

MINUTES

Regular Meeting
Don Gibson Theatre

March 15, 2021
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, and Andrew Hopper, Sr.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin S. Merritt, MPA, City Attorney Andrea Leslie-Fite, City Clerk Bernadette A. Parduski, Public Information and Communications Officer Chip Nuhrah, Director of Finance Elizabeth B. (Beth) Beam, CPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Energy Services Julie R. McMurry, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Parks and Recreation Charlie Holtzclaw, Director of Planning and Development Services Walter (Walt) Scharer, AICP, Lead for North Carolina Fellow Shelby Holmes; Stan Lowery, Executive Director, Don Gibson Theatre, and Jennipher H. Harrill, Social Media Manager, Blue Eyes Social Media Connections

Mayor Anthony called the meeting to order at 6:00 p.m. and certified a quorum of City Council was present. It was noted the meeting was being held by electronic means pursuant to General Statute 166A-19.24. A location for public access to the meeting was established at the Don Gibson Theatre in accordance with the current Executive Orders of Governor Cooper and the North Carolina Department of Health and Human Services COVID-19 guidelines.

The Mayor delivered the invocation.

A. Approval of agenda:

1) Motion to adopt the proposed agenda

Mrs. Arth Dukes requested that Item D-2 under the Consent Agenda be placed under New Business as Item F-5 as follows:

- **Consideration of the approval of Special Event Permit Application:**
 - **Shelby High School Homecoming Parade, requested date: March 26, 2021**

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

B. Special Presentation:

1) Public Art in Shelby – Shelby Holmes, Lead for North Carolina Fellow

Mr. Merritt introduced Shelby Holmes as a Lead for North Carolina (LFNC) Fellow who has been working with the City for the past several months on a variety of issues. Miss Holmes is a native of Weaverville, North Carolina, and a graduate of Davidson College. The goal of LFNC is to implement a fellowship program for recent college graduates and is the pilot state affiliate program of Lead for America. The fellowship program seeks to strengthen North Carolina's local governments and to create future public sector leaders. Mr. Merritt stated one topic selected for Miss Holmes to research and develop was a policy and plan development of a public art program, which is the subject matter of her presentation.

Next, Miss Holmes began her presentation entitled, "Public Art in Shelby" by defining public art as vital and accessible to all. A direct or indirect public process includes creation (to make), procurement (to fund), maintenance (to preserve), and meaning-making (to interpret or to define). She provided several examples of public art from sculptures to murals to public performances, etc.

Miss Holmes discussed the reasons to invest in public art including:

- To reflect community values and history
- To create interesting public spaces allowing for interaction
- As potential destinations for visitors as well as residents
- To highlight and to stimulate the local and regional creative economy
- To revitalize deteriorated and/or underutilized spaces, possibly encouraging reinvestment
- To build place-based identity
- To increase sense of ownership and efficacy with community participation in the design and creation of public space

Miss Holmes proposed the formation of the Shelby Public Art Advisory Board. The board will be responsible for advising City Council on matters related to public art policies, programming, resources, and acquisitions. It will consist of seven (7) members, including one (1) representative from the Cleveland County Arts Council, one (1) representative from the Keep Shelby Beautiful Commission, one (1) youth representative, and at least two (2) arts professionals. In addition to the advisory board, review committees and a staff liaison will be included in the structure:

- Review Committees – will make recommendations to the advisory board and provide another opportunity for citizens and the public to provide input on a specific project
- Staff Liaison – to be appointed by the City Manager; will coordinate all the necessary City departments to get public arts projects moving forward

Miss Holmes presented the 10-step general commission process for a public art project as follows:

- The project – define the idea either as a subject matter, artform, and/or location
- Review Committee – Advisory Board appoints a Review Committee of up to five (5) members
- The Method – determine best method of selection
- Call to Artists – publicize the project to appropriate audiences, providing sufficient time for artists to prepare materials
- The Review – Review Committee reviews proposals and makes a recommendation to the Advisory Board
- Council Approval – Advisory Board makes recommendation to Council
- Contract and Final Design – The City Attorney will prepare an artist contract, including schedule of delivery and payment; the artist will prepare a final design proposal with required public input/engagement
- Installation – Artist completes the agreed upon design in a timely manner
- Continuing Impact – Staff will document the artwork in an accession record and will incorporate it into a care and maintenance schedule; Staff will also organize media releases, artwork dedication, and public engagement strategies
- Repeat the process

Miss Holmes mentioned possible funding strategies for public art in the City of Shelby which may include:

- Public Funding
 - Percent for Art Ordinance
 - Art Program Administration Funding
 - Travel and Tourism appropriation
 - Raper-Roark Trust appropriation
- Private Funding
 - Gifts from individuals, corporations, foundations, institutions, and organizations
 - Monies may be obtained through grants, wills, memorials, or special fundraising campaigns
 - Private development funding
- Grant opportunities

To conclude, Miss Holmes referred to the full City of Shelby Public Art Plan for additional information related to:

- Public engagement strategies
- Gift and loan processes
- Deaccession process
- City considerations for non-City projects
- Maintenance planning
- Examples of successful programs
- Drafted documents
- Opportunities for public art in Shelby

C. Public Comment: None

D. Consent Agenda:

Mayor Anthony presented the consent agenda. Mr. White moved to approve the consent agenda and the following items were unanimously adopted:

1) Approval of the Minutes of the Regular Meeting of March 1, 2021

2) REMOVED AND PLACED UNDER NEW BUSINESS AS ITEM F-5:

Approval of Special Event Permit Application:

a. Shelby High School Homecoming Parade, requested date: March 26, 2021

3) Acceptance of the Certificate of Sufficiency regarding Petition for Annexation of applicant, Jason Lowery of North Point Custom Builders

4) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's CDBG-CV Grant Project: Ordinance No. 8-2021

5) Approval of a resolution accepting and approving assignment of an aircraft hangar used by Danny Bridges to Broad River Holdings LLC: Resolution No. 19-2021

E. Unfinished Business:

1) Consideration of appointments to City advisory boards and commissions:

a. Shelby Housing and Redevelopment Advisory Board

Mrs. Parduski reported the terms of three incumbents, Darrell Gerald, Brenda Marable, and Michael Shawn Collins, conclude March 2021. All three incumbents are seeking reappointment to this board.

There is one application on file in the Clerk's Office:

1. Peter Potemkin

Mr. White nominated the incumbents, Darrell Gerald, Brenda Marable, and Michael Shawn Collins, for reappointment.

ACTION TAKEN: Upon a motion made by Mr. Causby, City Council voted unanimously to close the nominations and accept the nominees for reappointment by acclamation.

2) Consideration of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Airport Grant T-Hangar No. 4 Project: Ordinance No. 10-2021

Mr. Merritt introduced Ordinance No. 10-2021 for Council's consideration. If approved, this ordinance would establish a project budget ordinance recognizing \$130,000 in grant funding from the North Carolina Department of Transportation Division of Aviation and appropriating such for the T-Hangar and Taxilane – Phase 2 (Design/Bidding and Construction Phase Services) Project. This project would ultimately add a fourth 10-unit T-Hangar to the Shelby-Cleveland County Regional Airport. This additional hangar would generate monthly rental income for the City in support of airport operations and future capital projects.

Mr. Merritt added City staff is confident the additional proposed 10-unit T-Hangar can be fully rented prior to the completion of construction due to the demand for space which currently exists.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Ordinance No. 10-2021 entitled, "AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S AIRPORT GRANT T-HANGAR NO. 4 PROJECT".

F. New Business:

1) Consideration of a resolution approving a marketing agreement for National League of Cities Service Line Warranty Program between the City of Shelby and Utility Service Partners Private Label, Inc.: Resolution No. 20-2021

Mr. Merritt introduced Resolution No. 20-2021 for Council's consideration. If approved, this resolution would authorize the City Manager to enter into an agreement allowing for the marketing of the proposed residential water and

sewer service line warranty program in cooperation with the City. Mr. Merritt stated the City's only obligation is to allow use of the City logo in marketing material and access to the utility customer data base if the City chooses to do so.

Mr. Merritt further stated this program is endorsed by the National League of Cities (NLC) and the North Carolina League of Municipalities (NCLM) and is already in place in several North Carolina cities including Charlotte, Hendersonville, Sanford, Albemarle, and others. The program is a low-cost insurance program that affords residents an affordable option should the replacement of their water service line or sewer lateral need replacement. The residential customer has the responsibility of maintaining the service connection between the mainline and the residence. Failures of the service line may result in large out-of-pocket costs for the homeowner, many times with little warning. The NLC Service Line Warranty Program seeks to allow residential customers to voluntarily contract with Utility Service Partners Private Label, Inc. to purchase a warranty that will help offset these costs, should a failure occur.

Mr. Merritt added there is no cost to the City for this program and it is completely voluntary for a residential customer to participate. The transaction is wholly between the resident and Utility Service Partners Private Label, Inc.

ACTION TAKEN: Upon a motion made by Mrs. Arth Dukes, City Council voted unanimously to approve and adopt Resolution No. 20-2021 entitled, "A RESOLUTION APPROVING A MARKETING AGREEMENT FOR NATIONAL LEAGUE OF CITIES SERVICE LINE WARRANTY PROGRAM BETWEEN THE CITY OF SHELBY AND UTILITY SERVICE PARTNERS PRIVATE LABEL, INC.".

- 2) Consideration of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's General Obligation Bond Referendum Project: Ordinance No. 11-2021

Mr. Merritt introduced Ordinance No. 11-2021 for Council's consideration. If approved, this ordinance would establish a capital project budget for the provision of bond counsel and financial advisory services. Paul Billow of Womble Bond Dickinson (US) LLP and Amy Vitner of First Tryon Securities, LLC d/b/a First Tryon Advisors will be consulted at various times during the process of the City Council considering the placement of a bond referendum for transportation improvements on the November 2021 ballot.

Mr. Howell reiterated financing various street and sidewalk projects will ultimately be a decision of City Council and adoption of the ordinance does not obligate the City to move forward with the referendum. It merely positions the City to expend funds to prepare.

ACTION TAKEN: Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Ordinance No. 11-2021 entitled, “AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY’S GENERAL OBLIGATION BOND REFERENDUM PROJECT”.

3) Consideration of an ordinance creating the City of Shelby’s Public Art Advisory Board: Ordinance No. 9-2021

Mr. Merritt introduced Ordinance No. 9-2021 for Council’s consideration. If approved, this ordinance would create a Public Art Advisory Board for the City. He stated the board will act in an advisory capacity to the City Council and will maintain an overview and long-term planning vision that balances diverse perspectives and facilitates the implementation of the Shelby Public Art Plan.

Mr. Merritt added the structure of the Board will consist of seven (7) Council-appointed board members, including at least one (1) representative from the Cleveland County Arts Council, one (1) representative from the Keep Shelby Beautiful Commission, and one (1) youth representative, defined as someone attending 9th through 12th grade. At least two (2) of the board members must be arts professionals. The members should represent a cross-section of the City of Shelby, Cleveland County, the non-profit sector, the private sector, and the local artist community, and should come from a variety of backgrounds with intentional efforts to recruit a diverse field of candidates reflecting the diversity of Shelby’s population.

ACTION TAKEN: Upon a motion made by Mrs. Arth Dukes, City Council voted unanimously to approve and adopt Ordinance No. 9-2021 entitled, “AN ORDINANCE CREATING THE CITY OF SHELBY’S PUBLIC ART ADVISORY BOARD”.

4) Consideration of a resolution adopting the 2021 City of Shelby Public Art Plan: Resolution No. 18-2021

Mr. Merritt introduced Resolution No. 18-2021 for Council’s consideration. If approved, this resolution would adopt the presented public art plan, which like other adopted City plans, will serve as a flexible framework to encourage the creation and placement of public art throughout the City of Shelby.

Mr. Merritt stated the plan details processes for the commission, accession, maintenance, and delivery of public artworks and arts programming. According to the proposed plan, the City’s public art program is to be administered by a citizen advisory board, Public Art Advisory Board, with City staff support.

ACTION TAKEN: Upon a motion made by Mrs. Arth Dukes, City Council voted unanimously to approve and adopt Resolution No. 18-2021 entitled, “A RESOLUTION ADOPTING THE 2021 CITY OF SHELBY PUBLIC ART PLAN”.

5) Consideration of the approval of Special Event Permit Application:

- a. Shelby High School Homecoming Parade, requested date:
March 26, 2021

Mrs. Parduski reported the application for the Shelby High School Homecoming Parade was submitted by Principal David Allen as an annual event in the usual manner. However, no plan to comply with Governor Cooper’s Executive Orders and the North Carolina Department of Health and Human Services COVID-19 Pandemic guidelines was submitted with the application. Subsequently, Mr. Allen did request a time change from 3:30 p.m. to 5:01 p.m.

Discussion followed: Mr. Howell stated that Governor Cooper’s Executive Order No. 195 arguably contains conflicted language. The Executive Order provides for an exception to mass gatherings for “educational institutions and government operations”. The exception is subject to the capacity limits, which makes it difficult for Council to decide. Mr. Howell further stated the later start time presents additional concerns for increased traffic, as opposed to an earlier time in the afternoon, as well as staffing issues. Mrs. Fite advised compliance with the Governor’s orders. Council Members Arth Dukes and Hopper did not want to approve an event that could potentially be non-compliant with the Governor’s orders. Currently, there is a prohibition on mass gatherings, including parades, which bring together more than 50 people in an outdoor space. Mr. Howell added the Governor’s orders are subject to interpretation particularly for educational institutions and governments, and the earlier start time of 3:30 p.m. would most likely bring out less than 50 people. It was also suggested staff contact the Governor’s Office or the Attorney General’s Office to request clarification or clearance to hold the parade as submitted.

Prior to the motion, Mr. Hopper requested that any contingency approval by Council be communicated to Shelby High School in order that the school can prepare an alternate plan for its Homecoming Parade.

ACTION TAKEN: Mr. White moved to approve the Shelby High School Homecoming Parade on March 26, 2021 at 5:01 p.m. The approval is contingent upon Governor Cooper lifting Executive Order No. 195, which currently prohibits mass gatherings of more than fifty (50) people in an outdoor space, including parades, prior to March 26, 2021.

The motion passed 5 (Hendrick, White, Causby, Webber, and Hopper) to 1 (Arth Dukes).

G. City Manager's Report:

- 1) Mr. Howell reported the air curtain burner at the City's Wastewater Treatment Plant is now operational. City staff has begun disposing of yard waste using the new equipment.
- 2) Mr. Howell stated staff continues to explore alternative recycling options. He will provide information from a private vendor regarding a recycling option for Council's consideration.
- 3) Mr. Howell expressed his appreciation to Shelby Holmes for her exceptional work on the City's Public Art Plan and to City Council for their support of the project.

H. Council Announcements and Remarks:

- 1) Mayor Anthony reminded Council that they will return to in-person meetings on April 5, 2021 at the Don Gibson Theatre in the function space.

The Mayor wished all a Happy Easter.

I. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Causby, City Council voted unanimously to adjourn the meeting at 7:03 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of March 15, 2021