

MINUTES

Regular Meeting
City Hall Council Chamber

February 21, 2011
Monday, 6:00 p.m.

Present: Mayor pro tempore Joel R. Shores, Jr., presiding; Council Members Christopher H. (Chris) Mabry, O. Stanhope (Stan) Anthony, III, Jeanette D. Patterson, Dennis C. Bailey, Andrew L. Hopper, Sr.; City Manager Rick Howell, City Attorney Robert W. (Bob) Yelton, City Clerk Bernadette A. Parduski, MMC, Director of Finance Theodore B. (Ted) Phillips, CPA, Director of Utilities Brad R. Cornwell, PLS, EI, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, Director of Public Works Daniel C. (Danny) Darst, Director of Development Services Brian L. Pruett, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

Absent: Mayor W. Ted Alexander

Mr. Shores called the meeting to order at 6:00 p.m. and welcomed all who were in attendance. Mrs. Patterson gave the invocation and Lieutenant Wray Hamrick of the Shelby Police Department led the *Pledge of Allegiance*.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

Mr. Mabry requested the addition of Item B-2 under Special Presentations:

- Presentation of the Rotary International Proclamation

ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mr. Bailey, 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 ended June 30, 2010 – Dave Kerestes, CPA, Manager, Dixon Hughes, PLLC

Prior to his presentation, Mr. Kerestes distributed the annual audit report prepared by Dixon Hughes for the year ended June 30, 2010 to Council. He stated that he has been involved with the City's audit for a number of years.

Mr. Kerestes summarized the professional services performed and reviewed the required auditor communications by stating that it is Dixon Hughes' responsibility to express an opinion about whether the financial statements prepared by management are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States. It is also Dixon Hughes' responsibility under Federal and State regulations, to test controls and compliance with the requirements of laws, regulations, contracts, and grant agreements that have a direct and material effect on the administration of the City's major Federal and State programs. Dixon Hughes has issued a written report on the City's compliance, in which no instances of material non-compliance were noted.

Also under items to be communicated and auditors' response:

- **Page 5 – Significant Accounting Estimates**

The most sensitive estimates affecting the financial statements are as follows:

- Management estimates the allowance for taxes and utility receivables. Dixon Hughes evaluated the key factors and assumptions used to develop the estimates and determined that each is reasonable in relation to the financial statements taken as a whole.
- Management's estimate of accumulated depreciation expense is based on the assets' respective estimated useful life. Dixon Hughes evaluated the key factors and assumptions used to develop the accumulated depreciation in determining that it is reasonable in relation to the financial statements taken as a whole.
- Management's estimates for other post-employment benefit obligations are based on guidance provided by independent third parties.

- **Page 6 – Corrected and Uncorrected Misstatements**

Professional standards require Dixon Hughes to accumulate all known and likely misstatements identified during the audit and communicate them to the appropriate level of management. The audit resulted in the following adjustments effecting revenues and expenditures:

- To adjust grant receivables – \$203,368 in the General Fund

- To adjust utility receivables - \$242,167 in the Electric Fund

Next Mr. Kerestes presented the Audit and Financial Statement Summary by prefacing that Dixon Hughes' report for the 2010 audit expresses an unqualified opinion on the fair presentation of the basic financial statements in all material respects in conformity with accounting principles generally accepted in the United States. Also Dixon Hughes' reports on compliance and internal control disclosed no instances of non-compliance and no material weaknesses in controls.

- Page 11 – The table summarizes fund balance in the General Fund at June 30, 2010. The City's total fund balance was \$8,075,000 with fund balance available for appropriation at \$4,034,000. The City's available fund balance percentage is at 22.9 percent for 2010 and the 2009 group average available fund balance is 39.96 percent, based on the State Treasurer's information for municipalities with electric funds and populations 10,000 to 49,999. It was also noted the Local Government Commission (LGC) recommends that every governmental entity maintain their available fund balance in the General Fund at the larger of 8 percent (of expenditures and transfers to other funds) or half the group average.

Mr. Kerestes also mentioned the profits of the water (\$58,000), sewer (\$1.5 million), electric (\$360,000), and gas funds (\$1.5 million), which are further referenced in the Comprehensive Annual Financial Report (CAFR) Fiscal Year ended June 30, 2010.

- Page 12 – The table summarizes property tax collection and collection rates. Mr. Kerestes commented that the City's ratio of taxes collected to net levy is at 96.83 percent and very strong since the 2009 group average ratio of taxes collected to net levy is 96.95 percent.
- Page 15 – Dixon Hughes does not consider the observations and recommendations to be significant deficiencies but several suggestions related to Finance personnel, Debt Management, and Fund Balance were presented for consideration to enhance the City's day-to-day operations.

Mr. Kerestes concluded his presentation by encouraging Council to contact him with any questions or concerns about the 2010 audit.

Council received the information, including the referenced reports. No action by Council was necessary.

2) Presentation of the Rotary International Proclamation

Mr. Shores called upon Rotarians, Dottie Leatherwood, President-elect of the Shelby Rotary Club, and Kris Thompson, President of the Shelby Rotary Breakfast Club. He formally read and presented the Rotary International Proclamation to Mrs. Leatherwood and Mr. Thompson thus proclaiming February 23, 2011 as Rotary Day in Shelby and recognizing Rotary International for its more than 105 years of service to improving the human condition in local communities around the world.

C. Public Comment:

- 1) Thomas W. Martin, Jr. of Flowers & Martin, P. A. spoke as legal counsel on behalf of David Wayne Allen, the owner of property located at 207 Hudson Street, Shelby, North Carolina. As previously determined by Council, this property has been identified for demolition. Prior to addressing Council, Mr. Martin distributed several photographs of 207 Hudson Street, 901 West Oak Street, and 904 West Oak Street. Admittedly, Mr. Martin stated the deadline for refurbishing the property at 207 Hudson Street has passed, however, he explained there were personal reasons involved for Mr. Allen's delay. Mr. Allen did obtain a permit after the expiration of the deadline. It was Mr. Martin's opinion that it would appear to be unfair for the City to issue a permit and then turn around to state it is too late to act on the permit. For this reason and various others, Mr. Martin requested City officials that the immediate demolition of this property be put on hold for an additional 90 days so that all factors may be reconsidered.

Mr. Martin also mentioned 901 West Oak Street which was demolished on February 19, 2011.

D. Consent Agenda:

ACTION TAKEN: Mr. Shores presented the consent agenda. Mrs. Patterson made a motion to approve the consent agenda and each item as presented. After a second from Mr. Hopper, the consent agenda and following items were unanimously approved:

- 1) Approval of the Minutes of the Regular Meeting of February 7, 2011
- 2) Approval of a Special Event Permit Application:
 - a. 27th Dixie Rodders Car Show requested date: June 4, 2011

- 3) Adoption of an ordinance authorizing demolition of a dwelling located at 417 Gardner Street: Ordinance No. 10-2011
- 4) Adoption of an ordinance authorizing demolition of a dwelling located at 507 Gardner Street: Ordinance No. 11-2011
- 5) Adoption of an ordinance authorizing demolition of a dwelling located at 509 Gardner Street: Ordinance No. 12-2011
- 6) Approval of a resolution honoring Coach David Steeves and the 2010 Shelby High School Golden Lions Soccer Team: Resolution No. 6-2011

END CONSENT AGENDA

E. Unfinished Business:

- 1) Consideration of appointments to City Advisory Boards and Commissions:
 - a. Isothermal Planning and Development Commission

Mrs. Parduski reported that James Edwards, the Executive Director of the Isothermal Planning and Development Commission, notified Mayor Alexander by letter dated February 1, 2011 that his term on the Board of Directors will expire in April 2011. The Mayor wishes to continue his service until the end of his term at which time Council can consider appointing a new member to this Board at their organizational meeting in December 2011.

Mr. Hopper nominated Mayor Alexander for reappointment to the Isothermal Planning and Development Commission Board of Directors until Council's organizational meeting on December 5, 2011.

ACTION TAKEN: Upon a motion by Mr. Anthony, second by Mrs. Patterson, City Council voted unanimously to close the nominations and to accept the nominee by acclamation.

- 2) Consideration of a resolution adopting the Cleveland County Comprehensive Transportation Plan for the City of Shelby, North Carolina: Resolution No. 7-2011

Mr. Howell reminded Council of the draft recommendations of the Comprehensive Transportation Plan presented by staff representing the Transportation Planning Branch of the North Carolina Department of Transportation (NCDOT) and the Lake Norman Rural Planning Organization

on February 7, 2011. For consideration at this time, comments made by Council at their last meeting have been incorporated into a document that can be provided with the adopting resolution to the DOT.

Upon questioning, Mr. Howell responded that staff will request an Access Management Corridor Study from DOT as well as the related costs and expenses of same.

ACTION TAKEN: Upon a motion by Mr. Anthony, second by Mr. Mabry, City Council voted unanimously to approve and adopt Resolution No. 7-2011 entitled, "A RESOLUTION ADOPTING THE CLEVELAND COUNTY COMPREHENSIVE TRANSPORTATION PLAN FOR THE CITY OF SHELBY, NORTH CAROLINA" and to include the following recommendations incorporated by reference:

- The recommendation for NC 18 should include consideration of an alternate route rather than Lafayette Street.
- The recommendation to widen Dixon Boulevard should include an access management study to determine specific needs along the route.
- Rail Trail opportunities should be considered as part of the Bicycle and Pedestrian recommendations.

G. New Business: None

H. City Manager's Report:

- 1) Mr. Howell mentioned a North Carolina Rural Center grant opportunity for a potential economic development project involving the extension of sewer to an existing building. Further details will follow.
- 2) Mr. Howell also mentioned a second prospect for the North Carolina Rural Center Building Reuse and Restoration Development Grant Program may be Playground Safety Services with their purchase of the former Drexel Heritage building on North Morgan Street.
- 3) Mr. Howell is in the process of developing a curbside recycling request for proposals for Council's approval. Once finalized, it will be made available for the bidding process.
- 4) Mr. Howell provided Council with a draft of their goals and priorities for 2011-2012 as identified, developed, and derived at the recent annual retreat and solicited their feedback.

- 5) **Mr. Howell said bids were opened on the Job Ready Shell Building on February 17, 2011. There were nine qualified bidders. All were within the budget and very competitive. He anticipated the results will be brought before Council in the very near future.**

- 6) **Mr. Howell informed Council of North Carolina House Bill (HB) 117 – Electric Cities/Uses of Rate Revenue which was introduced to eliminate transfers from a municipality’s electric fund to any other fund of the municipality. HB 117 applies to any municipality owning or operating a municipal electric system. Mr. Howell explained the City’s calculation in arriving at the amount of transfer from the Electric Fund to the General Fund. All transfers were less than the approved transfer amount of 3 percent of the Electric Fund’s gross fixed assets. In Mr. Howell’s opinion, this bill represents an unnecessary intrusion by the State into local affairs. He urged Council to help deliver this message to the local legislators.**

- 7) **Mr. Howell also updated Council on North Carolina Senate Bill (SB) 27 – A Moratorium on Involuntary Annexations and stated that the annexation moratorium threat continues. He reminded Council that the North Carolina League of Municipalities believes a moratorium is unnecessary to settle the issue, as cities remain committed to the adoption of significant and meaningful reform of the annexation laws. The League put forth 20 significant changes in 2009 and wants to improve the annexation laws this session. It is urgent to contact legislative members and request them not to support annexation moratorium bills, and instead push for helpful reforms that are fair for all citizens. Although a controversial issue, Mr. Howell said it is important for cities in North Carolina to have the ability to annex properties. Citizens who live adjacent to a city benefit from city-provided services without paying the taxes and have the following available to them for living next to a municipality:**
 - **Parks and sports programs for children**
 - **A police force who will respond in addition to the County Sheriff’s Department**
 - **24/7 staffed fire department who will respond in case of a fire**
 - **Retail and commercial accessibility which exists because a city invested in the infrastructure and utilities**

Upon questioning, it was noted that at this point the legislation does not include a moratorium on voluntary annexations.

- 8) **Mr. Howell updated Council on staff preparations for the City’s Stormwater Phase II permit submittal due July 2011, along with the future**

educational and financial impacts of the Stormwater Program.

I. Council Announcements and Remarks:

- 1) **Mr. Anthony requested the timeframe of the City's budget process and Mr. Howell anticipated budget sessions will begin in mid March 2011.**

Mr. Anthony expressed his concern about the incident which occurred near Uptown Shelby this morning involving the Shelby Police Department's response to what was likely a false alarm.

(Clerk's note: On the morning of February 21, 2011, the Shelby Police Department responded to a hostage situation inside the Charles Place building. Charles Place and Shelby Middle School were locked down during the investigation.)

- 2) **Mrs. Patterson congratulated Mr. Shores for doing a good job presiding over the meeting.**
- 3) **Mr. Shores encouraged Council members to contact local legislators regarding HB 117.**

Mr. Shores expressed his condolences to the Earwood family upon the passing of William Coleman Earwood on February 20, 2011 as he memorialized his law enforcement career.

Mr. Shores reminded all that today is Presidents' Day.

Mr. Shores wished Chris Mabry and Greg Tillman (who is the Cleveland Community College Broadcasting Coordinator/Cable Access Director for C19TV and President of Cleveland Headline News TV 33) a happy birthday, both celebrating tomorrow, February 22, 2011.

- 4) **Mr. Hopper wished Chris Mabry a happy birthday and expressed his condolences on the recent loss of his nephew, William Mabry.**

J. Adjournment:

- 1) **Motion to adjourn**

ACTION TAKEN: Upon a motion by Mr. Bailey, second by Mrs. Patterson, City Council voted unanimously to adjourn the meeting at 6:46 p.m.

Respectfully submitted,

Bernadette A. Parduski, MMC
City Clerk

Joel R. Shores, Jr.
Mayor pro tempore

Minutes of February 21, A. D. 2011