

## MINUTES

Regular Meeting  
City Hall Council Chamber

December 3, 2018  
Monday, 6:00 p.m.

**Present:** Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David W. White, David Causby, Violet Arth Dukes, Charles Webber, Dicky Amaya; City Manager Rick Howell, ICMA-CM, City Attorney Robert W. (Bob) Yelton, City Clerk Bernadette A. Parduski, Director of Finance Justin S. Merritt, MPA, Assistant Director of Finance Elizabeth B. (Beth) Beam, CPA, Director of Human Resources Deborah (Deb) Jolly, Director of Energy Services Julie R. McMurry, Director of Engineering Services Benjamin (Ben) Yarboro, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Parks and Recreation Charlie Holtzclaw, and Director of Planning and Development Services Department Walter (Walt) Scharer, AICP

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 Mrs. Arth Dukes the *Pledge of Allegiance*.

### A. Approval of agenda:

Mr. Amaya requested the addition of Item I-4 under the Closed Session as follows:

- To conduct the annual performance evaluation of the City Manager pursuant to North Carolina General Statute 143-318.11 (a) (6)

#### 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 amended.

### B. Special Presentations:

- 1) Annual Audit Report and Comprehensive Annual Financial Report (CAFR) for Fiscal Year (FY) ended June 30, 2018 – Kelly Gooderham, CPA, Senior Accountant, Martin Starnes & Associates, CPAs, P. A.

Mr. Merritt introduced Kelly Gooderham with Martin Starnes & Associates as the presenter of the Fiscal Year 2018 audit report. He also recognized Assistant

Finance Director Beth Beam in the lead role as well as the Finance staff and City staff for their efforts and support of the City's audit project.

Miss Gooderham began her presentation of the City's 2018 audited financial statements by reminding Council the data is provided for the year ending June 30, 2018. The report has been submitted to the Local Government Commission and has been approved.

Included in the audit highlights, Miss Gooderham stated the Martin Starnes' report yielded an unmodified opinion, meaning the City's financials are not materially misstated. Martin Starnes has issued its report in which no questioned costs or findings were noted. Miss Gooderham also acknowledged the full cooperation of the Finance Department during the audit process.

Miss Gooderham commented the 2018 property tax revenues and collection rate showed an increase from the prior year of approximately \$1,341,650 or 15 percent.

Next, Miss Gooderham summarized and compared General Fund revenues and expenditures for 2017 and 2018. In 2018, revenues increased by \$2,141,970 or 12 percent and expenditures increased by \$1,598,735 or 7.8 percent. She noted these amounts do not include other financing sources and uses such as transfers and capital financing.

Miss Gooderham stated fund balance includes these five categories: Non-spendable, restricted, committed, assigned, and unassigned classifications, and serves as a measure of the City's available financial resources. Currently, the City has:

- \$1.7 million in Non-spendable fund balance
- \$7.2 million in Restricted fund balance which includes Stabilization by State statute, Powell Bill, public safety funds, and unspent debt proceeds
- \$199,000 in Committed fund balance
- \$2.3 million in Assigned fund balance
- \$4.4 million in Unassigned fund balance

With regard to total fund balance for the General Fund, Miss Gooderham noted there was an increase of \$1,172,926 or approximately 15 percent from the prior year.

Miss Gooderham stated available fund balance as defined by the Local Government Commission (LGC) is calculated as Total Fund Balance less Non-spendable, less Stabilization by State Statute (restricted) which then equals

**Available Fund Balance.** This calculation is utilized as the basis for comparing Shelby to other units of similar size as well as calculating fund balance percentages.

**Miss Gooderham reviewed Shelby's Fund Balance position in the General Fund:**

<b>Total Fund Balance</b>	<b>\$9,230,873</b>
<b>Non-spendable</b>	<b>(474,558)</b>
<b>Stabilization by State statute</b>	<b><u>(3,167,942)</u></b>
<b>Available Fund Balance 2018</b>	<b>\$5,588,373</b>
<b>Available Fund Balance 2017</b>	<b>\$ 5,034,154</b>
<b>Change in Available Fund Balance</b>	<b>\$ 554,219</b>

She noted an increase of 11 percent from the prior year, which is due to an increase in overall fund balance in the current year. Stabilization by State Statute refers to accounts receivable at June 30, 2018, not yet available per State statute because the money has not been received. It is not in cash spendable form. The non-spendable amount represents \$147,000 in inventories and \$358,000 in prepaids, reiterating these items are not in spendable form.

Miss Gooderham stated available fund balance represents 24.17 percent of total General Fund expenditures and transfers out to other funds, which represents an increase from the prior year and approximately three times the recommended 8 percent by the Local Government Commission.

Miss Gooderham reported the top three sources of revenue include property taxes, other taxes and licenses, and other revenues which comprise \$16.5 million or 82 percent of the total revenues. The total revenues equal \$20,062,713.

As previously mentioned with regard to property taxes, Miss Gooderham further stated there was an increase of \$1,341,650 or 15 percent. An increase in the property tax levy contributed to an overall increase in revenues in the current year due to the Clearwater Paper Corporation and Mafic, SA annexations. Collections also increased from 98.31 to 98.63 percent.

With regard to other taxes and licenses, Miss Gooderham noted an increase of \$439,874 or 15 percent, stating the City has an increase in local option sales tax dollars as compared to the prior year.

With regard to unrestricted intergovernmental, there was an increase of \$115,877 or 5.4 percent comparable to the prior year. Miss Gooderham explained this revenue consists mostly of utility franchise tax and alcohol beverage control (ABC) revenues. The main increase was in ABC revenues for fiscal year 2018.

Miss Gooderham reported the General Fund expenditures include public safety, other expenditures, general government, and transportation, including environmental protection, cultural and recreation, and debt service for a total of \$22,071,651.

Miss Gooderham said public safety had a decrease of \$61,287 or approximately 0.6 percent.

Miss Gooderham said transportation had an increase of \$298,757 or approximately 11.8 percent due to the City having a \$167,000 capital equipment purchase in 2018. In addition, there were costs of \$185,000 for road resurfacing.

Miss Gooderham said general government had an increase of \$276,657 or 11 percent compared to the prior year. She notes there was an increase in retiree group insurance of \$86,000 and capital vehicle purchases of \$81,000. Tax collection fees also increased by \$24,000.

With regard to the City's enterprise funds, Miss Gooderham reported an increase in total net position of \$5,126,655. There was an overall \$8 million positive change in net position and a decrease in net position of \$2.9 million for a prior period adjustment to put other post-employment benefits (OPEB) liability on the books per the Governmental Accounting Standards Board (GASB) 75.

(The City implemented Governmental Accounting Standards Board (GASB) No. Statement 75, Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions, in the fiscal year ending June 30, 2018. The implementation of the statement required the City to record beginning total OPEB liability and the effects on net position of benefit payments and administrative expenses paid by the City related to OPEB during the measurement period, fiscal year ending June 30, 2017. Beginning deferred outflows and inflows of resources associated with the implementation were excluded from the restatement. As a result, net position for governmental activities decreased \$9,077,440 and \$2,905,812 for the business-type activities.)

She explained net investment in capital assets is the total capital assets less all outstanding debt related to acquiring those assets plus any unspent debt

proceeds. For enterprise funds, unrestricted net position is similar to fund balance available for appropriation.

With regard to the Water Fund, the unrestricted net position is down \$385,000 due to an increase in net investment in capital assets. Cash flows were up 86 percent due to decreases in cash paid for goods and services. Miss Gooderham stated there was an overall positive change in net position of \$1.5 million due to capital contributions of project funds.

With regard to the Sewer Fund, the unrestricted net position is down \$1.9 million due to an increase in net investment in capital assets. Cash flows were up 4.9 percent, decreasing cash paid for goods and services. Miss Gooderham stated there was an overall positive change in net position of \$4.1 million, mainly due to capital contributions of the project funds.

With regard to the Electric Fund, the unrestricted net position is down \$496,000 due to an increase in net investment in capital assets. Cash flows were down 41 percent due to an increase in cash paid for goods and services. Miss Gooderham stated there was an overall positive change in net position of \$1.4 million.

With regard to the Natural Gas Fund, the unrestricted net position is down \$322,000 due to an increase in capital assets. Cash flows were up 12 percent due to an increase in cash received from customers. Miss Gooderham stated there was an overall positive change in net position of \$697,000.

With regard to the Stormwater Fund, the unrestricted net position is down \$102,000. Cash flows were down over \$469,000. Miss Gooderham stated there was an overall negative change in net position of \$149,000.

With regard to the Housing Fund, the unrestricted net position is up \$106,000 due to a decrease in capital assets. Cash flows were up 85 percent. Miss Gooderham stated there was an overall positive change in net position of \$388,000.

Lastly, Mr. Merritt discussed the governmental activities which increased the City's net position by \$2,709,191. The key elements of this increase are as follows:

- Increase in Property Tax Levy contributed to an overall increase in revenues in the current year, noting the annexations of Clearwater Paper Corporation and Mafic, SA

- Increase in Sales Tax Collections contributed to overall revenue increase in the current year – growth and broadening of the base
- Increase in revenues from City of Shelby Alcohol Beverage Control (ABC) Board – increased sales
- Available Fund Balance – Comparable city comparison, group average – derived from average of all municipalities in population group
- OPEB liability implementation per GASB 75
- Review of the City’s capital asset activity and transactions; active construction projects

Council received the information and took no action.

**2) Neighbor Helping Neighbor Program – Sam Clark, Customer Services Manager, City of Shelby**

Mr. Merritt introduced the subject matter of this presentation as well as Sam Clark, the City’s Customer Services Manager, to provide the details of the program.

Mr. Clark began his presentation by stating in January 2005 Council approved the establishment of a bill payment assistance program, known as the Neighbor Helping Neighbor Program, in partnership with the Cleveland County Department of Social Services. This program is in place to assist customers who are having difficulty paying their utility bills. It provides funds to the aged, infirmed, and low-income members of our community in situations of extreme hardship. The program provides the opportunity for a neighbor to help a neighbor with contributions made by City of Shelby utility customers who elect to add \$1.00 or more per month to their utility bill. All contributions are tax deductible. Customers can also make contributions independently of their utility bills in the Customer Services Payments Department at City Hall.

Mr. Clark stated in 2009, the Cleveland County Department of Social Services informed the City that due to workloads and other issues it would no longer be able to administer the City’s program. The City contacted the Salvation Army and in March 2010 Council approved changing the administration of the program from Cleveland County Department of Social Services to the Salvation Army. Mr. Clark added, before the change in 2009, customers could receive assistance up to twice a calendar year with a total maximum assistance amount of \$700.00. In 2009, the assistance available was amended so that customers are able to receive assistance once in a calendar year with a maximum assistance amount of \$200.00. This is the current operation of the program.

Mr. Clark explained this program does not supplant any federal, state, or local funds that may otherwise be available for assistance, but is to provide additional support should other funds not be available. For residents to utilize funds the Neighbor Helping Neighbor Program, an applicant must go through an application and information intake process with the Salvation Army. The application process at Salvation Army is through the Federal Emergency Management Agency (FEMA) and follows a Department of Social Services model for receiving, administering, and enforcing the restrictions to distribute these funds. During the application process, residents must provide proof of any income (employment, child support, etc.) as well as their expenses (rent/mortgage, child support payments, and utilities).

Some of the requirements for application approval are:

- **Must be a City resident**
- **No other financial assistance such as Housing Assistance Payment Program (HAPP), Housing and Urban Development (HUD), or Section 8 Housing**
- **Utility account must be in past due status and subject to disconnection**
- **The normal use of the funds are for a non-reoccurring crisis**

To sum up, Mr. Clark stated over the course of the last five fiscal years contributing residents have provided a total of \$27,763.86 and over those five fiscal years the annual average is \$5,552.77. The City currently has 164 customers who are actively contributing to the Neighbor Helping Neighbor program in various amounts. Most customers elect to sign up to contribute to the program from the bill inserts that are sent out twice a year in January and July. The bill insert presents donation amounts of \$1, \$3, \$5 or other amount to be added to the customer's bill each month with their signed approval. Customers can chose to make a one-time donation to be added to their bill. The donation on the utility bill can be changed or removed by the customer at any time. Customers can also make donations in any amount and as often as they would like at City Hall during regular business hours.

Mr. Clark concluded by stating the program is also promoted on the City's website under the Customer Service page and will be posted and shared throughout the year on the City's Facebook page.

Council received the information and took no action.

C. Public Hearing:

- 1) **Consideration of an ordinance to extend the corporate limits of the City of Shelby, North Carolina: Ordinance No. 68-2018**

Utilizing a location map of the area, Mr. Scharer pointed to the annexation site on Plato Lee Road which has an area of approximately 1.9 acres. This site is contiguous to an existing satellite within the corporate limits of the City of Shelby. If the annexation is approved, Council will also rezone 108 Plato Lee Road from Residential 20 (R20) District to General Business 2 (GB2) District.

Mayor Anthony opened the public hearing at 6:45 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public hearing at 6:46 p.m.

**ACTION TAKEN:** Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 68-2018 entitled, "AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF SHELBY, NORTH CAROLINA".

#### **D. Consent Agenda:**

**ACTION TAKEN:** Mayor Anthony presented the consent agenda. Mr. White made a motion to approve the consent agenda. The consent agenda and following items were unanimously approved:

- 1) **Approval of the Minutes of the Regular Meeting of November 19, 2018**
- 2) **Approval of a resolution of intent to submit applications for the Essential Single-Family Rehabilitation Loan Fund from the North Carolina Housing Finance Agency: Resolution No. 69-2018**
- 3) **Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Marion Street, Peach Street, and Cherryville Road Natural Gas Infrastructure Relocation Project: Ordinance No. 69-2018**

**END CONSENT AGENDA**

#### **E. Unfinished Business:**



**1) Consideration of an ordinance prohibiting the use of unmuffled engine compression brakes: Ordinance No. 70-2018**

Mr. Howell introduced Ordinance No. 70-2018 for Council's consideration. He reminded Council that in 2017 staff was directed to investigate the potential of regulating the use of what is referred to as "Jake" brakes. He said Mr. Yarboro will explain how these braking systems create substantial noise when activated and have generated complaints from residents living immediately adjacent to the US 74 Bypass.

Next, Mr. Yarboro described the use of compression release engine brakes without proper muffling systems which may cause a vehicle to make a loud chattering or "machine gun" exhaust noise, especially vehicles having high flow mufflers or no mufflers at all, and causing many communities in the United States to prohibit compression braking within municipal limits. He stated drivers are notified by roadside signs with legends such as "Engine Braking Restricted", "Jake Brakes Prohibited", "Compression Braking Prohibited", or "Unmuffled Compression Braking Prohibited". In North Carolina, the North Carolina Department of Transportation (NCDOT) Standard Practice B-29 requires a sign stating "Unmuffled Engine Braking Prohibited" if engine braking is to be regulated.

Mr. Yarboro further stated if this ordinance is adopted, City staff will complete the necessary encroachment agreements to allow the installation of the signs along US 74 Bypass. Following the installation of the signs, the ordinance shall be enforced. A violation of this ordinance shall be a traffic infraction as outlined in North Carolina General Statute 14-4 and will result in a fine of \$50.00.

Mr. Yarboro provided a map of the potential sign locations along US 74 Bypass and truck routes within the City limits. He noted the proposed ordinance does not apply to public school buses or public safety vehicles.

**ACTION TAKEN:** Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 70-2018 entitled, "AN ORDINANCE PROHIBITING THE USE OF UNMUFFLED ENGINE COMPRESSION BRAKES".

**2) Consideration of a resolution adopting the City of Shelby Traffic Calming Policy: Resolution No. 70-2018**

Mr. Howell introduced Resolution No. 70-2018 for Council's consideration. He reminded Council that in early 2018 he was directed to investigate the

potential of establishing a traffic calming policy that would, under certain, limited circumstances, allow the installation of traffic calming measures on City maintained streets. The proposed policy has been researched and represents a reasonable effort at providing the City with a common sense tool to address the most serious traffic issues.

Next, Mr. Yarboro stated the purpose of a traffic calming policy is to provide a uniform process for reviewing and analyzing traffic issues that are not commonly addressed in other engineering documents such as the Manual on Uniform Traffic Control Devices, the City of Shelby Standard Details, or the Federal Highway Administration Roadway Design Manual.

Mr. Yarboro stated there are numerous factors that must be considered before implementing traffic calming measures. These include but are not limited to:

- Street classification
- Speed limit
- Number of travel lanes
- Traffic volumes
- Pedestrian volumes
- Traffic speeds (85th percentile)
- Accident history
- Visibility
- Street grades
- Truck traffic
- Emergency vehicles
- Service vehicles
- Surrounding land uses
- Schools/playgrounds
- Sidewalk availability
- Cut through traffic
- Traffic safety
- Pedestrian safety
- Liability
- Drainage impacts
- Transit routes
- Aesthetics
- Americans with Disabilities Act (ADA) accessibility
- Location relative to other calming and control devices

If traffic calming measures are justified, there are two types of traffic calming

measures that will be considered: Non-physical and physical measures. Non-physical measures are those that do not alter the physical path of travel. They also do not require significant construction or alteration of the roadway. These measures should be the first method of traffic calming before more extensive measures are considered.

Examples of non-physical measures include, but are not limited to:

- Speed enforcement
- Radar trailers
- Lane striping (per Manual on Uniform Traffic Control Devices, North Carolina Department of Transportation, and Federal Highway Administration standards and warrants)
- Signage
- Pavement marking legends (i.e. speed limit painted on roadway)
- High visibility crosswalks
- On-street parking
- Raised pavement markers
- Streetscaping
- Multi-way stops (only when justified as an appropriate "traffic control" element)
- Turn prohibitions and other restrictions
- Gateways/entryways

Physical measures are those that alter the physical path of travel resulting in reduced speeds. Some physical measures may also result in reduced traffic by causing drivers to find alternate routes. These measures may require significant construction or alteration of the roadway. These measures should only be considered if non-physical measures are not successful at reducing traffic and/or speeds.

Examples of physical measures include, but are not limited to:

- Textured pavements
- Speed humps
- Speed tables/Raised crosswalks
- Bulbouts
- Chokers
- Lateral shifts
- Chicanes
- Realigned intersections

- Center island narrowing/Medians
- Traffic circles
- Roundabouts
- Diagonal diverters
- Street closures

After the need for traffic calming measures has been justified at a specific location, the following criteria will be used to prioritize projects:

- Speed
- Traffic volume
- Crash history for property damage
- Crash history for personal injury
- Pedestrian activity
- Sidewalks
- Amount of time on project waiting list

Mr. Yarboro concluded by stating the objectives of the proposed City of Shelby Traffic Calming Policy are to improve safety and quality of life for citizens by:

- Reducing speeding and cut through traffic
- Improving pedestrian/bike safety and access
- Increasing driver awareness
- Preventing shifting the problem to other streets
- Enhancing aesthetics
- Reducing collision frequency and severity
- Minimizing increases in noise and pollution

Mr. Yarboro summed up that this traffic calming policy is intended to guide City staff and to inform citizens of the policy and procedures for implementing traffic calming measures on City maintained residential streets. City staff will work with residents to identify traffic issues in neighborhoods and develop an appropriate plan of action in an effort to promote safety, mobility, and increased quality of life.

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 70-2018 entitled, "A RESOLUTION ADOPTING THE CITY OF SHELBY TRAFFIC CALMING POLICY".

F. New Business: None

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

- 1) In response to citizen concerns and complaints, Mr. Howell suggested an amendment to the City's Solid Waste Ordinance to regulate the timeframe a rollout trash cart must be removed from the curb and stored away from the front of a residence. By consensus, Council directed Mr. Howell to draft the amendment for their future consideration.
- 2) Mr. Howell requested Council review their calendars in order to set an annual planning retreat date in January or February 2019.
- 3) Mr. Howell suggested moving up the budget process and calendar for Fiscal Year 2019-2020 with the objective of adopting the City's budget on May 20, 2019.

**H. Council Announcements and Remarks:**

- 1) Mayor Anthony made the following announcements and encouraged Council members to attend :
  - Wreaths Across America Passing of the Wreaths Ceremony – December 12, 2018 at 8:00 a.m., LeGrand Center
  - City of Shelby Christmas Luncheon – December 13, 2018, 11:00 a.m. – 1:30 p.m., Shelby City Park
  - Shelby Christmas Parade – December 16, 2018 at 3:00 p.m., line up for parade route on Lafayette Street
- 2) Mr. Webber memorialized the life and legacy of former President George H. W. Bush who recently passed away.

**I. Closed Session:**

- 1) To approve the Minutes and General Account of the Closed Sessions of September 17, 2018 and October 1, 2018
- 2) To consult with the City Attorney in order to preserve the attorney-client privilege pursuant to North Carolina General Statute 143-318.11 (a) (3)
- 3) To establish or instruct staff concerning the position to be taken by or on behalf of City Council in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by

purchase, option, exchange, or lease pursuant to North Carolina General Statute 143-318.11 (a) (5)

- 4) To conduct the annual performance evaluation of the City Manager pursuant to North Carolina General Statute 143-318.11 (a) (6)

**ACTION TAKEN:** Mr. White made a motion to enter into a closed session pursuant to the appropriate North Carolina General Statutes as cited. Mayor Anthony consulted with Mr. Yelton who advised the topics met the statutory requirements for a closed session. The Mayor invited all Council members present along with Mr. Howell, Mr. Yelton, and Mrs. Parduski to attend. The motion passed unanimously and Council moved into closed session at 7:16 p.m.

Council returned to the regular session at 8:05 p.m.

**J. Adjournment:**

- 1) Motion to adjourn

**ACTION TAKEN:** Upon a motion made by Mr. Hendrick, City Council voted unanimously to adjourn the meeting at 8:06 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC  
City Clerk

O. Stanhope Anthony III  
Mayor

Minutes of December 3, 2018