

MINUTES

Regular Meeting
City Hall Council Chamber

November 16, 2009
Monday, 6:00 p.m.

Present: Mayor W. Ted Alexander, presiding; Council Members Christopher H. (Chris) Mabry, Oliver Stanhope (Stan) Anthony, III, 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 (Deb) Jolly, 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, Jr., Director of Development Services Brian L. Pruett, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

Mayor Alexander called the meeting to order at 6:00 p.m., welcomed all who were in attendance, and recognized Boy Scout Troop 100 from Shelby Presbyterian Church and Troop 104 from Central United Methodist Church. Mr. Hopper gave the invocation and Boy Scout Will Blackwood of Troop 104 led the *Pledge of Allegiance*

A. Approval of agenda:

1) Motion to adopt the proposed agenda

Mayor Alexander announced that at the request of Mr. Royster, Item E-4 under the Consent Agenda would be removed and placed under New Business as Item G-1.

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 Mayor's Outstanding Volunteer Service Recipient for November 2009: Hog Happnin'

Mayor Alexander deemed to honor the volunteers who sponsor the annual Hog Happnin's barbeque event at the Cleveland County Fairgrounds, now in its 18th year. The Mayor recognized President/Event Coordinator, Lloyd Williams, who introduced Jerry Gardner as the BBQ Competition

Coordinator, Jim Holland who handles ticket sales, and Rick Washburn who oversees the finances. The funds which are raised by the event provide financial support to Hog Happnin' charities, including the Children's Homes of Cleveland County. Mr. Williams expressed his appreciation for the community's continued support of the event.

Mayor Alexander presented a framed certificate to Mr. Williams on behalf of the City of Shelby.

- 2) Presentation of the Certificate of Achievement for Excellence in Financial Reporting awarded to the City of Shelby by the Government Finance Officers Association of the United States and Canada (GFOA) for its Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ended June 30, 2008

Mayor Alexander was pleased to announce that the Government Finance Officers Association of the United States and Canada (GFOA) awarded the Certificate of Achievement for Excellence in Financial Reporting to the City of Shelby for its Comprehensive Annual Financial Report (CAFR). The Mayor stated that the Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. He added that the City's CAFR has been judged by an impartial panel to meet the high standards of the Certificate of Achievement Program including demonstrating a constructive "spirit of full disclosure" to clearly communicate its financial story and motivate potential users and user groups to read the CAFR.

Mr. Howell said the City has achieved this award dating back more than 10 years and is a testament to the commitment of past and present management and finance directors for full public disclosure and communication of the financial condition of the City of Shelby.

Mayor Alexander recognized Mr. Phillips, who is responsible for preparing the award-winning CAFR, and congratulated him for his leadership as he accepted the plaque on behalf of the City.

Mr. Phillips expressed his appreciation to the Mayor and Council and to Mr. Howell for their continuing support of this endeavor and praised his Finance Department staff for the work they produce.

C. Public Comment:

- 1) Perry Holleman who resides at 1107 Shamrock Road in Shelby, North Carolina provided photographs and addressed Council concerning a golf

cart incident at Royster Memorial Golf Course which took place on June 20, 2009. Mr. Holleman stated that he and his son were playing a round of golf and utilizing one of the City's golf carts. While traveling around Hole No. 3, the cart slipped and fell over on its side. The Hollemans lifted the cart, examined it, and found no damage. Mr. Holleman stated the cart ran fine, they were not injured, and therefore they did not report the incident. On June 22, 2009, Mr. Holleman was contacted by Shelby City Park staff and the Police Department about the incident involving said golf cart. Mr. Holleman returned to City Park and spoke with Golf Course Director Steve Sherman to resolve the matter. Mr. Sherman estimated the damages to the golf cart at approximately \$500.00. There was discussion between Mr. Holleman and various City personnel regarding signage at, near, and around Hole No. 3. Mr. Holleman categorically disagrees with the City about the placement of Hole No. 3 warning signs. On June 26, 2009 Mr. Holleman received a letter from the City of Shelby informing him that he owes \$761.00 for damages to the golf cart and that he has been banned from all City recreational facilities for six months. Based upon his contention with regard to the signage, Mr. Holleman requested that the City's Parks and Recreation Department assume responsibility for the damages to the golf cart and for the City to reimburse him the \$761.00 which he has paid.

D. Public Hearing:

- 1) Consideration of a resolution granting a Special Use Permit to Cleveland County Schools: Resolution No. 74-2009

After taking his oath, Mr. Scharer presented the staff report. Utilizing the site plan prepared by Holland & Hamrick Architects, P. A., Mr. Scharer stated that this proposed Special Use Permit is for a site at the corner of South Dekalb Street and Melrose Drive for the new location of the Shelby Middle School. The school's newly assigned address is 1501 Melrose Drive. Mr. Scharer explained that elementary and/or secondary schools are permitted on all zoning districts with the issuance of a Special Use Permit by City Council.

Mr. Scharer further stated that Special Use Permits are reviewed by City staff for compliance with all City rules and regulations. Next Mr. Scharer provided highlights of the design plan emphasizing how students will be delivered and dismissed from the school. Students arriving and departing by vehicle will enter the site on South Dekalb Street and will exit the site on Melrose Drive. Students arriving and departing school by bus will enter the site on Melrose Drive and exit the site on Melrose Drive. A deceleration lane will be constructed on South Dekalb Street for the vehicle entrance. No other street

improvements will be made and no other street improvements are recommended by the North Carolina Department of Transportation (NCDOT). Mr. Scharer expressed staff's concerns about the current width of Melrose Street, which is 18 feet, and has asked NCDOT to widen Melrose Drive. NCDOT has agreed to place Melrose Drive on the resurfacing list and should widen the street at that time. In the interim, City staff, in conjunction with NCDOT, will be conducting a Safe Routes to Schools Action Plan for this site. City staff envisions implementing the recently adopted NCDOT Complete Streets Policy for Melrose Street. The Complete Streets Policy incorporates all modes of transportation including bicycles and pedestrians.

Secondly, NCDOT feels that a traffic signal is not needed for the intersection of Melrose Drive and South Dekalb Street. City staff feels that a signal is warranted at the intersection and has asked NCDOT to monitor this intersection closely before, during, and after construction of the school. City staff will push for implementation of the NCDOT Complete Streets Policy on South Dekalb Street near the school as well. City staff will also explore all opportunities to create a friendly pedestrian and bicycle environment near and at the school.

Mr. Scharer concluded by stating that regardless of the aforementioned issues, staff recommended approval of the proposed Special Use Permit. Staff will also continue to monitor developments and the impact the school will make on adjoining property owners, motorists, and businesses.

Prior to the public hearing, Mayor Alexander provided instructions as to the quasi-judicial process. A public hearing is conducted by City Council for sworn testimony concerning facts related to the Special Use Permit. City Council either approves or disapproves the Special Use Permit based on staff recommendations and sworn testimony by the public and/or the applicant.

Architect Roger Holland, Gary Spangler, District Engineer with the Highway Division of the NCDOT, and John Yarbrow, Assistant Superintendent for Operations of Cleveland County Schools, were sworn in by Mrs. Parduski.

Mayor Alexander opened the public hearing at 6:26 p.m.

Upon questioning about stacking vehicles and traffic flow, Mr. Holland responded by stating bus traffic will come in off Melrose Drive and will be separate from car traffic, which will come in off a long drive that will go through the property, originating at Dekalb Street. There is a potential to stack 100 or more waiting cars, without any of them being out on the street, stopping traffic on Dekalb Street. Mr. Holland added that Joel Cranford, the Municipal and School Transportation Assistance Engineer with the NCDOT,

reviewed the school's plans and did not make any modifications.

Upon further questioning about the level of service on Dekalb Street, Mr. Spangler responded that NCDOT has not run a level of service because Dekalb Street is currently operating at a good level and plans to monitor the level only after the school opens.

Mayor Alexander closed the public hearing at 6:30 p.m.

Having heard all of the evidence and arguments presented at the public hearing, Council found and determined that the application of the Cleveland County Schools is complete, and the following conclusions were made:

1. Shelby Middle School has submitted the required application and conceptual site plan for a Special Use Permit.
2. An elementary or secondary school is allowed in all zoning districts with a Special Use Permit issued by City Council.
3. The subject parcel lies within the City of Shelby on the northwest corner of South Dekalb Street and Melrose Drive.
4. No non-conformities currently exist on the property and none will be created by the requested Special Use Permit.
5. The use will not materially endanger the public health or safety if located where proposed and developed according to plan.
6. The use will not substantially injure the value of adjoining or abutting property.
7. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the City of Shelby's Comprehensive Land Use Plan.

ACTION TAKEN: Upon a motion by Mr. Royster, second by Mrs. Patterson, City Council voted unanimously to approve and adopt Resolution No. 74-2009 entitled, "A RESOLUTION GRANTING A SPECIAL USE PERMIT TO CLEVELAND COUNTY SCHOOLS".

E. Consent Agenda:

ACTION TAKEN: Mayor Alexander presented the amended consent agenda. Mrs. Patterson 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 November 2, 2009
- 2) Approval of a resolution honoring LouVerne C. McCray on the occasion of her retirement from employment: Resolution No. 75-2009
- 3) Approval of a resolution honoring Coach Tommy Wease and the 2009 Shelby Middle School Blue Devils Football Team: Resolution No. 76-2009
- 4) REMOVED; PLACED UNDER NEW BUSINESS AS ITEM G-1:

Approval of a resolution to adopt the City of Shelby's Urban Forest Management Plan for the Center City area: Resolution No. 77-2009
- 5) Approval of a resolution accepting property from Shelby Housing Development Corporation: Resolution No. 78-2009
- 6) Approval of a resolution to change the name of Textile Street at Shelby High School to Dan Moore Way: Resolution No. 79-2009
- 7) Approval 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. 80-2009
- 8) Adoption of an ordinance authorizing demolition of a dwelling located at 922 Buffalo Street: Ordinance No. 48-2009
- 9) Adoption of an ordinance authorizing demolition of a dwelling located at 406 Oak Street: Ordinance No. 49-2009
- 10) Adoption of an ordinance authorizing demolition of a dwelling located at 308 Chestnut Street: Ordinance No. 50-2009
- 11) Adoption of an ordinance authorizing demolition of a dwelling located at 613 Gardner Street: Ordinance No. 51-2009

END CONSENT AGENDA

F. Unfinished Business:

- 1) Consideration of a resolution stating the intent of the City of Shelby to enter into an Annexation Agreement with the City of Kings Mountain: Resolution No. 81-2009

Mr. Howell introduced Resolution No. 81-2009 for Council's consideration. He reminded Council that previously in 2007 the City entered into very similar agreements with the Town of Kingstown and the Town of Lattimore which allowed for the voluntary annexation of PPG Fiber Glass Industries in Shelby's city limits.

Mr. Scharer added that according to the statute on annexation agreements no agreement may be entered into unless each participating city has held a public hearing on the agreement. Staff recommended approval of this annexation agreement between the City of Shelby and the City of Kings Mountain.

ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mr. Mabry, City Council voted unanimously to approve and adopt Resolution No. 81-2009 entitled, "A RESOLUTION STATING THE INTENT OF THE CITY OF SHELBY TO ENTER INTO AN ANNEXATION AGREEMENT WITH THE CITY OF KINGS MOUNTAIN".

G. New Business:

- 1) Consideration of a resolution to adopt the City of Shelby's Urban Forest Management Plan for the Center City area: Resolution No. 77-2009

Mr. Howell reminded Council that the City's Strategic Growth Plan, adopted in 2005, recommended preparation of a Street Tree Master Plan, including an inventory of street trees on City property and other significant trees, and creation of a management plan focusing on the maintenance and replacement of live oak trees located in the Uptown area. The City Center Master Plan, completed in 2007, stressed the need for trees, citing benefits of shade and the potential to link Uptown with local and regional greenways.

Mr. Scharer stated that the purpose of this Management Plan is to provide the City with a review of the existing City tree resource in the Center City, and present a cost-effective framework of tree maintenance and replacement options to allow the City to maximize the benefits of its urban forest over the next five to ten years.

Mr. Scharer further stated that this Management Plan focuses on the section of Shelby known as the Center City, encompassing much of the business district, and bordered roughly by CSX Railroad on the north, US Highway 74 on the south, Dekalb Street on the east, and Morgan Street on the west. It includes the historic Shelby Uptown district and the Court Square. The tree inventory for this Management Plan is confined to trees on City owned property, so many trees are excluded from this plan.

There was discussion concerning the definition of a public tree referred to in this Management Plan and the definition of a public tree in the ordinance regulating urban forestry practices adopted in March 2005. Staff reiterated that the Shelby Urban Forest Management Plan encompasses only the Center City as its study area which is illustrated by the map in the Plan. Staff also clarified that public trees and right-of-way issues which fall under the ordinance regulating urban forestry practices are determined and enforced by the City's Public Works Department on a case-by-case basis.

ACTION TAKEN: Upon a motion by Mr. Anthony, second by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 77-2009 entitled, "A RESOLUTION TO ADOPT THE CITY OF SHELBY'S URBAN FOREST MANAGEMENT PLAN FOR THE CENTER CITY AREA".

H. City Manager's Report:

- 1) Mr. Howell said he will provide a proposed schedule (January 2010) for Council's annual retreat shortly.
- 2) Mr. Howell advised Council that the City's annual audit report will be presented at their organizational meeting of December 7, 2009.
- 3) Mr. Howell anticipated that the City's preliminary budget calendar for Fiscal Year 2010-2011 will be published shortly.
- 4) Mr. Howell has prepared a letter to the North Carolina Department of Environment and Natural Resources (NCDENR) in response to the National Pollution Discharge Elimination System (NPDES) Phase II Stormwater Program State Designation Process for the City of Shelby.
- 5) Upon questioning, Mr. Howell responded that there was no new information to report regarding the West Marion Street railroad crossing.

I. Council Announcements and Remarks:

- 1) Mrs. Patterson extended her congratulations to Mr. Shores on winning his City Council seat. She mentioned the positive article which appeared in The Shelby Star on November 15, 2009 about the Shelby Police Department.
- 2) Mr. Hopper expressed his appreciation to City staff for arranging the 2009 Veterans' Day Appreciation Luncheon and Program which took place on November 10, 2009. He also mentioned two area restaurants, Applebee's and the Golden Corral, which honored veterans by providing meals at no

charge.

- 3) Mayor Alexander provided Council with a packet of program information he recently obtained from The Rural Center. The Mayor extended his appreciation and good wishes to all those associated with the grand opening of The Don Gibson Theatre. Mayor Alexander attended the performance of the United States Air Force Heritage Band of America Satellite Jazz Ensemble at Shelby High School's Malcolm Brown Auditorium on November 14, 2009, which earned his high compliments.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mrs. Patterson, City Council voted unanimously to adjourn the meeting at 6:50 p.m.

Respectfully submitted,

Bernadette A. Parduski, CMC
City Clerk

W. Ted Alexander
Mayor

Minutes of November 16, A. D. 2009