

MINUTES

Regular Meeting
City Hall Council Chamber

May 20, 2019
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, and Dicky Amaya; City Manager Rick Howell, ICMA-CM, City Attorney Robert W. (Bob) Yelton, Assistant City Manager/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 Energy Services Julie R. McMurry, Director of Water Resources David W. Hux, Director of Engineering Services Benjamin (Ben) Yarboro, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Public Works Daniel C. (Danny) Darst, Jr., Director of Parks and Recreation Charlie Holtzclaw; and Director of Cable Programming Greg Tillman of Cleveland Community College and The Video Factory

Absent: Council Member Charles Webber and City Clerk Bernadette A. Parduski

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 Patty Smith, President of Delta Sigma Theta Sorority, led the *Pledge of Allegiance*.

A. Approval of agenda:

1) Motion to adopt the proposed agenda

At the request of Mr. Howell, Mayor Anthony added Item J-3 under the Closed Session as follows:

- To consult with the City Attorney in order to preserve the attorney-client privilege in the matter of Willie A. Green, Sr. versus the City of Shelby and Rick Howell pursuant to North Carolina General Statute 143-318.11 (a) (3)

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

B. Special Presentations:

1) Delta Sigma Theta Sorority, Inc. – Andrea Leslie-Fite

As a member of the Delta Sigma Theta Sorority, Inc., Andrea Leslie-Fite gave a presentation about the Shelby Alumnae Chapter which has been serving Cleveland, Rutherford, and Lincoln Counties for over 35 years.

Mrs. Leslie-Fite shared the Sorority's mission statement:

Delta Sigma Theta Sorority, Incorporated is an organization of college educated women committed to the constructive development of its members and to public service with a primary focus on the Black community.

The Sorority was founded in 1913 and incorporated in 1930, with the Shelby Chapter chartered in 1983. The major programs of the Sorority are based upon the organization's Five-Point Programmatic Thrust:

- Economic Development
- Educational Development
- International Awareness and Involvement
- Physical and Mental Health
- Political Awareness and Involvement

Mrs. Leslie-Fite stated all local programs of the Sorority are based upon the organization's Five-Point Programmatic Thrust and include many local activities such as supporting the Cleveland County Library, Habitat for Humanity, Delta GEMS, EMBODI, United Way Day of Caring, United Negro College Fund, Cleveland County Arts Council, etc.

Mrs. Leslie-Fite concluded by expressing the appreciation of the Shelby Alumnae Chapter of Delta Sigma Theta Sorority to Mayor Anthony and Shelby City Council for their commitment to serving the citizens and for the opportunity to participate in Delta Day at the City of Shelby. The Shelby Alumnae Chapter looks forward to continuing to be a community partner, striving to serve.

Council received the information and took no action.

2) North Carolina Division of Water Infrastructure Asset Inventory and Assessment Grant Final Report – David Hux, Director of Water Resources

Mr. Hux began his presentation by stating the North Carolina Division of Water Infrastructure (NCDWI) Asset Inventory and Assessment Grants were created in Session Law 2015-241, with changes made to North Carolina General Statutes 159G, to broaden the use of grant funds to encourage water and wastewater utilities to become more viable and proactive in the

management and financing of their systems. These grants are limited to \$150,000 from the Water and Wastewater Reserve to aid local governments in the asset inventory process and also enable municipalities to perform assessments of water and sewer inventory.

Mr. Hux stated City staff believed the grant funds available to North Carolina municipalities were a great opportunity to use funding for outside resources for evaluation and prioritization of improvement activities.

In September 2016, City staff received authorization from City Council to submit a grant application to NCDWI for the Sewer Asset Inventory and Assessment Grant with Resolution No. 49-2016. The City's project application was approved by NCDWI for the full award of \$150,000 while requiring five (5) percent match for the sewer assessment services. The grant agreement was presented to City Council in June 2017 and approved with Resolution No. 47-2017.

Mr. Hux stated the North Carolina's Statewide Water and Wastewater 2017 Infrastructure Master Plan defined a viable system as:

“A viable system is one that functions as a long-term, self-sufficient business enterprise, establishes organizational excellence, and provides appropriate levels of infrastructure maintenance, operation, and reinvestment that allow the utility to provide reliable water services now and in the future.”

Next, Mr. Hux described the Shelby Sewer System as follows:

- 53 percent of the sewer system was installed prior to 1960
- Majority of sewer in “Old City Limits”, within 1.5 mile radius of the Court Square, was installed prior to 1960
- 90 percent of the sewer system is constructed with clay pipe
- Very limited reimbursement prior to 2009
- 191 miles of gravity lines
- 23 miles of force main
- 5,284 manholes
- 148 aerial lines

Mr. Hux discussed the Shelby Sewer System issues as follows:

- Deterioration – cracks, collapses, bad traps and holes
- Deterioration can result in spills and back-ups
- Inflow and infiltration
- Groundwater and stormwater contributions to system
- Hydraulic overloading could occur in outfalls resulting in spills

- **Potential reduction of capacity at First Broad River Wastewater Treatment Plant**

Mr. Hux commented the industry benchmark for sewer overflows is two spills per 100 miles of lines, noting spills exceeded 26 prior to 2009. Overall, the City is trending downward.

Mr. Hux further noted sewer system improvements since 2009:

- **Improved cleaning activities**
- **Flow monitoring and visual evaluation**
- **Main outfall rehabilitation: Hickory Creek Outfall – Shelby High north to Carolina/Suttle; First Broad River Outfall – Linton Barnette; Hendrick Street outfall**
- **Lift station and force main improvements: Spruce lift station and Cleveland Mall lift station**
- **Area improvements – Chestnut Street neighborhood; West Shelby; Uptown Shelby**

Mr. Hux stated the City utilized the services of Gavel & Dorn Engineering of Charlotte, North Carolina to help coordinate and summarize the City’s sewer assessment activities in conjunction with the AIA grant. As the City indicated in its grant application, City staff chose to concentrate their efforts on a portion of the City that contained the City’s oldest sewer infrastructure, commonly referred to the “Old City Limits”. The work team focused on two areas for this AIA evaluation:

- **Belvedere Area – Marion Street south to Kings Road and Kings Road west to Peach Street**
- **West Shelby – Outfalls from Highway 74 Business south to Optimist Park**

Mr. Hux stated Gavel & Dorn utilized the services of a subcontractor to perform sewer system cleaning and to provide closed circuit television (CCTV) inspections of the sewer infrastructure. The work consisted of light cleaning and CCTV of 54,724 feet of sewer and also conducted heavy cleaning of 12,583 of the area evaluated. Additional results of the assessment process included sizing confirmation and Geographic Information System (GIS) mapping updates, located 12 manholes that were buried, and identified 17 line segments under structures.

The CCTV data was reviewed by Gavel & Dorn and manageable project areas and cost estimates were developed for two phased methods of rehabilitation. The options are:

- Geographic Construction Phasing
- Defect Rating Construction Phasing

Mr. Hux explained Geographic Rehabilitation as phased “neighborhood rehabilitation” consisting of upsizing of 6-inch lines, point repairs, and the eventual lining of the sewer system. The pros – like new sewer; the cons – expensive. Total estimate: Approximately \$4.5 million.

He also explained the Defect Rating Based Rehabilitation which focuses on worst rated sections and includes some upsizing of 6-inch lines, point repairs, and the eventual lining of some sections. The pros – lower costs, worst sections; the cons – multiple projects in same area, potentially higher costs per foot; still have deteriorating sections. Total estimate: Approximately \$3 million.

In conclusion, Mr. Hux stated the CCTV data was reviewed by Gavel & Dorn and manageable project areas and cost estimates were developed and prioritized with various improvement options. City staff will prioritize these recommendations with other evaluation areas and incorporate these into the Capital Improvement Program (CIP) budget as funds are available. Overall, this evaluation allows the City to set the groundwork for better sewer improvement planning and prioritization as major collapses have been repaired by staff and the GIS Mapping System will be updated. The City also anticipates the Water and Sewer Asset Management Plan will be updated in the next one to two years.

The City of Shelby Asset Inventory and Assessment Grant Preliminary Engineering Report of April 2019 prepared by Gavel & Dorn Engineering, PLLC of Charlotte, North Carolina is incorporated herein by reference and made a part of these Minutes.

Council received the information as required by the North Carolina Division of Water Infrastructure.

C. Public Comment:

- 1) Dr. Clyde Edgerton who resides at 437 Wayne Drive in Wilmington, North Carolina spoke in support of Willie Green. Dr. Edgerton is a professor at the University of North Carolina at Wilmington and a novelist. He knows and stands with Willie Green who, in his opinion, has detected racism involved in the blocking of his efforts to bring a minority business to Shelby. Dr. Edgerton urged City Council to embrace diversity and accept moral advice over legal advice and settle the Willie Green lawsuit.

- 2) Reverend Dante Murphy who resides at 356 Pike Creek Road in Burgaw, North Carolina spoke in support of Willie Green. Reverend Murphy stated he read the Green lawsuit against the City of Shelby and City Manager Rick Howell as well as public records and believes racism is involved. In his opinion, no comment by City Council about the Green lawsuit equates to the silence that kills our society. He urged City Council to do the right thing.
- 3) Alex Franks who resides at 2259 Indian Trail in Rock Hill, South Carolina spoke against the demolition of the Chestnut Apartments located at 229 Chestnut Street, Shelby, North Carolina. As the owner of the property, Mr. Franks stated he has an extensive background in real estate and rehabilitation projects such as the Chestnut Apartments. He requested Council's indulgence due to the fact that he has been caring for his father who was terminally ill and recently passed away. Mr. Franks was seeking an opportunity for an extension of 60 days to complete the project.

Mr. Howell advised Council it is their discretion to grant additional time to Mr. Franks.

D. Public Hearing:

- 1) Proposed Fiscal Year (FY) 2019-2020 Annual Operating Budget for the City of Shelby

Mr. Howell reminded Council the proposed budget for Fiscal Year (FY) 2019-2020 has been presented, distributed, and made available for public inspection. As required by the North Carolina General Statutes, the public hearing notice has been advertised to allow public comment directly to Council for consideration prior to a formal vote.

Mr. Howell concluded by stating the proposed budget is relatively representative of the status quo, noting:

- The property tax rate will remain unchanged at 52.25 cents (\$0.5225) per one hundred dollars (\$100) valuation of property
- Natural gas, electric, water, and sewer rates will remain unchanged for all City customers
- The implementation of Phase 2 of the approved Compensation and Pay Plan

Mayor Anthony opened the public hearing at 6:41 p.m. and invited comments from the public.

The public offered no comments and Mayor Anthony closed the public

hearing at 6:42 p.m.

- a. **Consideration of Fiscal Year (FY) 2019-2020 Budget Ordinance: Ordinance No. 31-2019**

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 31-2019 entitled, "FISCAL YEAR (FY) 2019-2020 BUDGET ORDINANCE".

- b. **Consideration of Fiscal Year (FY) 2019-2020 Supplemental Budget Ordinance: Ordinance No. 32-2019**

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 32-2019 entitled, "FISCAL YEAR (FY) 2019-2020 SUPPLEMENTAL BUDGET ORDINANCE".

E. Consent Agenda:

ACTION TAKEN: Mayor Anthony presented the consent agenda. Mr. White made a motion to approve the consent agenda, with the exception of Item No. 13. The consent agenda and following items were approved by a vote of 3 (Causby, Arth Dukes, and Amaya) to 2 (Hendrick and White):

- 1) Approval of the Minutes of the Regular Meeting of April 15, 2019
- 2) Approval of the Minutes of the Special Meeting of April 24, 2019
- 3) Approval of the Minutes of the Special Meeting of April 29, 2019
- 4) Approval of a Special Event Permit Application:
 - a. Host City Welcome, requested date: August 14, 2019
- 5) Approval of a reimbursement resolution with regard to installment financings for Fiscal Year 2019-2020: Resolution No. 34-2019
- 6) Approval of a resolution revising the Purchasing Manual of the City of Shelby to provide for an updated purchasing policy and procedures manual: Resolution No. 35-2019
- 7) Adoption of Fiscal Year 2018-2019 Budget Ordinance Amendment No. 8: Ordinance No. 33-2019

- 8) Approval of a resolution awarding the bid for relocation of electric lines at Marion Street/Peach Street/Cherryville Road intersection: Resolution No. 36-2019
- 9) Approval of a resolution awarding the bid for reconductor of Electric lines in Circuit 10-4 along Trade Street: Resolution No. 37-2019
- 10) Adoption of a budget ordinance amendment for the City of Shelby's Marion Street, Peach Street, and Cherryville Road Natural Gas Line Relocation Project: Ordinance No. 34-2019
- 11) Adoption of an ordinance authorizing demolition of a dwelling at 413 North Washington Street: Ordinance No. 35-2019
- 12) Adoption of an ordinance authorizing demolition of a dwelling at 113 Maple Street: Ordinance No. 36-2019
- 13) TABLED BY MRS. ARTH DUKES FOR FUTURE COUNCIL ACTION

Adoption of an ordinance authorizing demolition of a dwelling at 229 Chestnut Street: Ordinance No. 37-2019
- 14) Adoption of an ordinance authorizing demolition of a dwelling at 229 Shannonhouse Street: Ordinance No. 38-2019
- 15) Adoption of an ordinance of the City of Shelby, amending Section 30-5 of Article I of Chapter 30: Ordinance No. 39-2019
- 16) Approval of a resolution approving the North Carolina Division of Aviation Letter of Agreement for Airport Safety/Maintenance Projects for the Shelby-Cleveland County Regional Airport: Resolution No. 38-2019
- 17) Approval of a resolution awarding the bid for relocation of natural gas lines at Marion Street, Peach Street, and Cherryville Road intersection: Resolution No. 39-2019

END CONSENT AGENDA

F. Unfinished Business: None

G. New Business: None

H. City Manager's Report:

- 1) Mr. Howell updated Council with regard to contract negotiations with

Republic Services for curbside recycling. He stated Republic Services' proposal is wholly unacceptable to the City. It may be very difficult to reach agreeable terms and the matter will be brought to Council as future item for discussion purposes.

- 2) Mr. Howell informed Council the economic development announcement related to "Project Choice" has been delayed. However, a public announcement by the company will be made on May 22, 2019 and Governor Cooper's event will be held at a later date.
- 3) Mr. Howell provided the following project updates:
 - Farmville Road elevated water tank associated with the Clearwater Paper Corporation expansion – Completion anticipated by Fall 2019
 - Water Treatment Plant Improvements Project – Ongoing
 - Shelby-Cleveland County Regional Airport T-Hangar Project – Moving forward with completion anticipated by Fall 2019
- 4) Mr. Howell announced the annual memorial service honoring the lives lost in the Uptown fire 40 years ago will be held on May 25, 2019 at 10:30 a.m. at the new Fallen Heroes Memorial within Raper-Roark Park on the corner of South Lafayette Street and East Graham Street.

I. Council Announcements and Remarks:

- 1) Mayor Anthony expressed his appreciation to Mr. Howell and City staff for bringing the Fallen Heroes Memorial Project within Raper-Roark Park to fruition and mentioned the dedication of the memorial held in conjunction with the Cleveland County Fallen Heroes Law Enforcement Memorial Service held on May 17, 2019 were a fitting tribute and a place of honor in the community.

J. Closed Session:

- 1) 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)
- 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 consult with the City Attorney in order to preserve the attorney-client privilege in the matter of Willie A. Green, Sr. versus the City of Shelby and

Rick Howell pursuant to North Carolina General Statute 143-318.11 (a) (3)

ACTION TAKEN: Mr. Amaya 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 topic met the statutory requirements for a closed session. The Mayor invited all Council members present along with Mr. Howell and Mr. Yelton to attend. The motion passed unanimously and Council moved into closed session at 7:00 p.m.

Council returned to the regular session at 7:41 p.m.

K. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to adjourn the meeting at 7:42 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

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