the invocation and Mr. Bailey 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, seconded by Mr. Bailey, City Council voted unanimously to approve the agenda as presented.

**B. Special Presentation:**

- 1) Uptown Shelby Association, Inc. (USA) update – Wade Nichols, Executive Director

Mr. Nichols began his presentation of USA's annual stakeholder update by reviewing the mission of the Association which is to use the Main Street approach to manage, market, develop, and enhance the quality of life and commerce in historic Uptown Shelby. He stated USA's Board of Directors and many community-minded volunteers helped his staff succeed in a year with tight budgets, allowing USA to continue to shape a stronger commercial, government, and social center for Shelby.

**Mr. Nichols acknowledged the key tasks of USA to be the following:**

- **Promotion of Uptown Shelby as a business, entertainment, and social destination**
- **Economic development in fostering strong businesses**
- **Design for the restoration and improvement of buildings**
- **Support to assist and help develop leadership for the community**

**Mr. Nichols cited currently the Uptown District is home to 73 retail and personal service firms, 14 restaurants and cafes, 72 professional/financial firms, with 44 residences and 15 more coming online later this year thus anticipating 100 to 125 full-time residents in the Uptown District.**

**Mr. Nichols stated the summer event season for Uptown Shelby was designed to bring as many people as possible into Uptown and focuses on family events. The 2011 Alive After Five Program was the 17<sup>th</sup> annual summer series of free concerts and was the pinnacle of their year. The concert series continues to draw visitors from a widening area, and also helps local citizens understand why USA must protect the business district and unique features in Shelby.**

**In 2011 USA marketed Uptown Shelby concerts and family movies under the branding theme of “Thinking Thursdays – Think Uptown”. This branding has helped develop the expectation that there is a great reason to “go Uptown” every Thursday night. Feedback from restaurants and retailers shows that sales are building as a result. Mr. Nichols added sponsorship by USA’s community partners is a significant investment in the quality of life that new companies are seeking for their employees and that residents are looking for in a community where they invest.**

**Next Mr. Nichols reviewed the success of the Fall Livermush Expo as follows:**

- **2011 record attendance establishing 10,000 persons which was a boost for Uptown merchants and restaurants**
- **2012 planning is underway for new activities, more food options, entertainment, and more attendees**
- **Continued partnership with Cleveland County Travel and Tourism and the Arts Council**

**Next Mr. Nichols briefly reviewed the success of the Uptown Shelby Holidays including carriage rides, the community tree lighting ceremony, the introduction of the Taste of the Holidays Shopping and Dining Crawl, and the annual Uptown Shelby Christmas Parade.**

Mr. Nichols stated USA actively advertised and promoted the Uptown district and businesses during the past year with a number of efforts that sought to boost support of locally-owned enterprises. The Shop Local For Better Living campaign, with ads, USA's mural, and editorial support helped generate discussion of the key role of local business in the economic recovery.

In terms of Uptown Shelby's economy, Mr. Nichols shared the following economic metrics:

- Gained 30 new businesses in approximately 3.5 years, creating 112 new jobs, with three new businesses in serious development
- Lost 12 businesses in approximately 3.5 years, involving 23 jobs

Based on 30 years of USA's recordkeeping, Mr. Nichols provided these figures as to the investments made in the Uptown Shelby Municipal Service District (MSD):

- Public funding (includes all non-profit and governmental sources) in 2010-2011 – \$500,000 plus
- Public funding since 1980 – \$12,177,483
- Private funding (includes all corporate and individual sources) in 2010-2011 – \$525,000 plus
- Private funding since 1980 – \$36,956,396
  
- Total since 1980 = \$49,133,879

Concerning economic impact, USA sponsors special events, festivals, promotional programs, and various other events to attract more people into the Uptown district and create a strong, positive image with the public. These promotional programs may range from large scale events, such as Alive After Five concerts, which generate approximately \$5,000 per concert, to an average carriage ride evening at \$2,500, to a Farmers Market day at \$1,500, or to a Don Gibson Theatre concert at \$9,000.

Additional economic impact occurred in January 2011 when USA hosted the North Carolina Main Street Conference, attracting nearly 400 paid participants who spent several days in educational workshops, touring historic Uptown buildings, and taking extra time to sample the shops and restaurants. The conference had a direct economic impact of \$31,600 in hotel spending, and \$91,600 in direct sales of meals, retail goods, fuel, and other services, mostly within the Uptown Shelby district, including the long-term positive impact.

Mr. Nichols then provided USA's upcoming highlights for 2012:

- The 18<sup>th</sup> annual Alive After Five Program
- Uptown Summer Cinema Series with support of the Wells-Fargo Foundation and in partnership with The Don Gibson Theatre
- The Shelby High School Homecoming Parade
- The Fall Festival, Livermush Expo, and Art of Sound Music Festival
- Shopping promotions – Taste of the Holidays, etc.
- Christmas Holidays – Carriage rides, Community tree lighting ceremony, and the Christmas parade
- Façade Improvement Grant Program
- New Business Incentive Grant Program; issuing second edition of The Guide to Launching a New Business in Uptown Shelby

Mr. Nichols concluded his presentation by briefly discussing USA's 2012 challenges specifically:

- To boost retail recruitment and increase promotional activity
- To fine tune for traffic, parking, and bikes
- To fill chronically vacant buildings
- To address needs for upgraded mechanical systems of older buildings for economic viability
- To find ways to enhance streetscape

Council discussed the 2012 Cycle North Carolina "Mountains to the Coast" Fall Ride event and the possibility of a grocery store in the Uptown area with Mr. Nichols.

Council received the information and took no action.

C. Public Comment: None

D. Public Hearing:

- 1) Consideration of a resolution granting a special use permit to Penco Land Company LLC for a multi-family housing development project at 1020 Sue Lane near County Home Road: Resolution No. 12-2012

After taking his oath, Mr. Scharer presented the staff report. Utilizing a map of the area, Mr. Scharer pointed to a site at 1020 Sue Lane near County Home Road being considered for a 48-unit multi-family development. The total area of the site is approximately 4 acres and the subject property is currently vacant.

Mr. Scharer stated a multi-family development with 25 or more units is

permitted by a Special Use Permit in the General Business (GB) zoning district. The Comprehensive Land Use Plan designates the area as a mixed use area. Mixed use area is defined as an area that concentrates a mix of higher-intensity commercial uses and high-density residential uses near major thoroughfares or intersections. Mr. Scharer added the proposal is consistent with the City's Comprehensive Land Use Plan. To the best of staff's knowledge, no non-conformities currently exist on the property and the proposed use will create none. Staff recommended approval of this proposed Special Use Permit Application as submitted.

Prior to the public hearing, Mayor Anthony provided instructions as to the quasi-judicial process. A public hearing is conducted by City Council for sworn testimony concerning facts related to the Special Use Permit. City Council either approves or disapproves the Special Use Permit based on staff recommendations and sworn testimony by the public and/or the applicant.

Mayor Anthony opened the public hearing at 6:21 p.m. and sworn testimony was given as follows:

Mike Philbeck who resides at 1805 Arbor Way Drive in Shelby, North Carolina spoke in support of the Special Use Permit Application submitted by the applicant, Penco Land Company LLC. Mr. Philbeck stated that the applicant has met the responsibility relative to the proposal and the required findings. He requested Council's favorable decision in granting the permit. Mr. Philbeck added the project represents an anticipated investment of approximately \$6 million.

Frankie Pendergraph who resides at 2708 Highway 64 West in Apex, North Carolina also spoke in support of the Special Use Permit Application as the owner of Penco Land Company, LLC. Ms. Pendergraph stated Penco has family apartments in Shelby complexes at Lanier Point I (48 units) and Lanier Point II (40 units). She is the developer of the proposed 48-unit, independent-living senior apartment building designed for residents ages 55 and older to be named Alexandria Place. Penco will offer one and two bedroom units as well as activities and amenities for seniors at Alexandria Place. Ms. Pendergraph submitted project renderings for Council's viewing. She anticipates total development costs to be approximately \$6.2 million.

Mayor Anthony closed the public hearing at 6:32 p.m.

Having heard all of the evidence and arguments presented at the public hearing, Council found and determined that the application of Penco Land Company LLC is complete, and the following conclusions were made:

- The owner of the property Penco Land Company, LLC submitted the required application and site plan for a Special Use Permit.
- According to Article 9-3-1, multi-family dwellings of more than 25 units are permitted in the GB Zoning District with a Special Use Permit issued by City Council.
- The subject parcel lies within the City of Shelby fronting at 1020 Sue Lane in the General Business (GB) District.
- Land use in the surrounding area is a mixture of commercial, institutional, and residential uses.
- The Comprehensive Land Use Plan designates this area as a Mixed Use Area.
- The petitioner has declared that the intended use of the property is for a 48-unit apartment complex with customary accessory uses.
- Other than what is shown on the site plan, no other changes to the site are planned.
- No non-conformities currently exist on the property and none will be created by the requested special use permit.
- The use will not materially endanger the public health or safety if located where proposed and developed according to the plan.
- The use will not substantially injure the value of adjoining or abutting property.
- The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Shelby Land Development Plan.

**ACTION TAKEN:** Upon a motion made by Mr. Amaya, seconded by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 12-2012 entitled, "A RESOLUTION GRANTING A SPECIAL USE PERMIT TO PENCO LAND COMPANY LLC FOR A MULTI-FAMILY HOUSING DEVELOPMENT PROJECT AT 1020 SUE LANE NEAR COUNTY HOME ROAD".

E. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of March 5, 2012
- 2) Approval of a resolution accepting property from Cleveland Healthcare Foundation: Resolution No. 13-2012
- 3) Approval of a resolution accepting donated landscaping services: Resolution No. 14-2012
- 4) City of Shelby Baldor Sewer Pump Station Project and Baldor Water Vault Project:
  - a. Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Baldor Sewer Pump Station Project: Ordinance No. 7-2012
  - b. Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Baldor Water Project: Ordinance No. 8-2012
- 5) Adoption of Fiscal Year 2011-2012 Budget Ordinance Amendment No. 9: Ordinance No. 9-2012

**END CONSENT AGENDA**

**F. Unfinished Business:**

- 1) Consideration of appointments to City advisory boards and commissions:
  - a. Keep Shelby Beautiful (KSB) Commission

Mrs. Parduski reported incumbent, Sandra Renick, has resigned very recently. Mrs. Renick's resignation created a vacancy for an unexpired term concluding January 2015. There is one application on file in the Clerk's Office and it is that of Patti Ellis McMurry.

Mr. Amaya nominated Patti Ellis McMurry.

**ACTION TAKEN:** Upon a motion made by Mr. Amaya, seconded by Mr. Bailey, City Council voted unanimously to close the nominations and to accept the nominee by acclamation.

**b. Shelby Housing and Redevelopment Advisory Board**

Mrs. Parduski reminded Council that longstanding incumbent, George Blue, passed away in January 2012, and his passing created a vacancy for an unexpired term concluding March 2014. The terms of three incumbents, Angenette Homsley, Brenda Marable, and Robert Mike Lowery, Jr., are set to conclude March 2012. Mrs. Homsley, Mrs. Marable, and Mr. Lowery wish to continue their service. There is one application on file in the Clerk's Office and it is that of Andrew L. Hopper, Sr.

Mr. Bailey nominated Andrew L. Hopper, Sr. for the unexpired term.

**ACTION TAKEN:** Upon a motion made by Mr. White, seconded by Mr. Bailey, City Council voted unanimously to close the nominations and to accept the nominee by acclamation.

Next Mr. Bailey nominated the incumbents, Angenette Homsley, Brenda Marable, and Robert Mike Lowery, Jr., for reappointment to terms concluding March 2015.

**ACTION TAKEN:** Upon a motion made by Mr. Mabry, seconded by Mr. Bailey, City Council voted unanimously to close the nominations and to accept the nominees by acclamation.

**G. New Business: None**

**H. City Manager's Report:**

1) Mr. Howell introduced the City's new Finance Director, Justin Merritt. He also publicly recognized and expressed his appreciation to Beth Beam for her service as Interim Finance Director.

2) Approval of Budget Calendar

Mr. Howell reviewed and discussed the tentatively scheduled budget workshops dates with Council: April 30, 2012 at 3:00 p.m.; May 3, 2012 at 12:00 noon; and May 7, 2012 at 6:00 p.m. and requested Council's approval. He will send a reminder via e-mail and request their final confirmation of these dates at their April 2, 2012 meeting.

3) Foothills Farmers Market proposed lease update



Mr. Howell updated Council on the construction of a new facility and lease negotiations for the Foothills Farmers Market. He said several entities are working with the FFM organization to secure the necessary funding and begin construction. The new market would be located on the corner of West Marion and North Morgan Streets, the site of a large City-owned parking lot. Mr. Howell added the City and FFM are currently in the process of negotiating a lease. A portion of the parking lot will be leased to the FFM and the remainder will be open to the public at all times. As further progress is made on the project, Mr. Howell will invite Greg Traywick, Cleveland County Cooperative Extension Director, to provide Council with a status update in the near future.

#### 4) Nuisance/zoning code update

As a follow-up to Council's retreat discussions, Mr. Howell said staff and the City Attorney are finalizing specific recommendations regarding the City's nuisance and zoning codes in an effort to make the language stricter, clearer, and ultimately much more enforceable.

#### 5) February 2012 Budget and Financial Report

Mr. Howell provided a brief review of the City's Monthly Financial Summary of the Fiscal Year to date at February 29, 2012, commenting as follows:

- **Current Property Tax Collection** – The collection percentage is good although there is a lack of growth within the levy characterized by stagnation in the tax base as a whole.
- **Sales Tax Collection** – There has been some growth and improvement in these figures and the City is on target to meet budget.
- **Utility Franchise Tax** – Mr. Howell noted the current numbers are behind budget projection and this revenue collection may be weather sensitive to some degree.
- **Solid Waste Fees and Recycling Fees Budgeted and Collected** – With the new recycling program, the City budgeted conservatively and the collection fees are steady at this time.
- **The General Fund Expenditures by Division** are on target to stay within budget projections.

- The General Fund Debt Service represents a very low burden of debt ratio.
- Water Revenue Budget – The City has collected 67 percent of its budgeted revenues through February 2012 and is on target.
- Water Fund Debt Service – There is no significant or major debt retiring from this fund in the near future.
- Sewer Revenue Budget – The City has collected 65 percent of its budgeted revenues through February 2012. Revenues have been tracking flat and declining.
- Sewer Fund Debt Service – Substantial debt will retire from the Sewer Fund in late 2016. In the near future, Council will consider the financing options for the major upgrade with renovations at the Wastewater Treatment Plant required to be complete by 2016.
- Electric Margin Budget – The City has collected 72 percent of its margin generated revenue to date, which is tracking behind budget projections and is completely weather related.
- The Electric Fund Debt Service represents a low burden of debt ratio. No significant or major debt is retiring from this fund in the near future.
- Gas Margin Budget – This fund is tracking behind budget projections. Mr. Howell anticipated that a transfer from reserves to make up the difference will be necessary at the end of the fiscal year. He also advised that this fund is illustrative of why the City should maintain healthy fund balances within the reserves for all utilities.
- Gas Fund Debt Service – Two projects completed in the 1990s contribute to the ongoing debt service of this fund.
- Utility Funds Expenditures by Department – The figures reflect 67 percent of the total expenditures for current fiscal year in the water, sewer, electric, and natural gas funds.

**I. Council Announcements and Remarks:**

- 1) Mr. Bailey mentioned North Carolina gubernatorial candidate, Pat McCrory, was in Shelby on March 16, 2012 for a speaking engagement.

Mr. Bailey added Mr. McCrory congratulated Shelby on its beautiful, thriving Uptown area.

- 2) Mr. Mabry requested Council review the information provided by Mrs. Parduski regarding the Community Relations Council. He also requested the matter be placed on the April 2, 2012 agenda for discussion.
- 3) Mr. Amaya attended his first Isothermal Planning & Development Commission (IPDC) Board of Directors meeting as Shelby's representative on March 13, 2012. As he becomes more familiar through his participation with IPDC, Mr. Amaya will update Council about the Commission's programs and services.
- 4) Mayor Anthony reminded Council members to attend the North Carolina American Legion Baseball Hall of Fame Banquet on March 24, 2012.

The Mayor recognized and welcomed Andrea Leslie-Fite to the Council meeting.

Mayor Anthony announced the "Great Places in North Carolina" contest, sponsored by the North Carolina Chapter of the American Planning Association (APA-NC), which will recognize "Great Main Streets" in North Carolina's mountain, Piedmont, and coastal regions. Voting ends March 30, 2012 and the top five great main streets will be announced in May 2012. The Mayor referred all to The Shelby Star for an article to be written by Alicia Banks about the contest details.

Mr. Howell encouraged and reminded Mayor Anthony and Council to attend the 2012 North Carolina League of Municipalities Regional Legislative Update Meetings and the 2012 ElectriCities of North Carolina Regional Meetings.

**J. Adjournment:**

- 1) Motion to adjourn

**ACTION TAKEN:** Upon a motion made by Mr. Bailey, seconded by Mr. Amaya, City Council voted unanimously to adjourn the meeting at 7:24 p.m.

Respectfully submitted,

Bernadette A. Parduski, MMC  
City Clerk

**O. Stanhope Anthony III  
Mayor**

**Minutes of March 19, 2012**