

MINUTES

Regular Meeting
City Hall Council Chamber

November 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, 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, 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. and welcomed all who were 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

Mayor Anthony informed Council that members of the Clay and Arey families are expected to arrive late for the meeting and requested the Special Presentation take place upon their arrival.

ACTION TAKEN: Upon a motion made by Mr. Shores, City Council voted unanimously to approve the agenda with the understanding the Special Presentation will take place as requested.

B. 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 October 15, 2012

- 2) Approval of the resolution honoring Rhonda Lingerfelt on the occasion of her retirement from employment: Resolution No. 66-2012
- 3) Approval of a resolution declaring the intent of the City Council of the City of Shelby to consider the permanent closure of a right-of-way known as Everett's Way/Ruby Drive on South Lafayette Street: Resolution No. 67-2012
- 4) Approval of a resolution approving a Lease Agreement between the City of Shelby and Compass Aviation Maintenance, LLC for leasing the maintenance hangar to provide aircraft Maintenance and flight instruction services at the Shelby-Cleveland County Regional Airport: Resolution No. 68-2012
- 5) Approval of a resolution approving a financing agreement authorized by North Carolina General Statute 160A-20: Resolution No. 69-2012
- 6) Adoption of Fiscal Year 2012-2013 Budget Ordinance Amendment No. 6: Ordinance No. 68-2012

END CONSENT AGENDA

C. Unfinished Business:

- 1) City of Shelby's R-2707AB (*formerly R-2707A*) Plato Lee Road Gas Line Relocation Project:

Mr. Howell introduced several items related to the US 74 Bypass Project for Council's consideration. As previously discussed, he stated the presence of City utilities within a North Carolina Department of Transportation (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. Noting the net effect of approximately \$700,000 on the City's reserves, Mr. Howell reiterated the inherent fairness and monetary issues due to this statutory requirement as a matter for legislative discussion.

Next Mr. Cornwell reminded Council of the adoption of Budget Ordinance No. 20-2012 (referenced as Project R-2707A) to account for the relocation costs of the City of Shelby natural gas line which will be in conflict with the new US 74 Bypass on Plato Lee Road. Since that time, the City received an NCDOT Utility Agreement for the newly named Project R-2707AB US 74 Bypass Gas

Line Relocation on Plato Lee Road, increasing construction costs from \$100,000 to \$126,045.00. This estimated cost, which is subject to change, will be included within the NCDOT contracts for bypass construction. The City will reimburse NCDOT the actual costs of relocation once construction is completed. NCDOT developed their estimate for purposes of inclusion within the agreement.

Mr. Cornwell recommended executing the Utility Agreement denoting \$126,045.00 in increased construction costs and revising the budget ordinance to reflect the inclusion of the NCDOT costs as well.

- a. Consideration of a resolution accepting and approving a utility relocation agreement between the City of Shelby and the North Carolina Department of Transportation for relocation of natural gas utilities on Plato Lee Road in conflict with the proposed US 74 Bypass: Resolution No. 70-2012

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Resolution No. 70-2012 entitled, “A RESOLUTION ACCEPTING AND APPROVING A UTILITY RELOCATION AGREEMENT BETWEEN THE CITY OF SHELBY AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR RELOCATION OF NATURAL GAS UTILITIES ON PLATO LEE ROAD IN CONFLICT WITH THE PROPOSED US 74 BYPASS”.

- b. Consideration of a budget ordinance amendment for the City of Shelby’s R-2707AB (formerly R-2707A) Plato Lee Road Gas Line Relocation Project: Ordinance No. 69-2012

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 69-2012 entitled, “A BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY’S R-2707AB (FORMERLY R-2707A) PLATO LEE ROAD GAS LINE RELOCATION PROJECT”.

- 2) Consideration of an ordinance establishing a capital project Ordinance and budgets for the City of Shelby’s R-2707AA US 74 Bypass Gas Line Relocation Project: Ordinance No. 70-2012

Mr. Cornwell stated NCDOT has recently claimed conflicts on some natural gas lines that are on the A section of the bypass on Kimbrell Road and Westlee Street near Lattimore, North Carolina. Thus, the natural gas line relocation portion and design negotiations are ongoing. Staff has attempted to put together a realistic number for the expected relocation. This

particular area has a significant amount of crossing/realignment of existing roads, which will cause the relocation of the natural gas lines at the City's expense since they are within the NCDOT right-of-way by encroachment. Mr. Cornwell anticipated that the City can perform this work using its own contractors and having better control over final costs. It is his intention with this section of the natural gas system on Kimbrell Road and Westlee Street to oversee and manage this project in-house.

Mr. Cornwell recommended creating a new budget ordinance to reflect the costs associated with Project R-2707AA, which will cover the portion of relocation required on Kimbrell Road and Westlee Street to meet NCDOT standards. If approved, this ordinance appropriates \$337,510 from the natural gas reserve funds for this project.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 70-2012 entitled, "AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S R-2707AA US 74 BYPASS GAS LINE RELOCATION PROJECT".

D. Special Presentation:

1) Honoring the life and memory of George W. Clay, Jr.: Resolution No. 60-2012

Mayor Anthony acknowledged Dr. Clay III, Robert and Candy Arey, and former Mayors Les Roark and Mike Philbeck in attendance. The Mayor formally read and presented the framed Resolution honoring the life and memory of George W. Clay, Jr. to Dr. Clay.

Next former Mayor Roark reminisced about George Clay being his lifelong friend who was a great citizen and a great mayor. They served concurrently on Shelby City Council for many years.

Mr. Arey remembered his "Uncle George" and Mrs. Arey said she was proud to have been included as a member of the Clay family.

Former Mayor Philbeck memorialized George Clay as a gentleman who had a disarming ability in contentious situations. They also served concurrently on Shelby City Council for one term.

Mayor Anthony expressed his personal gratefulness and that of the City of Shelby to Dr. Clay for his father's service. The Mayor admired and respected George Clay for his friendliness, inspiration, and being a role model.

E. New Business: None

F. City Manager's Report:

Mr. Howell updated Council on several pending and upcoming agenda items as follows:

- **Foothills Farmers Market Project – Finalizing lease agreement; awaiting conceptual drawings and renderings**
- **Cleveland Mall Lift Station Replacement Project – Bidding stage with anticipated completion of project by mid-2013**
- **Shelby Wastewater Treatment Plant Upgrades and Outfall Rehabilitation – Project budget ordinances will be coming forward for consideration**
- **Transportation Infrastructure Asset Management Plan – Staff is moving forward with development**
- **Wells Fargo and bond refunding/refinancing of existing debt – A tentative timetable for Council's action and approval has been proposed**
- **Presentation of the 2011-2012 audit report and Comprehensive Annual Financial Report – Tentatively scheduled for the meeting of November 19, 2012**
- **Job Ready Shell Building No. 2 Project – Currently negotiating an agreement with WHN Architects for the design services of the project**

G. Council Announcements and Remarks:

- 1) **Mayor Anthony mentioned an update with the scheduling of the "Budgetopolis" workshop. Mr. Howell said he working with the School of Government to develop a similar priority setting exercise, which will apply specifically to Shelby so as to provide a good foundation for budget discussions.**
- 2) **Mr. White requested information regarding the Foothills Farmers Market lease and Mr. Howell provided the following details: The 10-year lease agreement with a 10-year option to renew is between the City of Shelby, as owner, and the Foothills Farmers Market, designated as a 501(c) (3)**

organization. It is structured to protect the United States Department of Agriculture's (USDA) investment as well as the investments of several other entities. It is also a cash project with an anticipated four to six month timeframe for completion.

- 3) Mr. Mabry requested the status of the City's Phase II Stormwater Permit. Mr. Howell responded he has received notification from the North Carolina Division of Water Quality and the official approved permit is expected very shortly.
- 4) Mrs. Patterson proposed Council consider an ordinance requiring the removal of pet animal fecal matter similar to the ordinance recently adopted by the City of Kings Mountain. Discussion followed and it was suggested further consideration of the issue continue at the next meeting.
- 5) Mr. Mabry expressed his appreciation to the Public Works staff for their efforts with leaf removal.

Both Mayor Anthony and Mr. Mabry heard and received many compliments related to City staff about the collaborative local events, including the Hog Happnin', Connect, Commit to Change, and the Rhythm and Roots Walk and 5K and 10K Runs, held at Shelby City Park this past weekend. Mr. White and Mr. Bailey added their praises for the Parks and Recreation, Utilities, and Police Departments.

6) Mayor Anthony made the following announcements:

- November 6 – Election Day
- November 8 – Shelby's Health, Benefits, and Safety Fair at City Park
- November 11 – Cleveland County's Veterans Program at the Court Square
- November 14 – Shelby's Veterans' Day Appreciation Luncheon at the Don Gibson Theatre

H. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Mabry, City Council voted unanimously to adjourn the meeting at 6:51 p.m.

Respectfully submitted,

**Bernadette A. Parduski, NCCMC, MMC
City Clerk**

**O. Stanhope Anthony III
Mayor**

Minutes of November 5, 2012