

MINUTES

Regular Meeting
City Hall Council Chamber

September 15, 2008
Monday, 6:00 p.m.

Present: Mayor W. Ted Alexander, presiding; Council Members Christopher H. (Chris) Mabry, Larry G. Ware, Jeanette D. Patterson, Michael R. (Mike) Royster, 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 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 Parks and Recreation Charlie Holtzclaw, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

Absent: Council Member Joel R. Shores, Jr.

Mayor Alexander called the meeting to order at 6:00 p.m. and welcomed all who were in attendance. Mrs. Patterson gave the invocation and Mark Greene, a Desert Storm veteran having served as a Military Police Officer from 1987 to 1992, led the *Pledge of Allegiance*.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

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

B. Special Presentations:

- 1) Recognition of the Mayor's Outstanding Volunteer Service Recipients for August 2008: Serena Flaherty, Crissy Hayes, and the 2008 Sundays on the Square volunteers

Mayor Alexander recognized Serena Flaherty and Crissy Hayes as co-chairs of Sundays on the Square together with their volunteers. In its second season of concerts and fellowship on the Court Square lawn in Uptown Shelby, Sundays on the Square has provided a meeting place to gather and bring families and friends together while helping the community thrive. In addition to music and raising awareness for non-profit organizations in Cleveland County, all proceeds from the events are donated to local charities.

Mayor Alexander presented framed certificates to Serena Flaherty, Crissy Hayes, and several volunteers on behalf of the City of Shelby.

2) Recognition of the Mayor's Outstanding Volunteer Service Recipients for September 2008: Eddie Holbrook, Jim Horn, and the 2008 Shelby World Series Committee

Mayor Alexander commended Legion World Series co-chairmen, Eddie Holbrook and Jim Horn, and the many volunteers who worked tirelessly to bring the American Legion Southeast Regionals and the American Legion World Series to Shelby and Cleveland County. Mayor Alexander emphasized the importance of the Legion games as a monumental, historic event for the entire region which put "Shelby on the map".

Mayor Alexander presented framed certificates to Eddie Holbrook and Jim Horn on behalf of the City of Shelby.

Mr. Ware added he attended the American Legion World Series Committee's appreciation event on September 11, 2008 and received the commemorative medal and photograph depicting the opening ceremonies of the baseball games, which he presented to Mayor Alexander as gifts to the City.

3) Recognition of the 2008 Shelby Parks and Recreation Department and Tar Heel Leagues, Inc. Youth Baseball All-Stars

In honor of hosting the American Legion Southeast Regionals and World Series games as well as the Little Tar Heel State Tournament at City Park, Mayor Alexander stated that it was apropos to declare August 2008 as Baseball Appreciation Month in Shelby and recognized Mr. Holtzclaw to introduce the Tar Heel Leagues Youth Baseball All-Stars.

Mr. Holtzclaw stated the Shelby Parks and Recreation Summer Baseball Program had a very successful season having three age groups compete in the Tar Heel Leagues, Inc. State Tournaments. All three teams advanced to the finals with the Little Tar Heel Team (ages 11 and 12) and the Junior Tar Heel Team (ages 13 and 14) winning the State championships respectively. The Senior Tar Heel Team (ages 15 through 17) finished State runner-up. Since joining the Tar Heel Leagues in the early 1990s, the Shelby contingents have captured 12 State titles and have finished runner-up several times. Mr. Holtzclaw added that the players, coaches, and families represented the City of Shelby in a very positive way not only by being successful on the field, but also by demonstrating sportsmanship on and off the field. Mr. Holtzclaw commended Parks and Recreation staff for an excellent job ensuring the safe travel and stay for the teams while on the road, an outstanding job hosting

the Little Tar Heel State Tournament, and for participating in the various events of the American Legion series.

a. 2008 Senior Tar Heel Team, State Runner-up

Mayor Alexander, assisted by David Fisher, Recreation Program Supervisor, and Doug Hull, Athletic Program Supervisor, presented the framed certificates to the Shelby Parks and Recreation 2008 Senior Tar Heel Leagues, Inc. State Runner-up as follows: Coach Brian Arnold and Coach Randy Piercy, and Team members: Brett Ciaschini, Mason McCullough, Anthony Stiles, Kyle Stroud, and Cody Whisnant. Absent: Coach Jeff Deaton, Coach Bradley Willis, Caleb Clark, Aaron Crowe, Jordan Kale, Garrett King, Adam Mellon, Daron Reeves, and R. J. Ussery.

b. 2008 Junior Tar Heel Team, State Champions

Mayor Alexander, assisted by David Fisher, Recreation Program Supervisor, and Doug Hull, Athletic Program Supervisor, presented the framed certificates to the Shelby Parks and Recreation 2008 Junior Tar Heel Leagues, Inc. State Champions as follows: Coach Cory Ferree, Coach Gene Davis, and Coach Charles Owens, and Team members: Will Earls, Elijah Biggerstaff, Hayden Dotson, Patrick Bowman, Trey Adams, Nick Triplett, Lucas Owens, Weston Bradley, Mark McFarland, Ryley Smith, and Even Loaces.

c. 2008 Little Tar Heel Team, State Champions

Mayor Alexander, assisted by David Fisher, Recreation Program Supervisor, and Doug Hull, Athletic Program Supervisor, presented the framed certificates to the Shelby Parks and Recreation 2008 Little Tar Heel Leagues, Inc. State Champions as follows: Coach Chip Haskin and Coach Jacob Sigmon, and Team members: Jalen Byrd, Ben Gold, Luke Hayek, Jacob Hamrick, Chandler Young, Thomas Weaver, Jarren Byrd, Grant Byers, Garrett Gamble, Will Bryant, Bradford Lail, and Jackson Mims. Absent: Coach Charlie Ruff and Coach Mike Trammell.

Mayor Alexander congratulated the teams on their respective successes and extended best wishes for their continued accomplishments in the game of baseball and all future endeavors.

Mayor Alexander declared a recess at 6:24 p.m. and reconvened the meeting at 6:25 p.m.

C. Public Comment:

- 1) Steve Padgett who resides at 105 Persimmon Creek Road in Kings Mountain spoke on behalf of the Cleveland County Chamber as the Chairman of the Board of Directors. Mr. Padgett expressed his appreciation to Council for their support of the Chamber and its staff during the recent transitional period as he introduced the new Chamber President, Michael Chrisawn, who began his duties today. Mr. Chrisawn previously served as President of the Cleveland County Chamber and is returning to Shelby after a 25-year period.

Mr. Chrisawn spoke briefly about his return to Shelby and said he is looking forward to working with Mayor Alexander and Council. Mayor Alexander welcomed Mr. Chrisawn and reiterated the same sentiments to him.

D. Public Hearings:

- 1) Consideration of an ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 42-2008

Request to rezone property located at 113 East Elm Street from the Residential 6 (R6) District to the General Business 2 (GB2) District

Parcel ID No. 18341 or Tax Map S-11, Block 10, Lot No. 11

Utilizing a map of the area, Mr. Scharer pointed out the subject property located at 113 East Elm Street and stated that the proposed rezoning request is for a small vacant parcel with an area of approximately 7,300 square feet. Land uses on South Lafayette Street and South Dekalb Street are primarily commercial. Land uses on Washington Street are primarily residential. Mr. Scharer said the current Land Development Plan designates the parcel as high density residential and the City is currently developing a new Comprehensive Land Use Plan that has this area depicted as a Corridor Revitalization area. In addition, the subject property is also located in the Earl-Gidney Redevelopment District as defined in the City Center Master Plan and Mr. Scharer presented two conceptual plans for the Earl-Gidney District. The Earl-Gidney Redevelopment District's intent is to retain the historic integrity of South Washington Street while at the same time redevelop and revitalize the commercial corridors of South Lafayette and South Dekalb Street.

Mr. Scharer concluded by stating that the Planning and Zoning Board recommended this zoning change with a 4 to 2 vote on August 21, 2008.

Mayor Alexander opened the public hearing at 6:29 p.m. and invited comments from the public:

Lynn Lee who resides at 700 South Washington Street and owns properties at 626 through 714 ½ South Washington Street in Shelby spoke against the rezoning request. Mrs. Lee expressed her concerns about narrow roads, vehicle wrecks, and noise if a business is allowed to open on East Elm Street. She prefers to have businesses front South Lafayette Street in order to maintain the historic district of South Washington, where she is planning to build her new home on vacant property. Mrs. Lee provided Council with a plat indicating the subject properties.

Eddie Kee whose business address is 7245 Morgan Street in Shelby spoke in support of the rezoning request and on behalf of his son, who is the potential buyer of the subject property. Mr. Kee stated his son intends to open a business for the order and sale of classic auto and truck parts. Mr. Kee added that this would be a unique business in Shelby with a location in close proximity to several other auto parts businesses.

Mayor Alexander closed the public hearing at 6:33 p.m.

Mr. Royster stated that although he is personally in favor of business openings, Council must consider all the uses in zoning districts, the opinions of property owners, and maintain consistency with previously adopted City master plans. He suggested the applicant consider applying for a conditional use permit.

Mr. Mabry agreed with Mr. Royster citing Council's desire to remain consistent with the City's adopted planning documents, to strike a balance between business and residential zonings, and to be respectful of the recommendations put forth by their advisory boards.

Mr. Hopper concurred with Messrs. Royster and Mabry and preferred that the applicant apply for a conditional use permit.

ACTION TAKEN: Upon a motion by Mr. Mabry, second by Mrs. Patterson, City Council voted unanimously to deny Ordinance No. 42-2008 entitled, "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

- 2) Consideration of an ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 43-2008

Request to rezone two properties located on First Street from the Residential 20 (R20) District to the General Business (GB) District

Parcel ID Nos. 26185 and 26184 or Tax Map 6-48, Block 2, Lot Nos. 5 and 6

Utilizing a map of the area, Mr. Scharer pointed to the first vacant parcel located on First Street. Adjacent to the subject property is an additional vacant parcel. The two properties are completely surrounded by the GB zoning district. Mr. Scharer stated that the current Land Development Plan designates both parcels as commercial. Mr. Scharer concluded with the Planning and Zoning Board's recommendation to approve this rezoning request and include staff's recommendation to rezone the adjoining parcel as well.

Mayor Alexander opened the public hearing at 6:38 p.m. and invited comments from the public.

The public offered no comments and Mayor Alexander closed the public hearing at 6:39 p.m.

ACTION TAKEN: Upon a motion by Mr. Royster, second by Mr. Hopper, City Council voted unanimously to approve and adopt Ordinance No. 43-2008 entitled, "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

E. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of August 18, 2008
- 2) Approval of a Special Event Permit Application:
 - a. Shelby High School to conduct its annual Homecoming Parade on October 2, 2008
- 3) Approval of a resolution declaring the intent of the City Council of the City of Shelby to consider permanent closure of a portion of unopened City street in Grey Fox Forest Subdivision: Resolution No. 57-2008
- 4) Approval of a resolution approving a Supplemental Engineering Agreement with W. K. Dickson and Company, Inc. for design, bidding and construction services for the new terminal building at Shelby-Cleveland County Regional Airport: Resolution No. 58-2008

- 5) Approval of a resolution accepting and entering into an Agreement with the North Carolina Department of Transportation to accept grant funding for the Shelby-Cleveland County Regional Airport: Resolution No. 59-2008
- 6) Approval of a resolution awarding the bid for the Hallelujah Acres sewer extension: Resolution No. 60-2008
- 7) Westside Waterline Project:
 - a. Approval of a resolution awarding the construction contract for the City of Shelby Westside Waterline Project Division I: Booster Pump Station and Water Mains to Hickory Sand Company, Inc.: Resolution No. 61-2008
 - b. Approval of a resolution awarding the construction contract for the City of Shelby Westside Waterline Project Division II: Elevated Water Tank to Caldwell Tanks, Inc.: Resolution No. 62-2008
- 8) NC Highway 150 (Dekalb Street) Electric Relocation Project:
 - a. Approval of a resolution accepting and approving a Utility Relocation Agreement between the City of Shelby and the North Carolina Department of Transportation for relocation of electric utilities at the intersection of NC Highway 150 (Dekalb Street) and Gidney Street: Resolution No. 63-2008
 - b. Adoption of an ordinance establishing a capital project and budget for the City of Shelby's Dekalb Street Electric Relocation Project: Ordinance No. 44-2008

END CONSENT AGENDA

F. Unfinished Business:

- 1) Consideration and discussion of proposed ordinance of the City of Shelby, Amending Article I of Chapter 32 of the Shelby City Code of Ordinances by adding Section 32-3 prohibiting registered sex offenders from City Parks and Recreation facilities

By way of introduction, Mr. Howell reminded Council of their recent directive to work with Mr. Yelton on the development of a proposed ordinance banning registered sex offenders from all City of Shelby Parks and Recreation facilities. Mr. Howell provided background information and the draft ordinance to Council for their discussion and further consideration.

By way of legal history, Mr. Howell stated that the model ordinance adopted in April 2005 by the Town of Woodfin prohibiting registered sex offenders from knowingly entering any public park owned, operated, or maintained by the Town was recently upheld by the North Carolina Supreme Court on appeal. The Court found that the Town ordinance was rationally related to the legitimate government interest of protecting park visitors from becoming victims of sexual crimes and was constitutional.

Mr. Yelton requested clarification from Council regarding signage as written in Subparagraph (d) of the drafted ordinance and advised that this is a policy decision and not necessarily required by law.

There was discussion between Council members and Mr. Howell regarding how the City would handle public notice of the ordinance upon its adoption. By consensus, Council requested Mr. Howell to finalize the ordinance for their consideration on October 6, 2008 and to include a subparagraph for the posting of signage at designated entrances to be determined by the City Manager.

G. New Business:

1) Communications Center Upgrade:

Mr. Howell introduced Ordinance No. 45-2008 and Resolution No. 64-2008 for Council's consideration. If approved, Council will authorize the expenditure of funds for the purchase and installation as well as the financing of the updated communications equipment in conjunction with the transition of the system from an 800 MHz analog system to a digital system in 2009. This project will cover the purchase and installation of equipment primarily for the Police Department but also for other City departments that routinely use radio equipment.

With regard to the City's Communications Upgrade Project, Chief Ledford provided the following information about the system:

- Handheld and mobile radios – The City will purchase 187 handheld and mobile radios to outfit the following departments: Police, Public Works, Utilities, and Fire. Staff has determined what radios fit the needs of the employees utilizing them. The quotes are inclusive of all City radios which allows for one system of communication. This will not only increase safety, but overall communications among City departments as well. Only essential vehicles will be equipped with mobile radios. Handheld radios are completely digital and are compliant with the State's new VIPER System, in which the Police Department participates.

- **Communications Center** – The console upgrades include three new workstations that are state-of-the-art complete with furniture, computers, and hardware.
- **Wireless reporting, Hardware, and Licensing** – Wireless reporting will simplify the current system and enhance service via reporting from the field wirelessly. This will allow City staff to complete their reports in the field and submit them electronically to be stored into the system. Wireless reporting eliminates police officers having to drive to headquarters to complete reports and other records and allows them to stay in their assigned areas. This alone will enhance visibility and make the police officers more efficient in their duties.

Mr. Howell commented that discussions between the City and County are ongoing about a possible consolidation of the 911 System, however, the City will still be required to purchase the consoles for the Communications Center in order to provide back-up capacity.

Upon questioning with regard to financing, Mr. Phillips responded that the City will most likely incur debt service for a 10-year installment with a payment of approximately \$175,000 per year and with each City department paying their proportionate share of the project costs.

- a. **Consideration of an ordinance establishing a capital project and budgets for the City of Shelby's Communications Upgrade Project: Ordinance No. 45-2008**

ACTION TAKEN: Upon a motion by Mrs. Patterson, second by Mr. Hopper, City Council voted unanimously to approve and adopt Ordinance No. 45-2008 entitled, "AN ORDINANCE ESTABLISHING A CAPITAL PROJECT AND BUDGET FOR THE CITY OF SHELBY'S COMMUNICATIONS UPGRADE PROJECT".

- b. **Consideration of a resolution for the City of Shelby's declaration of official intent to reimburse: Resolution No. 64-2008**

ACTION TAKEN: Upon a subsequent motion by Mr. Hopper, second by Mr. Ware, City Council voted unanimously to approve and adopt Resolution No. 64-2008 entitled, "A RESOLUTION FOR THE CITY OF SHELBY'S DECLARATION OF OFFICIAL INTENT TO REIMBURSE".

H. City Manager's Report:

- 1) Mr. Howell informed Council that October 8, 2008 is International Walk to

School Day.

- 2) Mr. Howell reminded Council that a public hearing and community workshop regarding the Shelby Comprehensive Land Use Plan will be held on September 30, 2008 from 5:00 p.m. to 8:00 p.m. at the Cleveland County Arts Council.
- 3) Mr. Howell mentioned the ongoing process concerning the Cleveland County Comprehensive Transportation Plan Study. The plan represents a joint effort among Cleveland County, Lake Norman Rural Planning Organization, and North Carolina Department of Transportation (NCDOT) and will provide an update to the existing Cleveland County Thoroughfare Plan. North Carolina's new Long-Range Statewide Multimodal Transportation Plan stakes out a course of action for NCDOT and will reflect a greatly enhanced focus on providing and supporting a multimodal transportation system, which Council will ultimately be requested to review and adopt.
- 4) Mr. Howell also mentioned the ongoing process concerning the 911 Center Consolidation Study and advised the consultant's report is due shortly.
- 5) Mr. Howell reminded Council that the North Carolina League of Municipalities Centennial Conference is set for October 12-14, 2008 in Charlotte, North Carolina.
- 6) Mr. Howell told Council to look forward to an announcement from Destination Cleveland County in the very near future about the Don Gibson Theatre.
- 7) Mr. Howell said that he, Mr. Phillips, Mr. Scharer, and Mr. Holtzclaw are continuing their work on developing the Parks and Recreation Master Plan implementation and funding strategies and anticipates an update for Council's consideration by the end of the year.

I. Council Announcements and Remarks:

- 1) Mr. Mabry welcomed Michael Chrisawn as President to the Cleveland County Chamber and Wade Nicholas as Executive Director to Uptown Shelby Association.
- 2) Mayor Alexander encouraged all to attend the meeting and workshop for Shelby's Comprehensive Land Plan on September 30, 2008.

J. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion by Mr. Mabry, second by Mr. Hopper, City Council voted unanimously to adjourn the meeting at 7:15 p.m.

Respectfully submitted,

Bernadette A. Parduski, CMC
City Clerk

W. Ted Alexander
Mayor

Minutes of September 15, A. D. 2008