

## MINUTES

Regular Meeting  
City Hall Council Chamber

December 5, 2022  
Monday, 6:00 p.m.

**Present:** Mayor O. Stanhope Anthony, III, presiding; Council Members Andrew L. Hopper, Sr., David Causby, David White, Violet Arth, Charles Webber, and Emilie Bullock.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin S. Merritt, MPA, Assistant City Manager Benjamin (Ben) Yarboro, Interim City Attorney Julie Hooten, City Clerk Carol Williams, Deputy City Clerk Breanna Jones, Public Information and Communications Officer Chip Nuhrah, Director of Human Resources Deborah (Deb) Jolly, Assistant Director of Finance Sam Clark, Police Chief Jeffrey (Jeff) Ledford, Fire Chief William Hunt, EFO, Director of Planning and Development Services Walter (Walt) Scharer, and Jennifer H. Harrill, Social Media Manager, Blue Eyes Media Connections;

**Absent:** None

Mayor Anthony called the meeting to order at 6:00 p.m. and delivered the invocation.

Mr. Causby led the Pledge of Allegiance.

### A. Approval of agenda:

- 1) Motion to adopt the agenda as presented.

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

### B. Special Presentations:

- 1) Audit presentation for Fiscal Year Ending June 30, 2022 - Martin Starnes and Associates, CPA's, P.A., Tonya Thompson, Senior Manager, presenting

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, 2022.

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 - \$4.8 million increase in fund balance
- Enterprise Fund - \$8.7 million increase in net position
- 2022 Property tax revenues - \$13,804,863
- 2022 Collection rate – 98.83%

Miss Thompson summarized and compared General Fund revenues and expenditures for 2021 and 2022. In 2022, revenues increased by \$1.6 million, and expenditures increased by \$5.8 million. She noted that 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.

Regarding total fund balance for the General Fund, Miss Thompson noted there was an increase of \$4,818,180 from 2021 to 2022 and the balance is \$17,020,945 as of June 30, 2022.

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	\$17,020,945
Non-spendable	\$ (681,699)
Stabilization by State statute	\$(5,923,199)
Available Fund Balance 2022	\$10,416,047
Available Fund Balance 2021	\$ 7,321,608
Changes in Available Fund Balance	\$ 3,094,439

Miss Thompson explained the new guidelines from the Local Government Commission (LGC) regarding fund balance available (FBA) excluding Powell Bill funding. Shelby's FBA as a requirement is a minimum of 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 (51%), unrestricted intergovernmental revenues (9%), and other taxes and licenses (24%). All other revenues (16%) are included in a separate category which includes miscellaneous, investment earnings and permits and fees. The top three categories represent 84% of total revenues or \$22.8 million. The total revenues for the general fund are \$27 million.

Miss Thompson further stated there was an increase of about \$530,000 or 4% in property taxes.

Regarding other taxes and licenses, Miss Thompson noted an increase of \$986,000 or 17.6% mainly caused by sales tax which has increased substantially over the last several years.

Regarding sales and services there was an increase of \$287,000 or 13% which is attributed to recovering from the pandemic.

Miss Thompson reported the top three expenditures were public safety (43%), general government (12%), and debt service (21%). All other expenditures (24%) are included in a separate category which includes culture and recreation. The total expenditures total \$31.3 million.

Miss Thompson stated public safety increased \$1.2 million, mainly due to costs such as fuel prices and capital purchases.

Regarding general government, Miss Thompson commented expenditures increased by \$276,000, mainly due to salary increases and capital purchases.

Regarding debt service category, Miss Thompson commented there was an increase of about \$4 million, mainly due to the single payoff of the Rail Trail loan which is a one-time payment.

Regarding the City's enterprise funds, Miss Thompson reported an increase in total net position of \$8.6 million, stating the City has invested in the capital assets this year.

Regarding the Water fund, the unrestricted net position is fairly comparable to last year at \$4.4 million (up \$200,000) and cash flow from operations is \$2.8 million. The change in net position is at \$1.5 million. Miss Thompson explained the LGC is looking for the quick ratio to be above 1%, and our quick ratio in the Water fund is 2.26%.

Regarding the Sewer fund, the unrestricted net position is \$4.7 million (up \$1 million) and cash flow from operations is up \$3.6 million. The change in net position is at \$2.1 million. The Sewer fund quick ratio is 2.9%.

Regarding the Electric fund, the unrestricted net position decreased \$3 million to \$11 million and cash flow from operations is approximately \$4 million. The change in net position is at \$2.4 million. The Electric fund quick ratio is 5.61%.

Regarding the Natural Gas fund, the unrestricted net position is almost \$9 million (up \$1 million) and cash flow from operations is \$5 million. The change in net position is almost \$2 million. The Natural Gas fund quick ratio is 4.92%.

Miss Thompson reviewed performance indicators required by the LGC. One item that was considered a red flag was the audit report was delayed, it should be submitted by December 15<sup>th</sup>, but due to staffing shortage in the Finance Department an extension was requested. The LGC requires 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.

Miss Thompson noted other performance indicators were all positive, such as, property tax collections and enterprise quick ratios. Completing her presentation, Miss Thompson stated overall the audit report was positive.

Mr. Howell addressed the delay in the audit report by stating during a crucial time of the audit process over half of our accounting staff left employment.

Mayor Anthony inquired about the change the LGC has recently made, upping the requirement from 8% to 25%. Miss Thompson stated she believed the higher percentage is so the LGC can initiate a discussion with municipalities before they get distressed. If the LGC waits to reach out at the 8% threshold, then it's possibly too late and more difficult to recover.

C. Public Comment: None

D. Public Hearing:

- 1) Consideration of a resolution granting a Special Use Permit to BRD Land & Investment, LP at 1536 South Lafayette Street and Melrose Drive: Resolution No. 73-2022

Mayor Anthony read aloud the rules and procedures prescribed by the State of North Carolina for a quasi-judicial hearing. Those wishing to present evidence were sworn in by the City Clerk.

Mr. Scharer stated the property at 1536 South Lafayette Street is zoned R6 Conditional Zoning district and the Melrose Drive property is zoned Corridor Protection District. Mr. Scharer explained that the applicant wishes to build a 201 townhome multi-family development. Mr. Scharer explained the proposed site plan, noting the proposed crosswalk across S. Lafayette Street, proposed

sidewalks and buffers surrounding the property. Mr. Scharer stated an additional condition to the permit was that the applicant conduct a traffic impact analysis to see how this development affects the surrounding intersections.

Mayor Anthony opened the evidentiary hearing at 6:30 p.m. and sworn testimony was given as follows:

Karen Rogers who resides at 1511 Rhyne Street, Shelby, North Carolina stated her residence does not abut this property, but the proposed multi-family development will impact her property. Ms. Rogers stated she is a homeowner and has a Civil Engineer degree and holds a PE license, but her status is inactive.

Ms. Rogers continued her presentation by stating some of her concerns are:

- Traffic impact with the number of townhomes proposed in addition to the other developments City Council has approved recently in the same vicinity
- The high-power transmission line that comes through the proposed retention pond
- Stormwater runoff that will eventually drain into the creek behind Ms. Rogers' house
- The sewer system and if it will be able to accommodate a development of this size especially since it runs under homes, driveways, and yards

According to Interim City Attorney Julie Hooten, Ms. Rogers did not establish her expertise in traffic, stormwater and sewer and her testimony should not be considered by City Council.

Sara Shirley who provided her business address as 8008 Corporate Center Drive, Charlotte, North Carolina acknowledged she is a licensed landscape architect and is present on behalf of the applicant. Ms. Shirley stated the plan is for a 100-foot perimeter buffer adjacent to all the streams that are on the north side of S. Lafayette Street, also on the northern boundary and southern boundary. The 100-foot buffer is established because of the density of the townhomes.

Ms. Shirley pointed out that the developers plan to have sidewalks on both sides of the street to help with pedestrian connectivity, also sidewalks along S. Lafayette Street and Melrose Drive.

Ms. Shirley continued by stating the applicant has authorized a traffic impact study and it is underway. Ms. Shirley expressed that if the study recommends traffic improvements, then the applicant is fully prepared to fund and install the recommended changes.

**Ms. Shirley noted the applicant is aware of the Duke Energy transmission line that runs through the property. This will be addressed and permitted during the civil design phase of this project. Ms. Shirley also addressed the sewer concerns. She declared the applicant has been working with the City of Shelby utility departments and has obtained a utility availability and willingness to serve letter from the engineering department.**

**Ms. Shirley continued her presentation by indicating the proposed property is surrounded by self-storage, churches, a grocery store, auto repair, and a single detached family neighborhood. She also stated that townhomes of today are not the same as they were several years ago; they have driveways and garages, not a big parking lot for residents. According to Ms. Shirley a development of townhomes is a good transition between a residential development and commercial development.**

**Ms. Shirley concluded by stating this is a picture of the idea the developer hopes to design but there is an extensive civil design process that will be conducted.**

**Kyle diPretoro who provided his business address as 234 Kingsley Park Drive, Fort Mill, South Carolina stated he is the developer of the project. Mr. diPretoro stated his company has conducted site investigations, environmental investigations, wetland investigations, and protected species investigations by professional consultants; none of the investigations noted any adverse impacts. Mr. diPretoro stated he will provide that report to Council.**

**Mr. diPretoro stated his company has conducted market value study of homes in the area and most home prices were under \$300,000.00. The proposed townhomes proposed will be for sale at a price that other comparable homes are selling in the area; therefore, current market values of the homes in the established neighborhood should not be affected.**

**Mr. diPretoro stated that when the traffic impact study is finalized his team will analyze the findings and work with NC DOT and the City to make the improvements recommended.**

**Mr. diPretoro also addressed the sewer situation and is aware that a sewer line extension is necessary which includes a new sewer main; funded by the applicant.**

**Mayor Anthony closed the public hearing at 6:58 p.m.**

**After hearing all who wished to present testimony on said Special Use Permit request and considering the facts presented in this cause, City Council concluded and made the Findings of Fact and Conclusion of Law which are found in Attachment A of Resolution No. 73-2022.**

**ACTION TAKEN: Mr. White made a motion to approve and adopt Resolution No. 73-2022 entitled, "A RESOLUTION GRANTING A SPECIAL USE PERMIT TO BRD LAND & INVESTMENT, LP AT 1536 SOUTH LAFAYETTE STREET AND MELROSE DRIVE" because the Findings of Fact have been established and meet all the criteria.**

The vote was unanimous.

**E. Consent Agenda:**

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

- 1) Approval of the Minutes of the Regular Meeting of November 21, 2022
- 2) Approval of Special Event Application:
  - a) Tony's Walk – requested date: January, 7, 2023
- 3) Acceptance of the Certificate of Sufficiency regarding Petition of Annexation of applicant, Helmsman Homes
- 4) Acceptance of the Certificate of Sufficiency regarding Petition of Annexation of applicant, Helmsman Homes
- 5) Adoption of an Ordinance establishing a capital project ordinance and budgets for the City of Shelby's Depot Park Project: Ordinance No. 63-2022
- 6) Management Reports:
  - a) Financial Summary – October 2022
- 7) Approval of a Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council – December 19, 2022, January 2, 2023 and January 16, 2023

**F. Unfinished Business:**

None

**G. New Business**

- 1) Adoption of an ordinance granting permission by the City Council of the City of Shelby, North Carolina to use the 10%/70% development

**option available in the City's Unified Development Ordinance:  
Ordinance No. 64-2022**

**Mr. Scharer presented the site as 622 North Post Road which is located in the Watershed Protection Area and will be subject to WS-III overlay district regulations. The WS-III watershed is around Moss Lake for the Kings Mountain water intake but the City of Shelby has zoning jurisdiction over it; this watershed includes 334 acres. Mr. Scharer stated the 622 North Post Road property is a 1.08-acre site, so with the 10%/70% option the City can take 10% of the 334 acres and allow up to 70% impervious surface on a single development. Mr. Scharer continued by saying this site plan would represent .32% of the total WS-III watershed area.**

**ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve Ordinance No. 64-2022 entitled, "AN ORDINANCE GRANTING PERMISSION BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA TO USE THE 10%/70% DEVELOPMENT OPTION AVAILABLE IN THE CITY'S UNIFIED DEVELOPMENT ORDINANCE."**

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

- Shell Building #4 – Roof is on the building, curbing and guttering is ongoing and hopefully asphalt down soon, weather permitting. Everything is on schedule with a completion date et for January or February 2023.**
- Carolina Harmony Trail (Rail Trail) – Regarding Phase IA of the Carolina Harmony Trail the contractor is mobilized and installation of erosion control measures are ongoing. Stormwater piping is being installed as well. The scheduled completion date is May 2023.**
- TAMP Phase I - Phase I of the implementation of the Transportation Asset Management Plan has begun. Approximately 17.8 miles of streets will be resurfaced prior to the end of the calendar year, weather permitting.**
- Aquatics Center - Work continues on removing the interior finish of the Olympic size pool and the decking. The roof has new shingles. Progress is being made and a Memorial Day completion date is still anticipated.**
- City Hall Roofing Project – Bids were advertised on November 28<sup>th</sup>. A mandatory pre-bid meeting will be held December 8<sup>th</sup> and we anticipate several roofing contractors to attend, with bids due January 5<sup>th</sup>, 2023. Mr. Howell stated the City Hall building is on the**



National Register of Historic Places but has not been designated as a Local Landmark, therefore, no restrictions are warranted. Mr. Howell stated the roof will be replaced with slate.

- **Cross Town Water Main Transmission Line Phase II - This is the second of a multiphase project to improve water supply to the south, east and north of the uptown area. It is a \$7.7 million project which the City received \$5.7 million appropriation. The City will use \$2 million of the ARP money to help fund this project. It is intended to improve fire flow, water volume/pressure and water quality overall in the system. The City is waiting on the State's final approval to move forward. It is expected to be bid in January 2023.**
- **Hickory Creek Sewer Outfall – This sewer line begins at the end of Windsor Drive and is undersized and has a negative grade in several locations. The City has had significant problems with this line for years. This project is expected to be bid in January 2023.**
- **The budget calendar will be published at the beginning of the year.**

#### **I. Council Announcements and Remarks:**

**Mayor Anthony stated he's had several compliments on the Uptown lights this year and thanked City staff for their work.**

**Mayor Anthony updated Council on several upcoming events:**

- **Shelby Christmas parade on Sunday, December 18<sup>th</sup>**
- **Keep Shelby Beautiful awards banquet on December 7<sup>th</sup>**
- **Employee Christmas lunch on December 15<sup>th</sup>**

**Mayor Anthony mentioned the County is embarking on the biggest project in our urban core with the new law enforcement center campus. Mayor Anthony suggested the citizens of Shelby may want to attend a public meeting next week (December 13<sup>th</sup>) to find out more information.**

**Mrs. Bullock, Mr. Webber, Mr. Causby and Mr. Hopper wished everyone a happy holiday and safe travels.**

**Ms. Arth thanked the businesses and private donors that helped get Santa's house back on the Courthouse. Mr. White said the project was amazing to be a part of and he was proud to be involved.**

**Mr. Hopper stated he will be attending the MPO meeting.**

**J. Adjournment:**

**1) Motion to adjourn**

**ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to adjourn the meeting at 7:26 p.m.**

**Respectfully submitted,**

**Carol Williams  
City Clerk**

**O. Stanhope Anthony, III  
Mayor**

**Minutes of December 5, 2022**