

## MINUTES

Regular Meeting  
City Hall Council Chamber

July 20, 2009  
Monday, 6:00 p.m.

**Present:** Mayor W. Ted Alexander, presiding; Council Members Jeanette D. Patterson, Michael R. (Mike) Royster, Joel R. Shores, Jr., Andrew L. Hopper, Sr.; City Manager Rick Howell, City Attorney Robert W. (Bob) Yelton, City Clerk Bernadette A. Parduski, CMC, Director of Finance Theodore B. (Ted) Phillips, CPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Utilities Brad R. Cornwell, PLS, EI, Assistant Fire Chief Jacob E. (Jake) Whisnant, Director of Public Works Daniel C. (Danny) Darst, Jr., Director of Parks and Recreation Charlie Holtzclaw, Director of Development Services Brian L. Pruet, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

**Absent:** Council Member Christopher H. Mabry

The seat occupied by the late Council Member Larry Ware was draped and left vacant in his memory.

Mayor Alexander called the meeting to order at 6:00 p.m. and welcomed all who were in attendance. He commemorated the passing of Council Member Larry Ware on July 9, 2009 and the passing of former Council Member, Reverend Sam Raper, on July 16, 2009. The Mayor recognized Mr. Ware's wife, Linda Ware, in attendance. Mayor Alexander allowed Council Members Hopper, Royster, Shores, and Patterson to share their memories and remarks about Mr. Ware.

The Mayor called for a moment of silence and gave the invocation. Mr. Hopper led the *Pledge of Allegiance*.

Next, Mayor Alexander recognized members of Boy Scout Troop 101 along with their leaders, Wendy Benton and Garry Cabaniss.

### A. Approval of agenda:

Mr. Royster announced that Items E-10 and E-11, respectively, would be added under the Consent Agenda as follows:

- Approval of a resolution honoring the life and memory of Larry Gerald Ware: Resolution No. 50-2009
- Approval of a resolution honoring the life and memory of Samuel

**Anderson Raper: Resolution No. 51-2009****1) Motion to adopt the proposed agenda**

**ACTION TAKEN:** Upon a motion by Mr. Royster, second by Mrs. Patterson, City Council voted unanimously to approve the agenda as amended.

**B. Special Presentations:****1) Recognition of the City of Shelby Electric Department for outstanding reliability and safety: Resolution No. 40-2009**

Mr. Howell introduced the presentation of Resolution No. 40-2009 to the City's Electric Department. Mr. Howell stated that the American Public Power Association (APPA) recently awarded the Platinum RP<sub>3</sub> (Reliable Public Power Provider) designation as well as the Electric Utility Safety Award and the Municipal Electric Safety Award to the Electric Department. These awards recognize electric divisions, which are owned and operated by public agencies, for outstanding electric service reliability and extraordinary safety records. Mr. Howell noted that the City's Electric Department has gone over 10 years without a lost work time accident. Their efforts toward safety and reliability ultimately provide an extremely high level of service to consumers with less financial liability to the City and a cost savings to customers of the electric system.

Mayor Alexander called upon Electric Superintendent Robert Weaver who then introduced Steve Greene, Chris Anderson, Brian Kever, Eugene Philbeck, and Geoffrey Heffner as members of the Electric Department. The Mayor formally read and presented Resolution No. 40-2009 to them.

Mr. Weaver expressed the Department's appreciation and also mentioned Freddie Ellis and Marcus Kennedy who were not in attendance.

**2) Recognition of the Mayor's Outstanding Volunteer Service Recipient for June 2009: Kimberly P. Johnson**

Mayor Alexander announced that Kimberly Johnson was nominated for this volunteer service certificate by Mrs. Patterson. Mrs. Johnson is a native of Shelby and has devoted her writing career to advancing the cause of literacy. In this regard, she has focused particular attention to Cleveland County schools, the Shelby Rotary Club, and Shelby's Weed and Seed Program. Mrs. Johnson recognized her husband and family members.

The Mayor presented a framed certificate to Kimberly Johnson on behalf of the City of Shelby.

Mrs. Johnson paid tribute to her grandparents for raising her, to her grandfather for providing the inspiration and determination in obtaining her education, to Mrs. Ware for giving her inspiration in her career, and to the late Mr. Ware for providing encouragement to her nephew as a Shelby High School student. She expressed her gratitude to the City and said she will always consider Shelby her home.

**3) Recognition of the Mayor's Outstanding Volunteer Service Recipient for July 2009: James J. Wood, *posthumously***

Mayor Alexander announced that the late James Wood was nominated for this volunteer service certificate by the Shelby Appearance Commission through the City's Planning Services Department. Mr. Wood served on the Commission for almost 10 years which included two terms as its Chair. He was a valuable member of the Commission and contributed to the organization in many ways. Mr. Wood's leadership and guidance on a variety of projects helped to improve the visual quality and aesthetic characteristics of the City for all its citizens to enjoy for many years to come.

The Mayor presented a framed certificate to Angie Wood, Mr. Wood's wife, and to David Teddy, Mr. Wood's brother-in-law, on behalf of the City of Shelby.

Mr. Teddy spoke on behalf of the Wood family and expressed their appreciation and gratitude to the City of Shelby and City Council for recognizing Jim Wood. He acknowledged First National Bank, Mr. Wood's employer, as an organization which promotes a culture of community involvement. Mr. Teddy expressed condolences to the Ware family. He paid tribute to the late Mr. Ware by calling him "a fair man" who will also be sorely missed by the community as will Jim Wood.

**C. Public Comment: None**

**D. Public Hearing:**

**1) Consideration of an ordinance amending Article 14 of the City of Shelby Unified Development Ordinance: Ordinance No. 30-2009**

Mr. Scharer provided the background information leading to this textual amendment to Article 14 of the Unified Development Ordinance (UDO). The Shelby Appearance Commission requested that the Planning and Zoning Board consider changes to Sections 14-5.1 Street Yards; 14-6 Maintenance/Pruning; and 14-10.3 Specifications for Screening in an effort to

promote consistent and proper maintenance of required vegetation and trees.

Mr. Scharer stated that Section 14-5.1 (G) Street Yards addresses specific types of trees required in Street Yards, but did not include the types of trees that should not be permitted as required trees. This amendment to Section 14-5.1 places an additional tree species, namely Callery Pear Hybrids, including Bradford Aristocrat, to the trees not permitted in street yards. In Section 14-6, Maintenance addresses in general terms the maintenance of property screening without specifics about tree topping and the best time to replace lost plants. The amendment to Section 14-6 Maintenance/Pruning clarifies who is responsible, how long they are responsible, proper time to replace lost plants, and proper pruning guidelines in accordance with American National Standard Institution (ANSI) Standards. In Section 14-10.3 Specifications for Screening, the proposed amendment to Section 14-10.3 (a) lists tree species not permitted as buffer trees. Mr. Scharer further stated these same species are not permitted in street yard trees as outlined in Section 14-5.1.

Mayor Alexander opened the public hearing at 6:25 p.m. and invited comments from the public.

The public offered no comments and Mayor Alexander closed the public hearing at 6:26 p.m.

**ACTION TAKEN:** Upon a motion by Mrs. Patterson, second by Mr. Royster, City Council voted unanimously to approve and adopt Ordinance No. 30-2009 entitled, "AN ORDINANCE AMENDING ARTICLE 14 OF THE CITY OF SHELBY UNIFIED DEVELOPMENT ORDINANCE".

**E. Consent Agenda:**

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

- 1) Approval of the Minutes of the Regular Meeting of June 15, 2009
- 2) Approval of Special Event Permit Applications:
  - a. Cleveland Regional Medical Center (CRMC) Walk for Hope 2009 on October 17, 2009

- b. **Communications Workers of America Local 3605 AFL-CIO strike picket line beginning August 9, 2009**
  - c. **City of Hope Church/Eastside Baptist Church Block Party on July 25, 2009**
  - d. **Cleveland County March for Babies on October 3, 2009**
- 3) **Adoption of an ordinance authorizing demolition of a dwelling located at 415 Clegg Street: Ordinance No. 31-2009**
  - 4) **Adoption of an ordinance authorizing demolition of a dwelling located at 406 Hudson Street: Ordinance No. 32-2009**
  - 5) **Adoption of an ordinance authorizing demolition of a dwelling located at 414 East Ross Grove Road: Ordinance No. 33-2009**
  - 6) **Adoption of an ordinance authorizing demolition of a dwelling located at 611 Ligon Street: Ordinance No. 34-2009**
  - 7) **Approval of a resolution to establish and offer a Commercial Solar Thermal Rebate Program: Resolution No. 45-2009**
  - 8) **Approval of a resolution to establish and offer an Energy Star Home Rebate Program: Resolution No. 46-2009**
  - 9) **Approval of a resolution awarding the contract for the installation of the Vehicle Fueling Facility: Resolution No. 47-2009**
  - 10) **Approval of a resolution honoring the life and memory of Larry Gerald Ware: Resolution No. 50-2009**
  - 11) **Approval of a resolution honoring the life and memory of Samuel Anderson Raper: Resolution No. 51-2009**

#### **END CONSENT AGENDA**

#### **F. Unfinished Business:**

- 1) **Consideration of appointments to City Advisory Boards and Commissions:**
  - a. **Community Relations Council**

**Mrs. Parduski reported that the term of one incumbent, Ellen Benoit, will expire August 2009. Mrs. Benoit wishes to conclude her service.**

Applications on file in the Clerk's Office include the following: Lisa Leilani Leal and Randy Skelton.

Mr. Royster nominated Lisa Leilani Leal.

**ACTION TAKEN:** Upon a motion by Mr. Shores, second by Mr. Hopper, City Council voted unanimously to close the nominations and elected to appoint Ms. Leal to the Community Relations Council for a term concluding August 2012.

**2) City of Shelby's Airport Terminal Project:**

Mr. Howell introduced Ordinance No. 35-2009 and Resolution No. 48-2009 for Council's consideration. He also reminded Council that the City's Airport Terminal Project was funded by a grant from the North Carolina Division of Aviation with the local match being shared by the City and Cleveland County. The City's portion is shown as a long-term loan from the Natural Gas Reserve Fund. The total construction cost of this project is \$1,165,000. The budget ordinance amendment is necessary in order to proceed with the award of the construction bid, which follows as Resolution No. 48-2009.

Mr. Howell said the City recently completed the design and bid to construct the new terminal building at the Shelby-Cleveland County Regional Airport. The City held a public bid opening on June 25, 2009 and received a total of eleven bids. Mr. Howell concluded by stating that City staff in conjunction with W. K. Dickson & Co., Inc. recommended that Council award the construction contract for the new terminal building at the Shelby-Cleveland County Regional Airport to the certified low bidder, Hickory Construction Company.

- a. Consideration of a budget ordinance amendment for the City of Shelby's Airport Terminal Project: Ordinance No. 35-2009

**ACTION TAKEN:** Upon a motion by Mr. Royster, second by Mr. Shores, City Council voted unanimously to approve and adopt Ordinance No. 35-2009 entitled, "A BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY'S AIRPORT TERMINAL PROJECT".

- b. Consideration of a resolution awarding the contract for construction of the Shelby-Cleveland County Regional Airport Terminal Building: Resolution No. 48-2009

**ACTION TAKEN:** Upon a motion by Mr. Shores, second by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 48-2009 entitled, "A RESOLUTION AWARDED THE CONTRACT FOR CONSTRUCTION

**OF THE SHELBY-CLEVELAND COUNTY REGIONAL AIRPORT TERMINAL BUILDING”.**

**3) Consideration of FY 2009-2010 Supplemental Budget Ordinance No. 2: Ordinance No. 36-2009**

**Mr. Howell presented an amendment to the FY 2009-2010 Supplemental Budget Ordinance for Council’s consideration. He stated that adoption of this Supplemental Ordinance merely establishes in one, comprehensive document the customary fees and charges that have been routinely charged by the City for various services specific to a citizen request or as related to the rules, regulations, and the City Code as promulgated by action of Council. There are no changes to the actual fees schedule itself. Mr. Howell said that as a matter of practice, the fees schedule will be included in the budget process and in the future staff will duly note any changes for approval.**

**ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mrs. Patterson, City Council voted unanimously to approve and adopt Ordinance No. 36-2009 entitled, “FY 2009-2010 SUPPLEMENTAL BUDGET ORDINANCE NO. 2”.**

**G. New Business:**

**1) Discussion and consideration of the process to be followed by City Council in filling the Ward 2 City Council Vacancy**

**Mr. Howell explained that North Carolina General Statute 160A-63 authorizes City Council to appoint vacancies among its membership by appointment when the vacancy occurs within 90 days of a general election. However, it does not prescribe the actual process to be followed by City Council. As such, Mr. Howell prepared a draft process for discussion purposes of this matter. Mr. Howell reiterated the importance of an agreed upon process with the essential element of transparency for the sake of the public.**

**Mayor Alexander read the proposed timeline of the vacancy appointment process:**

**July 20, 2009 – Discussion and approval of appointment process by City Council.**

**July 21, 2009 – Public announcement that letters of interest and resumes will be received in the Office of the City Clerk. The City Clerk receives and holds the letters of interest and resumes until Monday, August 3, 2009, at 5:00 p.m. Letters received after 5:00 p.m. will not be considered.**

**August 3, 2009 – City Clerk copies and distributes letters of interest and resumes to City Council at the August 3, 2009 City Council workshop meeting. Letters will be released to the media, the public, and posted on the City’s website at this time as well.**

**August 17, 2009 – At the City Council meeting, a discussion of applicants who submitted letters of interest and resumes will be conducted, with the possibility of appointive action if Council reaches a consensus on an appointee.**

**If consensus is not reached, Council may request additional information from applicants for the August 31, 2009 meeting.**

**August 31, 2009 (Possible date of rescheduled City Council workshop meeting of September 7, 2009) – If a consensus is not reached at August 17, 2009 meeting, further discussion and appointive action by City Council will take place.**

**September 21, 2009 – At City Council meeting, the newly appointed member of City Council will be sworn in to office.**

**There was discussion concerning Council’s requirements of each applicant, including a letter of interest, a resume, an application, or other additional information. The necessary qualifications of being a registered voter and the Ward 2 residency requirement were also discussed.**

**ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Royster, City Council voted unanimously to approve the above procedure and timeline for the Ward 2 City Council Vacancy Appointment Process.**

- 2) Consideration of a resolution revising and amending the personnel policies of the City of Shelby to provide for an updated Personnel Policy and Procedure Manual: Resolution No. 49-2009**

**Mr. Howell introduced 20 revised personnel policies, which represent the first in a series of amendments, for Council’s review and approval. He stated that the City’s current Personnel Policy Manual is well over 10 years old and needed updating. Even though there have been some minor changes and additions since the Personnel Policy Manual was first written in August 1998, it is outdated and does not fully comply with Federal and State laws. As part of the review process, Mr. Howell instructed Mrs. Jolly to seek input from a representative employee committee as well as the management staff. After his review, Mr. Howell found the new policies to be reasonable in communicating clearly with City employees as well as protecting the City’s interest in complying with the law.**



Mr. Hopper made a proposal and a motion to add Veterans Day to the City of Shelby's holiday schedule in order to properly recognize the City's veterans and to afford all City employees with a paid day off.

Mr. Royster made a motion to table the main motion in order to allow for a further discussion of the budgetary implications for adding a holiday to the City's schedule with City staff. The motion died for lack of a second.

**ACTION TAKEN:** Upon a motion by Mr. Hopper, second by Mrs. Patterson, City Council voted 3 to 1 (Royster) to add Veterans Day to the City of Shelby's Holiday Policy effective immediately.

**ACTION TAKEN:** Upon a subsequent motion by Mr. Royster, second by Mr. Shores, City Council voted unanimously to approve and adopt Resolution No. 49-2009 entitled, "A RESOLUTION REVISING AND AMENDING THE PERSONNEL POLICIES OF THE CITY OF SHELBY TO PROVIDE FOR AN UPDATED PERSONNEL POLICY AND PROCEDURE MANUAL", as amended above.

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

- 1) Mr. Howell reminded Council that the 2009 North Carolina League of Municipalities Annual Conference is scheduled for October 25-27, 2009 in Greenville, North Carolina.
- 2) Mr. Howell mentioned that legislation has been introduced and is pending to require mayors, all other municipal and county elected officials, managers, clerks, finance officers, and attorneys to comply with the provisions of the State's Ethics Act, which would include mandated training. He will provide updates as necessary.

#### I. Council Announcements and Remarks:

- 1) Mrs. Patterson informed Mr. Howell of a complaint she received regarding the outdoor café at Joe's Place. Mr. Howell assured her that he is monitoring the outdoor cafés and the owners have been placed on notice to comply when requirements of the City's ordinance are not being met.

Mr. Hopper added his concerns regarding the configuration of the tables and chairs at two outdoor cafés namely Joe's Place and Pleasant City Wood Fired Grille. Mr. Howell reminded Council that the five-foot wide unobstructed walkway within the public sidewalk area is a requirement of a previous ordinance, which can be reconsidered by Council if the

ordinance is not meeting the intent. As requested, he will recontact the restaurant owners and continue to monitor the situation closely.

- 2) Mayor Alexander announced that the Men of Grace from Pontiac, Michigan will be in Shelby to perform a benefit concert on behalf of the Interfaith Alliance on Homelessness on July 31, 2009 at 6:00 p.m. on the Court Square.
- 3) At Mr. Hopper's request, Mr. Howell announced that the next Golden Leaf Foundation community forum is tentatively scheduled for August 6, 2009 at 5:30 p.m. at Cleveland Community College in the Student Activities Center, Room 1138.
- 4) Mrs. Patterson requested Mr. Howell to provide an update on the status of the Farmers Market project and he anticipates a report within the next 30 days.

**J. Adjournment:**

- 1) Motion to adjourn

**ACTION TAKEN:** Upon a motion by Mr. Shores, second by Mr. Hopper, City Council voted unanimously to adjourn the meeting at 7:03 p.m.

Respectfully submitted,

Bernadette A. Parduski, CMC  
City Clerk

W. Ted Alexander  
Mayor

Minutes of July 20, A. D. 2009