

MINUTES

Regular Meeting
City Hall Council Chamber

March 21, 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., Andrew L. Hopper, Sr.; City Manager Rick Howell, City Attorney Robert W. (Bob) Yelton, 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 Parks and Recreation Charlie Holtzclaw, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

Mayor Alexander called the meeting to order at 6:01 p.m. and welcomed all who were in attendance. The Mayor gave the invocation and Boy Scout Corey Byers of Troop 402 hosted by New Hope Baptist Church led the *Pledge of Allegiance*.

A. Approval of agenda:

1) Motion to adopt the proposed agenda

Mr. Bailey requested that Item D-4 under the Consent Agenda be removed and placed under New Business as Item F-3 as follows:

- Consideration of a resolution revising and amending the personnel policies of the City of Shelby to provide for an updated Personnel Policy and Procedure Manual: Resolution No. 10-2011

ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mr. Anthony, City Council voted unanimously to approve the agenda as amended.

B. Special Presentations:

1) Recognition of the Mayor's Outstanding Volunteer Service Recipient for February 2011: Margaret Walker

Mayor Alexander called upon Margaret Walker, a resident of the Sterling House of Shelby, who utilized various resources to collect a variety of items throughout 2010, ultimately donating all of them to the homeless. Miss Walker

was recognized for her contributions to the Abuse Prevention Council and Inter-faith Alliance.

The Mayor presented a certificate to Miss Walker on behalf of the City of Shelby.

2) Recognition of the Mayor's Outstanding Volunteer Service Recipient for March 2011: Lowrey Young

Mayor Alexander called upon Lowrey Young who was instrumental in initiating The Shepherd's Table and food pantry, a feeding ministry of the Episcopal Church of the Redeemer, in February 2010. Mrs. Young continues to volunteer and serve both breakfast and lunch every Wednesday at the church. Also due to Mrs. Young's efforts, the services of the food pantry were expanded with its acceptance into the Second Harvest Food Bank.

The Mayor presented a certificate to Mrs. Young on behalf of the City of Shelby.

3) South Washington Street Reverse Angle Parking Plan update – Walter Scharer, Director of Planning Services

Mr. Scharer began his presentation with a brief history of the Reverse Angle Parking Plan implemented on a trial basis along a portion of South Washington Street. Along with the development of the Don Gibson Theatre, the City of Shelby took the opportunity to perform some streetscape improvements on South Washington Street. The angle parking was installed to increase available parking for the area and was installed as reverse angle parking or back-in diagonal parking as a recommended traffic calming initiative, which was included in the 2007 Comprehensive Pedestrian Plan. Mr. Scharer stated that the City of Shelby is a pioneer of reverse angle parking in the State of North Carolina, which is endorsed by the Federal Highway Administration.

It was noted by Mr. Scharer that this plan was originally intended to serve as a trial period to determine if the reverse angle parking would effectively work at this location as well as to study if there were other potential locations within the City that may work. While unconventional, the reverse angle parking trial has allowed City staff to make observations regarding its effectiveness. While staff generally feels that the experiment has been successful, there are still some safety concerns as to the current implementation of the trial parking. In particular, with the streetscape improvements incomplete, the lack of a median does not allow for full compliance by drivers.

Discussion followed and included the continuing unfamiliarity with reverse angle parking, the speed and volume of traffic, the need for additional parking spaces, business and property owners' concerns, and the need for larger instructional signs. At the conclusion it was agreed that the concept of reverse angle parking has merit and should continue to be explored.

By consensus, Council directed staff to install temporary barriers at a minimal cost and new signage along South Washington Street to improve conditions related to the reverse angle parking spaces.

C. Public Comment: None

D. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of March 7, 2011
- 2) Approval of a Special Event Permit Applications:
 - a. Shelby Sprint 5K/Kids Fun Run requested date: May 7, 2011 with an alternate date of May 14, 2011
 - b. Uptown Shelby Association's 2011 Events Calendar
- 3) Approval of a resolution accepting and entering into an agreement with ElectriCities of North Carolina, Inc. and Asplundh Tree Expert Company for line clearance trimming of the City's electric distribution system: Resolution No. 9-2011
- 4) REMOVED AND PLACED UNDER NEW BUSINESS AS ITEM F-3

Approval of a resolution revising and amending the personnel policies of the City of Shelby to provide for an updated Personnel Policy and Procedure Manual: Resolution No. 10-2011

END CONSENT AGENDA

E. Unfinished Business:

1) Consideration of a budget ordinance amendment for the City of Shelby's Foothills Commerce Center Project: Ordinance No. 14-2011

Mr. Howell introduced Ordinance No. 14-2011 for consideration and reminded Council that the original project budget ordinance was approved in January 2009, which included funding for the purchase of the Foothills Commerce Center property as well as the professional engineering services associated with the development of the internal infrastructure. This amendment accounts for the anticipated inter-local government revenue from Cleveland County and the grant revenue awarded by the Golden Leaf Foundation and the North Carolina Department of Commerce Industrial Development Grant Program. The amendment also accounts for authorized expenditures for construction of the internal infrastructure as well as the job ready shell building under consideration by Council at this time through Resolution No. 12-2011, which follows.

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mrs. Patterson, City Council voted unanimously to approve and adopt Ordinance No. 14-2011 entitled, "A BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY'S FOOTHILLS COMMERCE CENTER PROJECT".

2) Consideration of a resolution awarding the construction contract for the City of Shelby/Cleveland County Job Ready Shell Building Project: Resolution No. 12-2011

As an introduction to Resolution No. 12-2011, Mr. Howell provided historic background information leading to the award of the construction contract for the 100,000 SF Job Ready Shell Building at the Foothills Commerce Center. Several years prior, and after many economic development assessments and presentations, Council planned to move forward with developing infrastructure, water, sewer, and electricity, in order to identify and control land for business and industrial development. In 2009, Council authorized the purchase of a 152-acre site located on Artee Road and approved a budget for the necessary infrastructure construction. The Cleveland County commissioners approved an equal partnership with the City toward the land purchase and development. The Foothills Commerce Center was also given a boost with a \$1 million grant by the Golden Leaf Foundation through its Community Assistance Initiative for the construction of the first job ready shell building.

Mr. Howell stated, as noted in the resolution, bids were received on February 17, 2011 and subsequently reviewed and scrutinized by management and the City's Project Engineer, Paul Garafola, of WHN Architects. The analysis of the bids included review of past projects of similar scope and type within the

last three years as well as reference checks with past clients. Mr. Howell also noted that the original budgetary estimate for the entire Job Ready Shell Building Project is \$3 million, including the building, construction, architectural and engineering design, administration and inspections, material testing, and contingencies. Based on this information, Matthews Construction Company, Inc. of Charlotte was verified as the apparent low bidder at \$2,369,116 and it was recommended that the project be awarded to them.

ACTION TAKEN: Upon a motion by Mr. Bailey, second by Mr. Anthony, City Council voted unanimously to approve and adopt Resolution No. 12-2011 entitled, "A RESOLUTION AWARDED THE CONSTRUCTION CONTRACT FOR THE CITY OF SHELBY/CLEVELAND COUNTY JOB READY SHELL BUILDING PROJECT".

3) Consideration of a resolution authorizing and approving the creation of the Foothills Economic Development Corporation: Resolution No. 13-2011

Mr. Howell introduced Resolution No. 13-2011 for Council's consideration which authorizes the creation of a non-profit entity for the purpose of promoting the marketing and development of the Foothills Commerce Center as a joint effort between the City of Shelby and Cleveland County. The creation of this entity is recommended to allow for joint ownership of the Job Ready Shell Building as well as subsequent potential shell buildings. The Foothills Economic Development Corporation is created to provide for equal representation by both the City and the County in ownership and marketing of the Job Ready Shell Building. This entity membership consists of the Shelby's Mayor and City Manager, Cleveland County's Commission Board Chair and Manager, and the Chair of the Cleveland County Economic Development Partnership.

Mr. Howell mentioned the advantages to having this board directly oversee economic development opportunities specific to the Foothills Commerce Center which will facilitate a more prompt response toward recruiting businesses to the business park. With joint ownership of the building, it also provides for equal representation that is responsible to both governing boards.

Mayor Alexander recognized David Dear, Cleveland County Manager, and Steve Thornburg, Chair of the Cleveland County Economic Development Partnership, in attendance.

Mr. Shores highly complimented both Mr. Howell and Mr. Dear and expressed appreciation to them for working together on behalf of the City and County to accomplish successful partnerships such as this.

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 13-2011 entitled, "A RESOLUTION AUTHORIZING AND APPROVING THE CREATION OF THE FOOTHILLS ECONOMIC DEVELOPMENT CORPORATION".

G. New Business:

- 1) Consideration of a proposal for a lease agreement between the City of Shelby and the Foothills Farmers' Market – Gregory B. Traywick, Cleveland County Extension Director

Mayor Alexander recognized Mr. Traywick and several members of the Foothills Farmers' Market Board in attendance.

Mr. Traywick began his presentation by stating that the Foothills Farmers' Market (FFM) was established in 2008 as a joint project of the North Carolina Cooperative Extension, Uptown Shelby Association, and Cleveland County Chamber. For the past three years, it has operated as a seasonal tailgate market under tents on Washington Street on the Court Square. FFM is a certified market, requiring vendors to produce everything they sell. This requirement has helped FFM capitalize on the public's growing interest in local foods and positions FFM to strengthen the economy and social fabric of this community through creation of a sustainable local food system. Mr. Traywick stated that FFM has sustained modest growth, but the present location and temporary shelters present substantial complications and barriers to growth. FFM vendors and board members have expressed the desire for a location that would address some of the concerns currently being encountered by the market at its present location. A committee was formed to evaluate several possible sites, rating them on their potential to:

- Attract new customers via a highly visible location
- Protect vendors and shoppers from inclement weather with a permanent structure
- Provide customers with ample parking
- Improve safety
- Provide restrooms and hand washing facilities
- Provide storage for supplies and equipment
- Offer potential for expansion

On the basis of this analysis, Mr. Traywick stated the FFM identified the City-

owned parking lot located at the corner of Marion and Morgan Streets in Uptown Shelby as a favorable location. FFM envisions creating a partnership along with the North Carolina Cooperative Extension, City of Shelby, and Cleveland County to develop this site as its permanent home. The long term goal is to construct an attractive shade pavilion on the parking lot and to create a high tech green facility utilizing grant sources. Such a facility could provide a strategically located permanent home for the market, thereby helping FFM resolve its issues and generate the robust market activity needed to sustain production agriculture and bolster the local economy and quality of life. Mr. Traywick cited the City of Marion's farmers' market as an example.

Mr. Traywick further stated that in addition to revitalizing an otherwise under-utilized public property in Uptown Shelby, the proposed market pavilion would provide the City with another amenity and multi-purpose venue.

Discussion followed and included obtaining feedback from the neighboring businesses, changing the farmers' market schedule to add additional days of operation, and a request for the City to review construction plans. Overall, the Mayor and Council supported and encouraged the FFM's proposal, mission, and goals.

Mayor Alexander disclosed that he is a member of the FFM organizing board.

By consensus, Council directed staff to proceed with drafting a lease agreement between the City of Shelby and the FFM for the use of the City-owned parking lot located at the corner of Marion and Morgan Streets.

- 2) Consideration of a resolution establishing the Shelby Fire & Rescue Department's General Operating Guideline GOG-702.01 as the City of Shelby's policy governing the Controlled Burn Demolition and Live Fire Training in Vacant, Abandoned or Dilapidated Structures: Resolution No. 14-2011

Chief Hunt introduced the Shelby Fire & Rescue Department's proposed General Operating Guideline (GOG-702.01) for Controlled Burn Demolition and Live Fire Training in Vacant, Abandoned or Dilapidated Structures for Council's consideration. Chief Hunt stated the guideline has been revised to provide the necessary policy consistent with Council's direction for live fire training in the City. Specifically, the policy provides compliance with applicable professional standards, and environmental regulations, ensures a safer training environment for firefighters and takes into consideration the safety and well being of the City's residents and businesses. The policy establishes the Fire Chief as the authority having jurisdiction as afforded by

North Carolina General Statutes for the controlled burn of any structure in the City. The policy provides an outline for application, permitting and reporting procedures as required by local and State authorities. This policy will apply to the Fire & Rescue Department and any other rated fire department, agency, or contractor seeking to demolish structures in the City limits by method of controlled burn.

Discussion followed and included clarification of protocols and jurisdictional issues, reasons to burn, and the number of structures (currently six to eight) burned annually within the City.

ACTION TAKEN: Upon a motion by Mr. Mabry, second by Mrs. Patterson, City Council voted unanimously to approve and adopt Resolution No. 14-2011 entitled, “A RESOLUTION ESTABLISHING THE SHELBY FIRE & RESCUE DEPARTMENT’S GENERAL OPERATING GUIDELINE GOG-702.01 AS THE CITY OF SHELBY’S POLICY GOVERNING THE CONTROLLED BURN DEMOLITION AND LIVE FIRE TRAINING IN VACANT, ABANDONED OR DILAPIDATED STRUCTURES”.

- 3) Consideration of a resolution revising and amending the personnel policies of the City of Shelby to provide for an updated Personnel Policy and Procedure Manual: Resolution No. 10-2011

Mr. Bailey referenced the Personal Computer/Internet/E-Mail Policy and Password Guidelines, specifically under the Internet and E-mail Guidelines, the bullet point: “Sending or forwarding E-mail that could damage the image or reputation of the City or under minds public trust is prohibited”, and questioned whether the Whistleblower Protection Act, the Freedom of Information Act, and by law, that information may not be classified or restricted solely to prohibit embarrassment are negatively impacted by this guideline as written.

Mr. Howell suggested additional language that would clarify that the City’s Whistleblower Policy is not pre-empted and Mr. Yelton concurred.

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 10-2011 entitled, “A RESOLUTION REVISING AND AMENDING THE PERSONNEL POLICIES OF THE CITY OF SHELBY TO PROVIDE FOR AN UPDATED PERSONNEL POLICY AND PROCEDURE MANUAL”, as amended, allowing the City Attorney, at his discretion, to add language in accordance with federal laws specifically citing the Whistleblower Protection Act to the Internet and E-mail Guidelines.

H. City Manager's Report:

- 1) Mr. Howell informed Council that an incentive program to encourage employees to identify cost-savings ideas has been drafted as the "City of Shelby Employee Bright Idea Program" and will be presented at the Council meeting of April 4, 2011.
- 2) Also, Mr. Howell said a voluntary round up program modeled after Kinston, North Carolina's is in the process of being developed as the "Pleasant City Pennies Program". Utility customers will be given the opportunity to "round up" their payments to the nearest whole dollar when paying their bills and contribute to a specific community development project yet to be named.
- 3) Mr. Howell mentioned that the American Legion World Series sign panels will be installed at the "Welcome to Shelby" city limit signs, along with the Fit Community sign panels, located on State-maintained roads in the very near future.
- 4) From a code enforcement standpoint, Mr. Howell updated Council on the voluntary clean up of two dilapidated structures owned by Norfolk Southern Railroad on Morgan and Martin Streets.
- 5) Mr. Howell informed Council that the Water and Sewer Asset Management Plan will be presented at their meeting of April 18, 2011.
- 6) In preparation for the North Carolina Municipal Power Agency Number 1 (NCMPA1) Board of Commissioners meeting on March 22, 2011 in Charlotte, North Carolina, Mr. Howell discussed the agency's electric rate projections. In 2010, rate projections included a 5 percent increase in 2011, 5 percent in 2012, and 3.5 percent in 2013. Due to impacts of the economic downturn, NCMPA1 is anticipating additional rate pressures. The agency is considering debt restructuring and other options to improve the financial outlook. No final decisions have been made and Mr. Howell expected to have a better understanding of the potential outcomes in the near future.
- 7) Mr. Howell reminded the Mayor and Council of the next NCMPA1 regional meeting on March 31, 2011 at the Schiele Museum in Gastonia, North Carolina and encouraged their attendance.

I. Council Announcements and Remarks:

- 1) On behalf of Keep Shelby Beautiful (KSB), Mrs. Patterson reminded all that

Keep America Beautiful's 2011 Great American Cleanup continues between March 1 and May 31. KSB plans to continue its local cleanup event on April 16, 2011 from 9:00 a.m. to 12:00 Noon in the Chestnut Street neighborhood.

Mrs. Patterson also shared citizen comments with regard to sidewalk cafes specifically that the City is too lenient with regard to enforcement of the five-foot-wide unobstructed walkway rule. It was suggested that some type of markings be placed on the public sidewalk area.

- 2) Mr. Mabry reminded the Mayor and Council of the Parks and Recreation Department's event honoring all volunteer coaches and sponsors of youth teams on March 28, 2011 at 6:00 p.m., City Park Gym.
- 3) Both Mr. Anthony and Mr. Hopper have received favorable comments from citizens about the City's proposed recycling program.
- 4) Mr. Hopper recently attended the National League of Cities 2011 Congressional City Conference in Washington, DC and reported that local elected officials across the country have banded together to fight proposed cuts to the Community Development Block Grant (CDBG) Program and will continue to appeal to Congress to maintain level funding for Fiscal Year 2012. He encouraged the Mayor and Council to join in the local support of the CDBG Program.
- 5) Mayor Alexander announced the conclusion of the Share our Shoes Program and expressed appreciation to all the businesses, schools, and churches that participated in the collection drive. He then explained the workings of the Share our Shoes Program.

The Mayor mentioned the Shelby Lions Club, which is always collecting old eyeglasses for recycling and donation.

Mayor Alexander congratulated the Gardner-Webb University Runnin' Bulldogs for their first-time appearance in the 2011 National Collegiate Athletic Association (NCAA) Division 1 Women's Basketball Championship Tournament on March 20, 2011 in Charlottesville, Virginia.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Anthony, City Council voted unanimously to adjourn the meeting at 7:44 p.m.

Respectfully submitted,

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

**W. Ted Alexander
Mayor**

Minutes of March 21, A. D. 2011