

## MINUTES

Regular Meeting  
City Hall Council Chamber

July 18, 2011  
Monday, 6:00 p.m.

**Present:** Mayor W. Ted Alexander, presiding; Council Members Christopher H. (Chris) Mabry, O. Stanhope (Stan) Anthony, III, Jeanette D. Patterson, Dennis C. Bailey, Joel R. Shores, Jr.; City Manager Rick Howell, City Attorney Leslie A. (Les) Farfour, City Clerk Bernadette A. Parduski, MMC, Director of Finance Theodore B. (Ted) Phillips, 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 Housing Bryan T. Howell, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

**Absent:** Council Member Andrew L. Hopper, Sr.

Mayor Alexander called the meeting to order at 6:00 p.m. and welcomed all who were in attendance. The Mayor recognized Boy Scout Spencer Teddy of Troop 100 hosted by Shelby Presbyterian Church. On behalf of the City of Shelby and City Council, Mayor Alexander expressed condolences to the Yelton family on the recent loss of Martha Jo Porter Yelton.

Mr. Shores 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 by Mrs. Patterson, second by Mr. Bailey, City Council voted unanimously to approve the agenda as presented.

**B. Special Presentations:**

- 1) Recognition of Debbie F. Patterson on the occasion of her retirement from employment with the City of Shelby: Resolution No. 29-2011

Mayor Alexander called upon Mrs. Patterson, who recognized her husband, Gary Patterson, and several of her co-workers over the years. The Mayor formally read and presented framed Resolution No. 29-2011 to Mrs. Patterson. He also presented the key to the City and a City lapel pin to Mrs.

Patterson in honor of and with heartfelt appreciation for 27 years of her dedicated service to the City of Shelby.

Mrs. Patterson expressed her appreciation to the City of Shelby and its citizens, and to her co-workers, with a special thanks to Brad Cornwell, for the opportunity to work with them during her 27-year career.

**2) Recognition of Wesley Kion Brown as a Carolinas Council of Housing, Redevelopment and Codes Officials (CCHRCO) scholarship recipient**

As background information, Mayor Alexander stated Carolinas Council of Housing, Redevelopment and Codes Officials (CCHRCO) awards seven scholarships annually to North Carolina Housing Authority residents who, upon high school graduation, plan to attend either a two or four year college/university. To qualify, candidates must complete a multi-step process which includes achievements in scholastics, extracurricular activities, and volunteerism. The Mayor announced Wesley Kion Brown from the City of Shelby's Department of Housing has been selected as a recipient of a CCHRCO scholarship given in June 2011. Mr. Brown is a 2011 Burns High School graduate and plans to attend Fayetteville State University in the fall.

Mayor Alexander called upon Wesley Kion Brown and presented a Certificate of Special Recognition to him on behalf of the City of Shelby.

Mr. Brown recognized his parents, Gloria and Frederick Brown, and expressed his gratitude to all.

**3) City of Shelby Gas Department Public Awareness Plan – Brad R. Cornwell, Public Utilities Director, and Ronnie Davis, Utilities Compliance Officer**

Mr. Cornwell introduced the subject matter of the presentation as it pertains to the natural gas distribution facilities operated by the City of Shelby Gas Department. Each year the North Carolina Utilities Commission in conjunction with the United States Department of Transportation of Pipeline Safety Regulations inspects the City's gas system for safety, operability, documentation and reporting, public awareness, and public education. Mr. Cornwell reported that the Utilities Commission has notified him by letter that the City had another successful completion of its natural gas pipeline safety inspection this year and no violations were detected.

Mr. Cornwell introduced Mike Church, Natural Gas Superintendent, and Ronnie Davis, Utilities Compliance Officer, who revises and updates the Gas Department's Operations and Maintenance Manual based on new safety regulations. In his capacity, Mr. Davis is also tasked with maintaining a Public Awareness and Public Education Program. As part of public awareness, this

presentation is a requirement to be met for informational purposes.

Mr. Davis began his presentation by stating that as a natural gas operator, the City of Shelby, has to meet the requirements of the Code of Federal Regulations (CFR) for Pipeline Safety. This year the inspection also included a review of the Operating, Maintenance, and Emergency Plans and records to confirm inclusiveness of Code requirements and to consider the need for updating.

Mr. Davis emphasized that public awareness plans are intended to promote pipeline safety by enhancing the communications of pipeline operators with the public to increase public awareness of pipeline operations and safety issues. The objectives of Shelby's Public Awareness Program are:

- To educate both the City's customers and non-customers who live or work near the City's pipelines how to recognize the odor of natural gas and how to respond if they detect possible gas odors. Mr. Davis added that early recognition of a gas odor and proper response can save lives.
- To raise the awareness of the affected public and the target audience of the presence of buried natural gas pipelines in the communities the City serves. Mr. Davis added a more informed public will also understand that they have a significant role in helping to prevent third party damage accidents.
- To help excavators understand the steps that they can take to prevent third party damage and respond properly if they cause damage to the City's pipelines.
- To help emergency response agencies that may assist the City's Gas Department in an emergency understand the proper actions to take in response to a gas release or emergency.

Mr. Davis reiterated that the City's goal is to provide safe, reliable gas service to its customers and ensure the safety of people living and/or working near the City's gas pipelines. Public awareness is a critical component of the City's overall safety program.

Next Mr. Davis introduced the Distribution Integrity Management Plan (DIMP) by stating the Pipeline and Hazardous Materials Safety Administration (PHMSA) published the final rule establishing integrity management requirements for gas distribution pipeline systems in December 2009. The

effective date of the rule is February 2010 and operators are given until August 2011 to write and implement their program.

The regulation requires all distribution pipeline operators to develop a DIMP including these key elements:

- Develop and implement a written integrity management plan
- Know its infrastructure
- Identify threats both existing and of potential future importance
- Assess and prioritize risks
- Identify and implement appropriate measures to mitigate risks
- Measure performance, monitor results, and evaluate the effectiveness of its programs, making changes where needed
- Periodically report a limited set of performance measures to its regulator

Next Mr. Davis explained the American Public Gas Association's (APGA) Security and Integrity Foundation developed SHRIMP (Simple, Handy, Risk-based Integrity Management Plan), a software application designed to assist operators in developing plans to manage the integrity of their distribution piping.

Mr. Davis discussed the SHRIMP process for threat assessment and the risk ranking model applied to the City of Shelby's Natural Gas Distribution System as follows:

- Excavation damage due to third party damages
- Excavation damage due to blasting damage
- Outside force damage
- Atmospheric corrosion
- External corrosion on steel pipelines

Due to excavation damage attributable to third party damages as being the highest risk factor, the City of Shelby Gas Department, as operator, will increase their efforts as follows:

- Locate and identify gas lines
- Install additional pipeline markers
- Advertise "Call (811) Before You Dig" at local events
- Advertise in additional newspaper ads
- Advertise on local television channels
- Send additional mass mailings
- Meet with local excavators

Since excavation damage poses the most significant single threat to the City's distribution system integrity, Council discussed the ability to levy fines for such damages. Currently the City does not have a method to levy a fine; however, staff does assess the repair and bills for materials and labor accordingly.

Council received the information and took no action.

C. Public Comment: None

D. Consent Agenda:

**ACTION TAKEN:** Mayor Alexander presented the consent agenda. Mr. Shores 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 June 20, 2011
- 2) Approval of a resolution accepting and entering into an Agreement with the North Carolina Department of Transportation to accept grant funding (Project No. 36244.23.10.1) for the Shelby-Cleveland County Regional Airport: Resolution No. 39-2011
- 3) Approval of a resolution accepting property from Brookstone Investment Group, Inc.: Resolution No. 40-2011

#### END CONSENT AGENDA

E. Unfinished Business:

- 1) Consideration of appointments to City advisory boards:

- a. Planning and Zoning Board

Mrs. Parduski reminded Council that Carl Whaley was nominated at their meeting held June 6, 2011. There is one application on file in the Clerk's Office and it is that of Peter Potemkin.

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

#### **b. Parks and Recreation Advisory Board**

Mrs. Parduski reported the terms of two incumbents, Marie Hendrick and Craig Ferree, are set to conclude July 2011. Mrs. Hendrick and Mr. Ferree wish to continue their service.

Mrs. Patterson nominated Marie Hendrick and Craig Ferree for reappointment to new terms concluding July 2014.

**ACTION TAKEN:** Upon a motion by Mr. Anthony, second by Mr. Shores, City Council voted unanimously to close the nominations and to accept the nominees by acclamation.

#### **2) The City of Shelby Housing Department's Logan Street Community Development Project**

Mr. Howell introduced this agenda item, the Logan Street Community Development Project, as a follow-up to the presentation made by Mr. Scharer in December 2010. He stated that there are two current needs that can be met if the project is approved:

- Additional parking at the City's Housing Department administrative offices
- The initiation of a homeownership program within the Weed and Seed area

The resolution specifically authorizes implementation of the Logan Street Community Development Project which includes the acquisition of the two identified parcels, demolition of the houses on both parcels, engineering and design work, construction of a parking lot to serve the Housing Department community center and office building, and construction of a new, single-family residence.

The ordinance establishes a project budget ordinance that appropriates monies from the Housing Fund and identifies the authorized expenditure categories.

Next Mr. Scharer summarized his previous presentation by utilizing a map of the area and pointing out that the Shelby Housing Department currently owns all the property on Logan Street from Antrum Street to the commercial properties that front Grover Street, with the exception of two small parcels at the corner of Logan Street and Antrum Street, 812 and 814 Logan Street. He reviewed the project and anticipated the utilization of these properties for a

small parking facility and construction of a green, single-family dwelling for a qualified low to moderate income family to purchase.

Upon questioning, Mr. Scharer clarified that the Housing Department can proceed with the negotiation and establishment of the purchase agreements and/or options to acquire the properties as approved by US Department of Housing and Urban Development (HUD).

Mr. Howell reiterated that HUD has reviewed the site acquisition proposal and determined that it is acceptable; however, implementation of the Logan Street Community Development Project is contingent upon the City's receipt of all appropriate authorizations from HUD.

- a. Consideration of a resolution authorizing the Logan Street Community Development Project: Resolution No. 41-2011

**ACTION TAKEN:** Upon a motion by Mr. Shores, second by Mrs. Patterson, City Council voted unanimously to approve and adopt Resolution No. 41-2011 entitled, "A RESOLUTION AUTHORIZING THE LOGAN STREET COMMUNITY DEVELOPMENT PROJECT".

- b. Consideration of an ordinance establishing a capital project and budgets for the City of Shelby Housing Department's Logan Street Project: Ordinance No. 30-2011

**ACTION TAKEN:** Upon a motion by Mr. Shores, second by Mr. Anthony, City Council voted unanimously to approve and adopt Ordinance No. 30-2011 entitled, "AN ORDINANCE ESTABLISHING A CAPITAL PROJECT AND BUDGETS FOR THE CITY OF SHELBY HOUSING DEPARTMENT'S LOGAN STREET PROJECT".

- 3) Consideration of a resolution authorizing execution of a Contract for Fire Suppression Services under Automatic Aid between the City of Shelby and Number Seven Township Volunteer Fire Department, Inc. (Lattimore Fire District): Resolution No. 42-2011

Mr. Howell introduced Resolution No. 42-2011 for Council's consideration. As background information, he stated the City of Shelby entered into a contractual arrangement and has maintained a contract with the Number Seven Township Volunteer Fire Department to provide primary fire suppression services at the PPG Industries site on Washburn-Switch Road since 2006. This was done in accordance with the provisions of the North Carolina General Statutes covering annexation and requiring the City to either contract with the incumbent volunteer fire department or to

compensate the department for lost tax revenue based upon its existing outstanding debt. The City chose to contract at that time and an annual fee of \$25,000 was agreed upon for a five year term. The term has expired; however, there is still some need to establish an automatic aid agreement with Number Seven Township Volunteer Fire Department for the purposes of serving two annexed areas in the Washburn-Switch area, PPG Industries and Foothills Commerce Center. With the proposed contract, the City's annual cost is reduced from \$25,000 to \$5,000.

Next Chief Hunt stated with the expiration of the initial fire suppression contract, it is advantageous for the City to enter into a new contract for fire suppression services with the Number Seven Township Volunteer Fire Department. The proposed contract is an automatic aid agreement and will include service to the PPG property as well as the Foothills Commerce Center property. Chief Hunt noted that this contract is separate from any existing local or state mutual aid agreements. He discussed the advantages for entering into the contractual arrangement as follows:

- Provide initial responder services in advance of the arrival of resources from the Fire & Rescue Department in the service areas
- Ensure the service areas remain within ISO's (Insurance Services Office) parameters of five road miles from the nearest responding fire station
- Satisfy accreditation requirements covering automatic aid agreements from the Center for Public Safety Excellence
- Provide the Fire & Rescue Department flexibility in summoning needed resources to the service areas
- Continue satisfactory fire and rescue protective services to the service areas

**ACTION TAKEN:** Upon a motion by Mrs. Patterson, second by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 42-2011 entitled, "A RESOLUTION AUTHORIZING EXECUTION OF A CONTRACT FOR FIRE SUPPRESSION SERVICES UNDER AUTOMATIC AID BETWEEN THE CITY OF SHELBY AND NUMBER SEVEN TOWNSHIP VOLUNTEER FIRE DEPARTMENT, INC. (LATTIMORE FIRE DISTRICT)".

#### **G. New Business:**

- 1) Consideration of a resolution authorizing the execution of a Traffic-DOT Construction Agreement between the North Carolina Department of Transportation (NCDOT) and the City of Shelby for additional emergency vehicle initiated preemption: Resolution No. 43-2011



Chief Hunt introduced the reimbursable agreement with the NCDOT for the upgrade of traffic signals along Dekalb Street for emergency vehicle preemption for Council's consideration. He stated the current traffic signal preemption equipment along Dixon Boulevard has been in service for more than ten years and has worked to make travel to emergencies to points east and west in the City safer and quicker for the Fire & Rescue Department. With the system in place, responding fire apparatus do not have to exert right-of-way at intersections against a red light. The Chief said that during service delivery planning for the Fire & Rescue Department, expansion of the current system to include other streets the Department utilizes as major response travel corridors was identified as a priority project to improve safety and enhance response to other parts of the City. During discussions with the NCDOT to expand the traffic signal preemption system to include intersections along Dekalb Street (NC 18), Chief Hunt was informed of the provision requiring a principal agent for the management and maintenance of the equipment. Since the majority of the current intersections already equipped, and all of proposed locations lie within the City limits, Chief Hunt recommended it is appropriate for the City of Shelby to act as the principal agent for the traffic signal preemption system. The Chief concluded by stating that approval of this agreement establishes the City as the agent for current, proposed, and future traffic signal preemption equipment on the system. He added the agencies currently authorized access to the traffic signal preemption system include:

- Shelby Fire & Rescue Department
- Cleveland County Emergency Medical Services
- Shelby Rescue Squad, Inc.
- Cleveland Volunteer Fire Department, Inc.
- Number Seven Township Volunteer Fire Department, Inc.

Discussion followed and included the signal preemption equipment used for this project (infrared emitters), other equipment costs, the NCDOT fee, project timeline, and the possibility of adding law enforcement agencies to the Vehicle Preemption List.

**ACTION TAKEN:** Upon a motion by Mr. Shores, second by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 43-2011 entitled, "A RESOLUTION AUTHORIZING THE EXECUTION OF A TRAFFIC-DOT CONSTRUCTION AGREEMENT BETWEEN THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) AND THE CITY OF SHELBY FOR ADDITIONAL EMERGENCY VEHICLE INITIATED PREEMPTION".

- 2) Consideration of a proposed ordinance to amend the Code of Ordinances of the City of Shelby (Chapter 18 Fire Prevention and Protection Article I):

### Ordinance No. 31-2011

Shelby's Fire Marshal Ray Beck introduced proposed Ordinance No. 31-2011 for Council's consideration. Chapter 18, Article I of the Code of Ordinances for the City of Shelby pertains to local fire protection in the City. The chapter covers the legal establishment of the fire department, burning of trash, rubbish, and combustible waste, etc. Amendments to the Code of Ordinances are required from time to time to reflect changes in local conditions.

Mr. Beck elaborated on the changes and additions in Chapter 18, Article I as follows:

- **Sec. 18-1. Opening burning.** The ordinance currently allows open burning outside fire limits using wire mesh enclosures or safety devices, which is contradictory to the intent of the ordinance. The change reflects the prohibition of all open burning outside fire limits. This is in keeping with maintaining a fire safe urban environment and being compliant with all North Carolina Department of Environmental and Natural Resources Division of Air Quality. Any condition resulting in emission of smoke that becomes a nuisance or results in complaints shall be extinguished.

Two exceptions were added and include:

- The permitting of luminaries within the fire limits by special permit
- Making recreational fires exempt from the open burning ordinance
- **Sec. 18-2. Recreational fires; permit required.** This is an additional section which describes and outlines recreational fires and procedures for permit requirements.

The exception covers the use of approved cooking devices and grills.

There was considerable discussion regarding specific examples related to the proposed exceptions which led Council to postpone action until the appropriate changes could be incorporated into a revised ordinance.

**ACTION TAKEN:** Upon a motion by Mr. Shores, second by Mr. Anthony, City Council voted unanimously to table the discussion and the consideration of Ordinance No. 31-2011 entitled, "A PROPOSED ORDINANCE TO AMEND THE

**CODE OF ORDINANCES OF THE CITY OF SHELBY (CHAPTER 18 FIRE PREVENTION AND PROTECTION ARTICLE I)”.**

- 3) Consideration of a proposed ordinance to amend the Code of Ordinances of the City of Shelby (Chapter 18 Fire Prevention and Protection Article II): Ordinance No. 32-2011

Shelby’s Fire Marshal Ray Beck introduced proposed Ordinance No. 32-2011 for Council’s consideration. Chapter 18, Article II of the Code of Ordinances for the City of Shelby pertains to the adoption of the Fire Prevention Code. The ordinance stipulates the North Carolina State Building Code: Fire Code as the adopted enforcement document for fire prevention in the City. The amendment reflects to include the appendices in the Fire Code as part of the adopted document. This change is required so that the appendices may be factored and enforced by the Fire Marshal’s Office.

Upon questioning, Mr. Beck elaborated as follows:

- Appendix B – Fire-flow requirements for buildings
- Appendix C – Fire hydrant locations and distribution
- Appendix D – Fire apparatus access road
- Appendix F – Hazard ranking
- Appendix H – Test requirements for flame-retardant chemicals used on Christmas trees

**ACTION TAKEN:** Upon a motion by Mr. Bailey, second by Mr. Shores, City Council voted unanimously to approve and adopt Ordinance No. 32-2011 entitled, “A PROPOSED ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF SHELBY (CHAPTER 18 FIRE PREVENTION AND PROTECTION ARTICLE II)”.

**H. City Manager’s Report:**

- 1) Mr. Howell said that contract negotiations are ongoing with Republic Services of North Carolina, LLC (GDS) for the City’s new recycling program.
- 2) Mr. Howell provided an update regarding the Job Ready Shell Building at the Foothills Commerce Center as to the completion of the curb and guttering, installation of the roof and sprinkler system, and the color scheme. The project is on track to finish at the end of August 2011.
- 3) Mr. Howell mentioned the Chestnut Street Sewer Project as work continues along East Marion Street and Chestnut Street.

- 4) Mr. Howell also mentioned the Street Resurfacing Project as work continues along East Sumter Street, Suttle Street, and the eastern sections of the City.
- 5) Mr. Howell said the Shelby Middle School Sewer Project is substantially completed. The City has signed off on the project and is ready to receive sewer.
- 6) Mr. Howell announced that National Night Out 2011 is set for August 2, 2011 from 5:00 p.m. to 8:00 p.m. on the grounds of the Court Square in Uptown Shelby.
- 7) Mr. Howell mentioned that the City received two framed aerial photographs of the new Clearwater Paper Corporation facility for display, one at the Shelby-Cleveland County Regional Airport and one at City Hall.

I. Council Announcements and Remarks:

- 1) Mayor Alexander mentioned and read the thank you note sent to Council from Plant Manager Vince Reese of Clearwater Paper Corporation.

The Mayor recognized Les Farfour sitting in as City Attorney at tonight's meeting.

- 2) Mr. Anthony requested an update on the voluntary utility bill round-up program. Mr. Howell responded that a draft of the proposed utility bill round up program, "Pleasant City Pennies", has been prepared for Council's consideration. However, he advised in order to be effective and generate any money from voluntary contributions from customers, it will have to specifically identify what the money will be used for and those purposes should have a fairly broad appeal to the community.
- 3) Mr. Mabry inquired if any formal cleanup plan around the City would be taking place prior to the start of the American Legion World Series Tournament in August 2011. Mr. Howell responded that City crews will do their best to prepare in that regard prior to the events.
- 4) To show support for the American Legion's flag advocacy, Mr. Shores encouraged the City and all citizens to fly their American flags during the American Legion World Series Tournament, August 12 through August 16, 2011.
- 5) With regard to the current US federal budget and debt ceiling debate, Mrs.

Patterson inquired if the City is considering giving some flexibility to its utility customers who receive a benefit check from Medicare in the event an agreement is not reached and the US will start to default on their financial obligations beginning August 3, 2011. A brief discussion followed.

**J. Adjournment:**

**1) Motion to adjourn**

**ACTION TAKEN:** Upon a motion by Mr. Mabry, second by Mr. Shores, City Council voted unanimously to adjourn the meeting at 7:45 p.m.

Respectfully submitted,

Bernadette A. Parduski, MMC  
City Clerk

W. Ted Alexander  
Mayor

Minutes of July 18, A. D. 2011