

**MINUTES**

**Regular Meeting  
Don Gibson Theatre**

**November 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, Charles Webber, Andrew L. 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, Assistant Director of Finance Sam Clark, Director of Energy Services Julie R. McMurry, Fire Chief William P. Hunt, MPA, EFO, Director of Planning and Development Services Walter (Walt) Scharer, AICP; 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 delivered the invocation.**

**Mr. Webber led the Pledge of Allegiance.**

**A. Approval of agenda:**

**1) Motion to adopt the proposed agenda**

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

**B. Special Presentation:**

**1) City of Shelby 2021 Audited Financial Statements – Tonya L. Thompson, CPA, Manager, Martin Starnes & Associates, CPAs, P. A.**

**Mr. Howell introduced Tonya Thompson with Martin Starnes & Associates as the presenter of the annual audit report and Annual Comprehensive Financial Report (ACFR) for Fiscal Year (FY) ended June 30, 2021.**

**Next, as included in the audit highlights, Miss Thompson stated the Martin Starnes' report yielded an unmodified opinion, meaning the City's financials are not materially misstated and are fairly presented in conformity with generally accepted accounting principles (GAAP). Miss Thompson also acknowledged the assistance and cooperation of Mrs. Beam and the Finance Department's staff during the audit process.**

**Miss Thompson mentioned additional audit highlights:**

- **General Fund – \$2.7 million increase in fund balance**

- Enterprise Funds – \$11.5 million increase in net position
- 2021 Property tax revenues – \$13,274,915
- 2021 Collection rate – 98.48 percent

It was noted the increase of \$856,000 or 7 percent collection rate is due to the increase in the tax base through economic development.

Miss Thompson summarized and compared General Fund revenues and expenditures for 2020 and 2021. In 2021, revenues increased by \$2 million, or 9 percent due to property taxes and sales taxes and expenditures increased by \$175,000 or 0.7 percent as spending was conservative due to COVID-19 uncertainties. She noted these amounts do not include other financing sources and uses such as transfers and capital financing.

Miss Thompson 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:

- \$2.1 million in Non-spendable fund balance
- \$5.5 million in Restricted fund balance which includes Stabilization by State statute, Powell Bill, public safety funds, and unspent debt proceeds
- \$900,000 in Committed fund balance
- \$2.6 million in Assigned fund balance
- \$6 million in Unassigned fund balance

Regarding total fund balance for the General Fund, Miss Thompson noted there was an increase of \$2,741,181 or approximately 29 percent from the prior year.

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

Total Fund Balance	\$ 12,202,765
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Non-spendable	(574,074)
Stabilization by State statute	(4,307,083)
Available Fund Balance 2021	\$ 7,321,608
Available Fund Balance 2020	\$ 5,508,138
Change in Available Fund Balance	\$ 1,813,470

She noted an increase of 33 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, 2021, 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 \$574,074 in inventories and in prepaids, reiterating these items are not in spendable form.

Miss Thompson explained the new guidelines from the Local Government Commission (LGC) regarding fund balance available (FBA) excluding Powell Bill funding. This calculation looks at fund balance available plus debt service fund balance less Powell Bill. The number is then divided by the total of total expenditures plus transfers out less bond proceeds. Shelby's FBA as a percentage of net expenditures in 2021 is 27 percent and the LGC minimum requirement is 25 percent. Miss Thompson further explained the LGC's median for units with General Funds expenditures of \$10 million such as Shelby is 46 percent.

Miss Thompson reported the top three sources of revenue include property taxes, other taxes and licenses, and other revenues which comprise \$21.1 million or 83 percent of the total revenues. The total revenues equal \$25,366,228.

As previously mentioned regarding property taxes, Miss Thompson further stated there was an increase of \$856,259 or 7 percent, mainly due to growth in taxable basis within the City.

Regarding other taxes and licenses, Miss Thompson noted an increase of \$1 million or 22 percent due to local option sales tax dollars, which was an unexpected consequence of the COVID-19 pandemic.

Regarding unrestricted intergovernmental revenues, there was a decrease of \$14,603 or 1 percent comparable to the prior year. Miss Thompson explained this revenue consists mostly of utility franchise tax and alcohol beverage control (ABC) revenues.

Miss Thompson reported the General Fund expenditures include public safety, general government, transportation, and other expenditures, which include environmental protection, cultural and recreation, and debt service for a total of \$25,484,921.

Miss Thompson said public safety had a decrease of \$604,000 or 5 percent due to decreased expenditures for personnel changes in the Police and Fire Departments.

Regarding general government, Miss Thompson commented expenditures increased by \$49,049 or 1.5 percent which was comparable to the prior year.

Miss Thompson said transportation had an increase of \$64,000 or 2 percent which was comparable to the prior year.

Regarding the City's enterprise funds, Miss Thompson reported an increase in total net position of \$11,548,618. 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.

Regarding the Water Fund, the unrestricted net position is up \$890,000 due to overall positive change in net position. Cash flows were up 185 percent.

Miss Thompson explained LGC's benchmarking utilizing the quick ratio. When a quick ratio is less than 1, it indicates that the unit owes more for its current bills than what it has on hand in unrestricted cash and investments plus what is owed from customers (accounts receivable). This could indicate that the fund may have difficulty paying its current bills. If this pattern continues, the water and/or sewer system may not be sustainable.

Regarding the Sewer Fund, the unrestricted net position is up 4.8 million due to the decrease in net investment in capital assets and overall increase in net position. Cash flows were down 33 percent. The quick ratio is above 1 for LGC benchmarking purposes.

Regarding the Electric Fund, the unrestricted net position is up \$6.5 million due to overall increase in net position. Cash flows were up 22 percent. Miss Thompson stated there was an overall positive change in net position of \$2.4 million. The quick ratio is above 1 for LGC benchmarking purposes.

Regarding the Natural Gas Fund, the unrestricted net position is up \$2.4 million due to the overall increase in net position. Cash flows were up 56 percent. The quick ratio is above 1 for LGC benchmarking purposes.

Regarding other non-major enterprise funds, the Stormwater Fund and Housing, were comparable to the prior year.

Miss Thompson reviewed performance indicators requiring a written, signed response with explanations and/or corrective actions by all the City Council

**Members, the City Manager, and the Finance Director within 60 days of the audit presentation to the following:**

- 1) Material weakness – prior period adjustment**
- 2) Transfer out of the Electric Fund – The LGC wants to know what the Council is funding and if Council plans to continue the practice**

**Mr. Howell acknowledged the first general performance indicator is noted as a material weakness in relation to a prior period adjustment. Mr. Merritt has noted that this adjustment involves the cash and debt associated with the purchase of the Norfolk Southern Rail Corridor. In the previous fiscal year, the cash and subsequent debt were recorded on the balance sheet, however, the cash used to purchase the corridor was never reclassified as a fixed asset of land. The adjustment simply recognizes the land (rail corridor) purchase in Fiscal Year 2019-2020.**

**Mr. Howell acknowledged the second general performance indicator is a new requirement for all local governments transferring money from an enterprise fund to the general fund. The LGC is requiring all units to provide an explanation of why transfers are being made, what they are specifically funding, and if the transfer is a one-time occurrence or recurring year to year. He noted the City has largely held steady on transfers made from the Electric and Natural Gas Funds to the General Fund operating budget.**

**Mr. Howell noted the high increase in net position across all enterprise funds, which is not a normal circumstance occurring every year, is mainly due to a wholesale power bill credit to the Electric Fund received from the North Carolina Municipal Power Agency 1 (NCMPA1) this year. The second factor involved in this net position increase is the hold on capital spending affecting all the utility funds.**

**Mr. Howell also noted the General Fund Summary reflects expenditures greater than the revenues which is due to the fact that the transfers from the Natural Gas and Electric Funds to the General Fund operations are not reflected in the audit presentation.**

**Miss Thompson concluded by reiterating Shelby's positive performance indicators for the record include:**

- General Fund balance**
- Enterprise fund quick ratios – all positive**
- Timely audit submission**
- Stable property tax valuation and collection percentage**

**ACTION TAKEN:** Upon a motion made by Mr. Webber, City Council voted unanimously to accept and acknowledge receipt of the City's Annual Audit Report for the year ended June 30, 2021.

**C. Public Comment:**

- 1) Gary Leigh who resides at 922 Surrey Drive in Shelby, North Carolina spoke to raise awareness of the issue of homelessness in Shelby and Cleveland County. Mr. Leigh is the Executive Director and active in an organization known as Trailhead Resources assisting individuals who are unsheltered with basic needs. He stated currently there is no emergency shelter for men in Shelby or Cleveland County. Mr. Leigh and Trailhead Resources are attempting to open a men's emergency shelter before this winter and have secured a location at 214 North Washington Street. After the inspection of the property by the Fire Marshal's office, he is requesting a waiver of the procedural requirements from the City in order that the facility can open and operate. Mr. Leigh expressed safety concerns for those who need to be served by this shelter if the opening is delayed.
- 2) Dr. Becky Love who resides at 520 West Warren Street in Shelby, North Carolina spoke in support of opening the men's emergency shelter at 214 North Washington Street. She works with Trailhead Resources to connect the homeless with access to care and basic needs for wellness. Dr. Love stated a shelter makes a huge difference to the homeless clients and the providers of service who wish to assist and offer opportunities to this population in a safe space. She also requested the City waive the requirement of 45 days so the Fire Marshall can re-inspect the property and allow the new location for the shelter to open before the cold weather sets in.
- 3) Robert Johnson who resides at 1502 Lackey Street in Shelby, North Carolina spoke in support of opening the men's emergency shelter at 214 North Washington Street. Mr. Johnson stated he has experienced and is a product of the homeless environment. He is now associated with Trailhead Resources and made the repairs to the proposed shelter at 214 North Washington Street, hoping the inspectors will return to the facility for a re-inspection. Mr. Johnson also requested Council consider waiving the inspection and permit requirements as well as the requirement of 45 days and allow the new location of the shelter to open before the cold weather sets in.

Mr. Scharer explained the development standards for a homeless shelter in Shelby include a conditional use permit authorizing such use which must be renewed annually by the Zoning Board of Adjustment. There is a Zoning Board of Adjustment meeting scheduled on this matter for December 9, 2021. The Planning staff did relax the lead time because the matter was discussed with the applicant. Although the applicant failed to submit the application on

time, the matter will be heard on December 9, 2021. Upon questioning, Mr. Scharer further stated once the Zoning Board of Adjustment hears the case and approves the permit, the project can move forward. He did clarify that the application was filed on November 9, 2021 but Planning staff was aware the project was ongoing.

#### D. Public Hearings:

- 1) Consideration of a proposed ordinance to amend the Unified Development Ordinance of the City of Shelby: Ordinance No. 42-2021

Mr. Scharer presented the proposed text amendment for on site conversions with development standards. He stated the applicant is a property owner and business owner in Shelby and introduced the proposal of a new business. The business is known as On Site Building Conversions, using existing shipping containers, storage buildings, etc. and repurposing them into homes, workshops, and different types of storage buildings. The applicant proposed allowing this use in General Business (GB) and General Business 2 (GB2) Districts with development standards and in Light Industrial (LI) District without development standards. Mr. Scharer also discussed the stacking of the containers, setbacks, and the buffering requirements. This ordinance does not allow the stacking of shipping containers. He noted the construction, conversion, and storage of these buildings takes place on site.

Mayor Anthony opened the public hearing at 6:42 p.m. and invited comments from the public.

The public offered no comments.

Mayor Anthony closed the public hearing at 6:43 p.m.

**ACTION TAKEN:** Upon a motion made by Mr. Hendrick, City Council voted unanimously to approve and adopt Ordinance No. 42-2021 entitled, “A PROPOSED ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF SHELBY”.

- 2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (203 West Warren Street): Ordinance No. 43-2021

Mr. Scharer introduced Ordinance No. 43-2021 for Council’s consideration. He stated the site is located at 203 West Warren Street and is currently a vacant commercial building and a storage building. The applicant, Terry McCartney, wishes to develop the property due its proximity to the future Rail Trail. The property is currently zoned General Business (GB) District and the applicant is requesting the property be zoned Central Business (CB) District.

Mr. Scharer stated land uses in the area include commercial, recreational, and industrial uses. He further stated the proposed zoning map amendment is consistent with Shelby Comprehensive Land Use Plan. The Planning and Zoning Board also recommended this proposed zoning amendment due to the property's location and propensity for future development in the area.

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

Charles Skip McCartney who resides at 3316 Crawley Road in Shelby, North Carolina spoke in support of and as a representative of his wife, Terry McCartney, the applicant. Mr. McCartney provided a packet of information including a letter from Mrs. McCartney describing her ideas for this project, a preliminary site plan prepared by Roger Holland, and sketches and renderings of her proposal. The existing main building facing West Warren Street will be renovated, a covered patio will be added behind the main building, and several small buildings will be built along South Morgan Street, facing the Rail Trail. Mrs. McCartney wishes to utilize her experience in real estate and to be a part of the Uptown Shelby success story. Her property is on the edge of the Uptown Central Business District and by extending the Central Business District boundaries west seems to have potential to be become an asset to the Uptown area.

Mayor Anthony closed the public hearing at 6:50 p.m.

**ACTION TAKEN:** Upon a motion made by Miss Arth, City Council voted unanimously to approve and adopt Ordinance No. 34-2021 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

- 3) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (325-5 West Dixon Boulevard): Ordinance No. 44-2021

Mr. Scharer introduced Ordinance No. 44-2021 for Council's consideration. He stated these parcels are currently the site of a garage along West Dixon Boulevard and the properties are zoned General Business (GB) District and Residential 6 (R6) District. The applicant has requested all properties be rezoned to General Business 2 (GB2) District in order to expand the business uses to allow for commercial development toward the rear of the property. Mr. Scharer explained the GB2 District is established as a district in which the permitted uses are identical to the GB District except that billboards are not permitted in the GB2 District. He added the Shelby Comprehensive Land Use Plan designates these sites as Corridor Revitalization District. The proposed zoning map amendment is consistent with the Shelby Comprehensive Land Use Plan and the Planning and Zoning Board recommended approval.



Mayor Anthony opened the public hearing at 6:51 p.m. and invited comments from the public.

The public offered no comments.

Mayor Anthony closed the public hearing at 6:52 p.m.

**ACTION TAKEN:** Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Ordinance No. 44-2021 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

**E. 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 November 1, 2021
- 2) Approval of Special Event Permit Application:
  - a. The Light Ball Dash, requested date: December 19, 2021
- 3) Adoption of Fiscal Year (FY) 2021-2022 Budget Ordinance Amendment No. 2: Ordinance No. 45-2021

**F. Unfinished Business:**

- 1) Consideration of appointments to City advisory boards and commissions:
  - a. Shelby Parks and Recreation Advisory Board

Mrs. Parduski reported the terms of five incumbents, Marie Hendrick (2020), Craig Ferree (2020), Juan Cherry (2021), Michael Shawn Collins (2021), and Shanda Hoskins (2021) concluded July 2020 and July 2021, respectively.

All the incumbents wish to continue their service.

There is one vacancy for a new term concluding July 2024.

There are no applications on file in the Clerk's Office.

Mr. Causby nominated the five incumbents, Marie Hendrick, Craig Ferree, Juan Cherry, Michael Shawn Collins, and Shanda Hoskins, for reappointment.

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

**G. New Business:**

- 1) Consideration of an ordinance amending the City of Shelby's Schedule of Fees: Ordinance No. 46-2021

Mr. Howell introduced Ordinance No 46-2021 for Council's consideration.

First, Mr. Howell explained the City of Shelby currently offers seven natural gas rates for its customers based on customer class (residential or commercial) and the volume of natural gas usage. The City has one residential rate and six commercial/industrial rates. With feedback from recent economic development requests, staff felt a review of the City's rates was warranted. The review was to ensure that the City had competitive rates in place for different size customers based on their natural gas usage. Mr. Howell stated it was found that there is a gap in the rate structure for industrial customers. An evaluation was completed for the small/medium industrial customer. This rate is fair and competitive and would benefit several of the City's current customers financially and would be offered to any future customers that meet the qualifications. If approved, it would add a new natural gas rate schedule to the Schedule of Fees and Charges. Mr. Howell added this new rate schedule is entitled "Small/Medium Industrial Firm Gas Service" and would add an eighth schedule for commercial/industrial natural gas customers qualifying at the noted level of consumption.

Second, Mr. Howell explained the City of Shelby currently offers nine electric rates for its customers based on customer class (residential or commercial) and the volume of electric usage. It is common practice for electric utilities to offer economic development riders to new companies locating on their system. The City of Shelby currently does not have a rider in place. Recent economic development activity has shown that having a rider in place would make locations on the City's electric system more attractive. City staff worked with Electricities of North Carolina's rate staff to develop a rider for consideration.

If approved, Mr. Howell explained it would further add an Economic Development Rider for new electric customers qualifying under the terms of the schedule. It essentially offers an initial reduction of electric charges for new commercial customers over a 48-month period. The rider discounts the electric non-coincident peak rate by 20 percent for the first 12 months, 15 percent for months 13-24, 10 percent for months 25-36 and 5 percent for months 37-48. After the 48th month the discount is discontinued. Mr. Howell noted that this Economic Development Rider very closely mirrors a rider

offered by Duke Energy. Council's adoption will provide the City with a more effective tool in recruitment of commercial/industrial customers.

**ACTION TAKEN:** Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Ordinance No. 46-2021 entitled, "AN ORDINANCE AMENDING THE CITY OF SHELBY'S SCHEDULE OF FEES".

#### H. City Manager's Report:

- 1) Mr. Howell stated regarding the 2017 Comprehensive Classification and Pay Plan for City employees, one of the recommendations that was made to Council was to annually complete a market rate study of one-third of the City's positions. The first one-third group market study has been conducted and the results are complete. Mr. Howell plans to provide and discuss this information with Council prior to their annual retreat. Positions this year included sworn police personnel, Water Resources personnel, and Electric Department field personnel.
- 2) Regarding the Civil Rights Marker for installation, the marker has been received from the vendor and the City is waiting for the State Commission responsible for the North Carolina Civil Rights Trail Marker Program to set an acceptable timeframe for an appropriate installation event. This marker recognizes the efforts of Cleveland High School students to integrate the lunch counters in Shelby in the early 1960s. The marker will be installed in the sidewalk area outside of the Buffalo Creek Gallery on East Warren Street.
- 3) Regarding Shell Building No. 4, Mr. Howell said the specifications have been finalized and this project is out to bid. Bids will be opened on December 15, 2021. Once bids have been evaluated and determined to be responsive, he will schedule this on a future agenda for bid award consideration. As a reminder, this is a joint City/County partnership with each entity paying 50 percent of the development cost. The City is again acting as developer and will oversee the project from beginning until completion.
- 4) Regarding City's health insurance policy with the North Carolina League of Municipalities Municipal Insurance Trust, Mr. Howell stated over the past several years "claims paid" numbers have been fairly good versus our "total billed premiums" and renewal costs have been held steady. This year that is not likely to happen. Through October 31, 2021 our loss ratio is 126.9 percent, indicating claims paid significantly exceeds total billed premiums. Mr. Howell further stated this will most likely be a significant cost driver during budget discussions in the spring. Annual health insurance costs exceed \$3,400,000.
- 5) Mr. Howell mentioned future agenda items will include:

- December 6 – Ratification of the November 2, 2021 bond referendum results and Council’s action to ratify the sale of bonds more formally.
- December 6 – Oath ceremonies and Council’s organizational meeting
- December 6 – Engineering agreements and project budget ordinance amendments will be presented for the Hickory Creek Sewer Outfall Replacement Project (Outfall replacement from Windsor Drive to Highway 74 – \$1,400,000) and the second phase of the Crosstown Water Distribution Line to South Tank and Forest Hill Drive (Transmission line from Marion Street to South elevated storage tank and partial line from Morgan Street and Graham Street to Forest Hill Drive - \$6,000,000)

- 6) Regarding the City Employee United Way Campaign, Mr. Howell proudly reported this year’s initial total is \$144,036 and exceeds the 2020 campaign due to the generosity and big-heartedness of the City’s employees. The City has been awarded the Spirit of North Carolina Award for the last six years as well.
- 7) As a long time Salvation Army bell ringer, Mr. Howell was seeking volunteers who can ring the bell at Walmart Supercenter on either December 14 or December 15, 2021 for an hour. Several volunteers have already signed up, but more are needed to fill all the time slots.

**I. Council Announcements and Remarks:**

- 1) Mr. Hopper announced he was invited to join the Executive Committee of Cleveland County American Legion World Series Baseball, Inc.
- 2) Mr. White bid farewell to Eric Hendrick as he leaves his seat as Council Member.
- 3) Mr. Hendrick said he enjoyed his time serving as a Shelby City Council Member and expressed his appreciation to all.
- 4) Miss Arth encouraged attendance at the Light Ball Dash event scheduled for December 19, 2021. As a reminder, she said the Light Ball Dash is a fundraiser to benefit Feeding Kids Cleveland County.
- 5) Mayor Anthony also encouraged attendance at the Light Ball Dash on December 19, 2021. The Mayor also reminded Council members the Shelby Christmas Parade is December 19, 2021.

**J. Adjournment:**

- 1) Motion to adjourn

**ACTION TAKEN:** Upon a motion made by Miss Arth, City Council voted unanimously to adjourn the meeting at 7:14 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC  
City Clerk

O. Stanhope Anthony III  
Mayor

Minutes of November 15, 2021