

MINUTES

Regular Meeting
City Hall Council Chamber

March 5, 2012
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 Andrea Leslie-Fite, City Clerk Bernadette A. Parduski, MMC, Interim Director of Finance Elizabeth B. (Beth) Beam, CPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Utilities Brad R. Cornwell, PLS, EI, 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

Mayor Anthony called the meeting to order at 6:04 p.m. 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

Mr. Bailey requested Item C-4 under the Consent Agenda be removed and placed under New Business as Item E-1 as follows:

- Consideration of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Carolina Thread Trail Implementation Grant: Ordinance No. 5-2012

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

B. Public Hearing:

1) Consideration of a resolution confirming the City of Shelby's intent to offer an economic development incentive grant: Resolution No. 9-2012

Mr. Howell stated this public hearing was scheduled in accordance with North Carolina General Statutes by Council to consider the award of an

industrial development incentive grant to Kendrion FAS Controls, Inc. The incentives are being offered for an anticipated net new valued investment of approximately \$7.5 million and the creation of 57 new full-time permanent employment positions over the next three (3) years, which is to take place at 1100 Airport Road in Shelby. If approved, the agreement would provide an incentive grant valued at 67 percent of the previous year's taxes paid for over a four (4) year period. The final grant will be based on the actual net new investment less applicable depreciation. After that time, 100 percent would be retained by the taxing entities, the City of Shelby and Cleveland County.

Additionally, Mr. Howell explained the One North Carolina Fund offered to Kendrion FAS Controls provides financial assistance, through local governments, to attract business projects that will stimulate economic activity and create new jobs in the State. Companies receive no money up front and must meet job creation and investment performance standards to qualify for grant funds. These grants also require and are contingent upon local matches.

Mr. Howell concluded by stating the proposed Incentive Agreement is in keeping with the City's policy, the past practice of matching the percentage of incentive grant offered by Cleveland County, and the referenced statute. He recommended approval of the resolution as well as the proposed agreement between the City of Shelby and Kendrion FAS Controls, Inc. as presented.

Mayor Anthony opened the public hearing at 6:08 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:09 p.m.

ACTION TAKEN: Upon a motion made by Mrs. Patterson, seconded by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 9-2012 entitled, "A RESOLUTION CONFIRMING THE CITY OF SHELBY'S INTENT TO OFFER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT".

C. 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. Amaya, the consent agenda and following items were unanimously approved:

- 1) Approval of the Minutes of the Regular Meeting of February 20, 2012
- 2) Approval of Special Event Permit Application:
 - a. Care for Carey 5K Run, requested date: October 6, 2012
- 3) Approval of a resolution accepting and entering into an agreement with the North Carolina Department of Transportation to accept grant funding for the Shelby-Cleveland County Regional Airport Project No. 6237.16.10.1: Resolution No. 10-2012
- 4) REMOVED AND PLACED UNDER NEW BUSINESS AS ITEM E-1

Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Carolina Thread Trail Implementation Grant: Ordinance No. 5-2012
- 5) Adoption of FY 2011-2012 Budget Ordinance Amendment No. 8: Ordinance No. 6-2012

END CONSENT AGENDA

D. Unfinished Business: None

E. New Business:

- 1) Consideration of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Carolina Thread Trail Implementation Grant: Ordinance No. 5-2012

With regard to the third paragraph, Mr. Bailey requested the addition of the word, voluntary, as follows: "WHEREAS, G.S. 159-13.2 provides that a City may undertake the construction of a capital asset such as voluntary land acquisition and trail easements along the First Broad River corridor by way of a capital project ordinance providing the necessary balanced budget and funding for the life of the project;"

Mr. Howell advised Council the applicable eminent domain statute (NCGS 40A-3(b)) does not grant the City specific authority to condemn property for trails. The North Carolina General Statutes (NCGS) authorize local governments to use eminent domain for public purposes to carry out their common functions, trail purposes are specifically authorized. Mr. Howell noted it was his recollection that the Town of Carrboro had specific local legislation enacted to allow it to use eminent domain for trail purposes

illustrating the that current statute did not apply to trails. It was Mr. Howell's opinion that trails were not authorized under the statute although a future Council might interpret the statute differently. Mr. Howell further noted that the City of Shelby had throughout its history used the authority very sparingly and to his knowledge only for utility easement purposes.

Mayor Anthony clarified that although eminent domain is a last resort and rarely used, this Council desired to go on record to say that the City needs to voluntarily acquire land and trail easements for the Carolina Thread Trail Master Plan for Cleveland County.

Mr. Scharer made a point of information by stating the granting agency, Carolina Thread Trail, forbids the use of their grant funding along with eminent domain for creating and developing their trails and greenways.

Mr. Shores questioned the placement of the word, voluntary, and suggested the fourth paragraph should read as follows: "NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA: The City of Shelby needs to acquire land and trail easements on a voluntary basis for the Carolina Thread Trail Master Plan for Cleveland County communities."

Discussion ensued. Mr. Howell advised that this is a project budget ordinance; therefore, the NCGS referenced, 159-13.2, refers to Local Government Finance, specifically Project Ordinances, and not the eminent domain statute. Mrs. Leslie-Fite advised there may not be a way to make a text revision consistent with the eminent domain statute because by its very definition eminent domain grants the ability without the voluntary component. Both Mr. Howell and Mrs. Leslie-Fite reiterated any amendment to Ordinance No. 5-2012 is at the discretion of Council.

ACTION TAKEN: Upon a motion made by Mr. Bailey, seconded by Mr. Shores, City Council voted 4 to 2 (Patterson and White) to accept the revision to the fourth paragraph as referenced above.

ACTION TAKEN: Upon a subsequent motion made by Mr. White, seconded by Mr. Bailey, City Council voted unanimously to approve and adopt Ordinance No. 5-2012, "AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S CAROLINA THREAD TRAIL IMPLEMENTATION GRANT", as amended.

Mayor Anthony invited all to attend the Carolina Thread Trail Community Open House on March 8, 2012 beginning at 4:30 p.m. at Shelby City Park.

F. City Manager's Report:

- 1) **Mr. Howell distributed the Budget Calendar for Fiscal Year 2012-2013, tentatively suggesting and scheduling three budget workshop meetings subject to Council's approval.**
- 2) **Mr. Howell briefly discussed the budget drivers for Fiscal Year 2012-2013 including health insurance costs, fuel costs, and employee costs. The City has received health insurance quotes from BlueCross BlueShield of North Carolina (BCBSNC), United Health Care, CIGNA, and the North Carolina League Municipal Insurance Trust with increases ranging between 3.2 and 35 percent. As part of the budget process, Mr. Howell's health insurance recommendation will be based upon the quotes. After having cut the health benefits sharply the past few years, he does not anticipate any significant plan design changes. Mr. Howell will provide Council with the budget numbers, realities, and facts for their consideration, particularly for the possibility of rewarding City employees.**

Discussion followed and included the status of the Health Coaching Program, the City's current health plans (a choice between Blue Options Health Spending Account [HSA] and Blue Options Preferred Provider Organization [PPO]), and informing City employees of the total health claims and premiums paid by the City over time.

- 3) **Mr. Howell announced the City's preliminary grant application to the North Carolina Rural Center for the replacement of the aged Copeland Sewer Lift Station was approved in the amount of \$137,000. The grant award represents 50 percent of the project costs associated with replacing the pump station at the former Copeland facility site now occupied by Baldor. A project budget ordinance will be prepared for Council's consideration.**
- 4) **Mr. Howell updated Council on working with Republic Services to extend the recycling program to small commercial customers. There are some issues which need to be worked through; however, Mr. Howell intends to bring an amended agreement to Council in the near future. The commercial program would most likely be voluntary as there are limitations on the commercial customers who could be served because of safety and accessibility issues.**

Mr. Howell commended Mr. Darst and his staff on the successful launch of the City's recycling program.

G. Council Announcements and Remarks:

- 1) **Mr. Mabry welcomed Andrea Leslie-Fite to the Council meeting. He attended his first Lake Norman Rural Planning Organization Transportation Advisory Committee meeting, sharing that a great deal of critical planning will take place over the next 6 to 12 month period. Mr. Mabry mentioned the Royster family and requested that former Council Member Mike Rosyter's father, Steve Royster, also a former Council Member, be remembered in everyone's thoughts and prayers due to illness.**
- 2) **Mayor Anthony mentioned the recent passing of Kathryn Martin, the wife of former Council Member George Martin, and requested the Martin family be remembered with thoughts and prayers as well.**

Mayor Anthony requested Council's consideration of a recent letter from the Shelby Parks and Recreation Advisory Board requesting the new street off Hartley Drive entering the Recreation and Sports Complex be named "Larry Ware Way" in memory of the late Larry Ware. The Mayor noted Mr. Ware devoted many years of distinguished public service to this community. By consensus, Council directed staff to pursue the request of the Park Board as submitted.

Mayor Anthony announced that Conway Data Inc. is the parent company and publisher of Site Selection Magazine which very recently ranked the Top US Micropolitans for New and Expanded Facilities in 2011 and Shelby, North Carolina claimed the fifth spot on the listing among the national 576 micropolitan areas. (*Clerk's note: The US Census Bureau defines a micropolitan area as a rural county whose largest city does not exceed a population of 50,000. The US has a total of 576 micropolitan areas.*)

Mayor Anthony initiated a follow-up discussion about Council's voting procedure specifically eliminating the current second to motions requirement in order to streamline deliberations as well as give each Council member more power to bring up an issue for discussion and a vote of the entire Council. By consensus, Council directed Mrs. Parduski to draft an ordinance in which a motion shall not require a second for their consideration.

Mayor Anthony mentioned an article which recently appeared in the North Carolina League of Municipalities publication, Southern City. It discussed the University of North Carolina Center for Media Law and Policy Workshop which was held to discuss how to meet the information needs of communities and to come up with proposals to counteract the loss of local coverage due largely to the loss of local newsroom positions resulting in newspapers being stretched too thin or closing up altogether. The Mayor

encouraged Council's collective thoughts about alternative ways of informing the public of the City's message and good work.

- 3) Mr. Shores mentioned Council has been informed that the City has recently completed a review of its credit rating with Moody's, and anticipates receiving very good ratings from both Moody's and Standard & Poor's, which should be positively publicized to the public especially during these difficult economic times.

H. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Mabry, seconded by Mr. Shores, City Council voted unanimously to adjourn the meeting at 7:05 p.m.

Respectfully submitted,

Bernadette A. Parduski, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of March 5, 2012