

## MINUTES

Regular Meeting  
City Hall Council Chamber

May 7, 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 Robert W. (Bob) Yelton, 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 of Utilities Brad R. Cornwell, PLS, EI, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, Assistant Fire Chief Jacob E. (Jake) Whisnant, Director of Public Works Daniel C. (Danny) Darst, Director of Parks and Recreation Charlie Holtzclaw, Director of Housing Bryan T. Howell, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

Mayor Anthony called the meeting to order at 6:00 p.m., welcomed all who were in attendance, and recognized former Council Member Kevin Allen in attendance. The Mayor gave the invocation and Mr. Shores led the *Pledge of Allegiance*.

**A. Approval of agenda:**

- 1) Motion to adopt the proposed agenda

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

**B. Special Presentation:**

- 1) Recognition of Mary Byrnes as the City of Shelby's 2011 Employee of the Year

Mr. Howell called upon Mary Byrnes, City Planner and Keep Shelby Beautiful (KSB) Coordinator with the Planning Services Department, and recognized her as the City's Employee of the Year for 2011. Mrs. Byrnes was nominated by her peers and chosen from four "Employee of the Quarter" selections in 2011 by an employee committee representing all City departments. She is described as a true team player who does an outstanding job and is someone admired by all for being efficient, diligent, well-organized, and dedicated.

Mrs. Byrnes also exhibits a courteous demeanor, friendliness, a strong work ethic, and respect for others. Mr. Howell presented the plaque honoring her as Shelby's 2011 Employee of the Year.

Mayor Anthony congratulated Mrs. Byrnes on behalf of Council and echoed Mr. Howell's complimentary comments, having previously served as a KSB board member himself.

Mrs. Byrnes recognized her husband, Don Byrnes, in attendance.

**C. 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 April 16, 2012
- 2) Approval of Special Event Permit Applications:
  - a. June Bug Jam 5K to benefit Girls on the Run of Cleveland County, requested date: June 2, 2012
  - b. Shelby Fall Liver Mush Expo Art of Sound Music Festival, requested date: October 13, 2012
- 3) Approval of a resolution awarding the contract for the City of Shelby Fiscal Year (FY) 2011-2012 Street Resurfacing Program: Resolution No. 21-2012
- 4) Approval of a resolution directing the City Clerk to determine sufficiency of a voluntary annexation petition from M and B Associates I, LLC: Resolution No. 22-2012

**END CONSENT AGENDA**

**D. Unfinished Business: None**

**E. New Business:**

- 1) Consideration of a resolution approving a financing agreement authorized by North Carolina General Statute 160A-20: Resolution No. 23-2012

Mr. Howell introduced Resolution No. 23-2012 for Council's consideration. He explained the City annually finances the purchase of all its rolling stock, which includes vehicles and equipment, through the issuance of a 59-month, tax-exempt, private placement financing structure for the financing of assets. Each year the total approved amount for rolling stock purchase is bid out to qualified financial institutions.

Mr. Merritt further stated this is an annual action necessary by Council to authorize the financed borrowing for the rolling stock (police cars, service vehicles, and equipment) purchased throughout the current fiscal year. The Finance Department sent a Request for Proposals (RFP) to 10 banks requesting bids on the City's 2011-2012 equipment financing. The total amount to be financed is \$1,250,000.00 and the financing term will be 59 months. The City received proposals from four banks in response. After an evaluation of the proposals submitted by the various banks, it was Mr. Merritt's recommendation that the City select U. S. Bancorp Government Leasing and Financing to finance this equipment. U. S. Bancorp had the lowest interest rate at 1.43 percent for a total cash outlay (principal plus interest) of \$1,510,898.42.

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 23-2012 entitled, "A RESOLUTION APPROVING A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20".

- 2) Consideration of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's R-2707A Plato Lee Road Gas Line Relocation Project: Ordinance No. 20-2012

Mr. Howell introduced Ordinance No. 20-2012 and Ordinance No. 21-2012 for Council's consideration. He explained as the North Carolina Department of Transportation (NCDOT) moves forward with the bidding and construction of the initial phases of the new US Highway 74 Bypass on the western side of the City, it is necessary for the City to relocate utilities that lie within the right-of-way of Plato Lee Road. The presence of City utilities within an NCDOT right-of-way is usually authorized by an encroachment agreement. This agreement gives the City the right to place utilities within the right-of-way but also requires, per North Carolina General Statutes, that should NCDOT undertake construction activity then the City of Shelby would be required to relocate its infrastructure and to pay the associated expenses. Mr. Howell noted NCGS 136-27.1 exempts a municipality with a population of 5,500 or less from utility relocation costs.

Next Mr. Cornwell provided the details as to the first section of the Shelby Bypass scheduled for a let date (bid date) of December 1, 2012. This section is referenced as R-2707A and runs approximately from the existing US 74 Bypass in Mooresboro, North Carolina to just east of Plato Lee Road near Foothills Commerce Center. The City of Shelby has a water line and natural gas line that will be in conflict with the construction of the new US 74 Bypass along Plato Lee Road. Mr. Cornwell stated the new bypass will be on a grade that is approximately 20 feet lower than the current elevation of Plato Lee Road.

Mr. Cornwell added that staff must submit preliminary relocation plans to NCDOT by June 1, 2012 for their review and incorporation into their contracts. Staff has worked with NCDOT to assure the construction work related to the subject natural gas and water line improvements are included in the bids for their highway construction work. Staff needs to begin the design work so that we can submit the applicable information to NCDOT. Consequently, Mr. Cornwell requested the capital project budget ordinances be created for these two utilities to adequately account for the costs separately. Staff will oversee the engineering and select the engineer. NCDOT will oversee construction and will submit invoicing to the City for construction costs associated with the gas and water line relocations. Mr. Cornwell emphasized the estimates are preliminary since design work has not been completed.

Discussion regarding the US 74 Relocation Project followed and included the additional City utility conflicts and costs within the six sections (labeled A through D) of the project and the anticipated completion date of all sections of the new bypass to be 2022.

**ACTION TAKEN:** Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 20-2012 entitled, "AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S R-2707A PLATO LEE ROAD GAS LINE RELOCATION PROJECT".

- 3) Consideration of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's R-2707A Plato Lee Road Water Line Relocation Project: Ordinance No. 21-2012

**ACTION TAKEN:** Upon a motion made by Mr. Mabry, City Council voted unanimously to approve and adopt Ordinance No. 21-2012 entitled, "AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S R-2707A PLATO LEE ROAD WATER LINE RELOCATION PROJECT".

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

- 1) **Mr. Howell and Mr. Merritt are exploring the possibility of refinancing the City's older debt by taking advantage of more favorable interest rates for substantial savings, if available.**
- 2) **Mr. Howell also mentioned an issue between the City and the NCDOT concerning right-of-way construction easements on Washburn Switch Road and Artee Road for Council's future consideration.**
- 3) **Mr. Howell is in the process of finalizing an interlocal agreement with the Cleveland County Water District.**
- 4) **Preliminary budget review of General Fund for Fiscal Year (FY) 2012-2013**

**Mr. Howell prefaced his presentation by stating it would be limited to an overview of the City's General Fund revenues.**

**Mr. Howell reviewed the City Manager's responsibilities in the budget process as well as the Local Government Budget and Fiscal Control Act as follows:**

- **North Carolina General Statute 159-9 designates the City Manager as the budget officer.**
- **North Carolina General Statute 159-11 requires submission of a balanced budget and budget message prior to June 1 each year.**
- **The City Manager is obligated as your Chief Operating Officer to submit a responsible budget that provides for desired service levels and addresses your goals and priorities for the City.**

**Utilizing charts, Mr. Howell provided a summary, description, and explanation of revenue categories within the City's General Fund as follows:**

- **Major General Fund Revenue Streams**
  - **Local Taxes (property tax, local option sales taxes)**
    - **Property Tax (includes two components: tax base valuation and tax rate)**

- ❖ Valuation is County responsibility and is established by January 1 for the following fiscal year.
- ❖ Tax levy equals tax base valuation multiplied by the tax rate (43.5 cents).
- ❖ The estimated percentage of collection for property taxes, which cannot exceed the current collection percentage, is multiplied by the tax levy to determine the revenue estimate for balancing the budget.

Mr. Howell illustrated by graphs Shelby's property tax levy and collections amounts from 2009 through 2012 and illustrated by charts utilizing property tax rates as of July 1, 2011 that the City's property tax rate remains in the lower tier when compared to full service municipalities in the region as well as when compared to municipalities similar in population throughout the State.

- Local Option Sales Taxes
  - ❖ County levy is collected by State; generate approximately \$717 million statewide
  - ❖ All counties levy a 2.0 percent sales tax – 1.5 percent is returned to county on point of delivery and 0.5 percent on per capita basis.
  - ❖ Every April, counties can change the method of distributing local option sales tax revenues within the county from per capita to the proportion of ad valorem tax levies or the other way around. The method chosen by the county board of commissioners determines the division of money within a county area among county and municipal governments for the next year.
  - ❖ Population Distribution – The county commissioners may choose to distribute the proceeds between the county and the municipalities on a population basis. After the total population of each municipality, the distribution of the tax to each unit is on a per capita basis.
  - ❖ Ad Valorem Distribution (current method) – The county commissioners may choose to distribute the net proceeds of the tax collected in their county on an ad valorem basis. If they choose this method, the proceeds must be divided between the county and the municipalities in proportion to the total amount of ad valorem taxes levied by each.

Mr. Howell noted when a county increases tax rates and/or has growth each year and the municipalities in that county hold the line on tax increases or

have minimal growth, it is possible for municipalities in ad valorem distribution counties to find that not only are their sales tax revenues not increasing but that they are lower than the previous year. Mr. Howell utilized a Local Option Sales Tax Distribution FY 2011-2012 chart and Sales Tax Receipts graph from 2003 through 2012 to discuss the percentages and numbers.

- ❖ **Municipalities also receive a hold harmless payment from the State for their share of the 0.5 percent that was given to the State for the Medicaid swap. (In 2007, the General Assembly passed legislation to have the State assume county Medicaid costs, eliminate the Article 44 local sales tax, and raise the State tax rate commensurately. Because the assumption of Medicaid costs did not benefit municipalities, the 2007 legislation provided for municipalities to be completely reimbursed for the loss of Article 44 taxes through a “City Hold Harmless” payment.)**
- **State-collected Local Taxes (Electricity Franchise Tax, Telecommunications Sales Tax, Piped Natural Gas Excise Tax, and Local Video Programming Revenues)**

**Mr. Howell utilized a graph to illustrate Utility Franchise amounts.**

- **User charges (solid waste charges, parks and recreation charges, cemetery lease charges, etc.)**
- **Other local fees and charges (privilege license tax, local occupancy tax, rental car gross receipts tax, animal tax, motor vehicle license tax, cable television franchise tax, 911 charges)**
- **State and federal grants and aid (Community Development Block Grant, North Carolina Parks and Recreation Trust Fund, Byrnes Justice Grant, Governor’s Highway Safety Program, Weed and Seed, Project Safe Neighborhood, Assistance to Firefighters Grant, etc.)**
- **Utility Fund Transfers to the General Fund**
  - **Since FY 2008, the Natural Gas Fund transfer is maintained at approximately \$1.8 million this fiscal year.**

- ❖ The transfer amount is not limited by North Carolina General Statutes, Local Government Commission (LGC) guidelines, or City policy.
  - ❖ The highest transfer was \$2.3 million in FY 2005-2006.
  - ❖ The transfer was reduced after PPG annexation to \$1.6 million in 2006.
- Mr. Howell reiterated that proceeds from the Electric Fund transfer is by City policy and recommendation of the LGC and is fixed at 3 percent of the gross fixed assets value of the City's electric system. Since FY 2009, the transfer from the Electric Fund is maintained at approximately \$535,000 this fiscal year.

Next Mr. Howell briefly discussed the General Fund budget drivers as follows:

- There is no recommendation to fund the Performance Pay System for City employees as no funding is available.
- It is a continuous challenge to contain employee health insurance costs. An increase of 3.2 percent with a change in carrier is indicated for FY 2012-2013.
- The unpredictable price volatility of fuel costs is a lingering concern coupled with the City's reliance on fuel due to the very nature of the services provided.
- A stagnant customer base whose overall utility consumption is on the decline as well as the transition of this base from one that was once impacted by significant industrial use to one more reflecting a residential and commercial influence. The impact being that the same fixed costs are now being paid by fewer customers thus putting pressure on rates.

Mr. Howell concluded by stating it has again been a very difficult budget preparation process. There continues to be numerous challenges facing the City that affect its ability to serve citizens, residents, and customers today and into the future. Mr. Howell also noted that the challenge of addressing the goals and priorities of Council was directly related to the lack of revenue growth. Moving forward to maintain City services is not sustainable considering the current trends presented. Mr. Howell advised Council they must be prepared to openly have the discussion and debate regarding the expectations the citizens have of their City government and what they are willing to do without or continue to pay for now and in the future. Then



Council can make a thorough review of the current service levels to make determinations as to what, if any, services will need to be adjusted.

Mr. Howell said the proposed balanced budget and his budget message will be provided to Council at their next meeting of May 21, 2012.

In preparation for the annual audit process, Mr. Merritt distributed and explained a communication to Mayor Anthony and Council from the City's auditing firm, Martin Starnes & Associates, CPAs, P. A., encouraging contact and soliciting comments and concerns directly to the audit firm.

**G. Council Announcements and Remarks:**

- 1) Both Mr. White and Mr. Shores commended Charlie Holtzclaw and the staff of the Parks and Recreation Department for putting on a great Foothills Merry Go Round Festival and fireworks display on April 28 and 29, 2012.
- 2) Mayor Anthony welcomed Mr. Yelton back after his recent surgery.

The Mayor reminded all to attend the dedication ceremony of Bill Lynn Field on May 8, 2012 at 5:00 p.m., Shelby City Park.

Mayor Anthony encouraged Council members to attend the North Carolina League of Municipalities Town Hall Day on June 6, 2012 in Raleigh, North Carolina.

The Mayor expressed his appreciation to The Star's reporter, Rebecca Clark, for writing a story about the City employee who lost her home to a recent fire.

**H. Adjournment:**

- 1) Motion to adjourn

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to adjourn the meeting at 7:52 p.m.

Respectfully submitted,

Bernadette A. Parduski, MMC  
City Clerk

**O. Stanhope Anthony III  
Mayor**

**Minutes of May 7, 2012**