

## MINUTES

Regular Meeting  
City Hall Council Chamber

October 20, 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, 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, Assistant Director of Utilities-Operations David W. Hux, Fire Chief William P. Hunt, Director of Public Works Daniel C. (Danny) Darst, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

Mayor Alexander called the meeting to order at 6:00 p.m. and welcomed all who were in attendance. Mrs. Patterson reminded everyone that October is National Breast Cancer Awareness Month. Before the Council meeting, Mrs. Patterson distributed pink ribbons in support of the cause to the Mayor, Council members, City Attorney, and staff to wear on their lapels. She gave the invocation and Mr. Hux led the *Pledge of Allegiance*.

### A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

Mayor Alexander requested time under New Business to introduce a proposal for Council's consideration.

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

### B. Special Presentation:

- 1) Recognition of the Mayor's Outstanding Volunteer Service Recipient for October 2008: Shelby Lions Club

Mayor Alexander deemed to honor the Shelby Lions Club and recognized Messrs. J. D. Baldree and Jimmy Tucker. The Mayor said that the Lions Club has handled the commodities food distribution within the City for almost 20 years. This highly organized operation takes place several times a year at the Cleveland County Fairgrounds and its purpose is to feed needy people in the community by working with various churches and organizations.

Mayor Alexander presented a framed certificate to J. D. Baldree and Jimmy Tucker on behalf of the City of Shelby.

Mr. Baldree and Mr. Tucker expressed their appreciation and enjoyment in this program. Mr. Tucker also mentioned the sponsorship of the Lions Club Vision Van with the assistance of Wal-Mart, which donates their facility, and the Shelby Eye Center's staff, Dr. Bailey, Dr. Bogan, and Dr. Cline, who donate their services.

**C. Public Comment:**

- 1) Sandra Renick who resides at 112 Brookhill Road in Shelby expressed her concern and those of her neighbors about the number of recent daylight break-ins in their neighborhood. Mrs. Renick called an emergency meeting of the Neighborhood Watch on October 17, 2008 and the consensus among the residents was they no longer felt secure. Mrs. Renick requested that the City replace a fence in the surrounding area which she stated was removed for a City sewer project. She acknowledged that the Police Department has a walking patrol and their presence is appreciated.

**D. Public Hearing:**

- 1) Consideration of a Resolution and Order permanently closing a portion of an unopened City street in the Grey Fox Forest Subdivision: Resolution No. 75-2008

Mr. Scharer stated that the developer of Grey Fox Forest subdivision has requested that the City close an opened street within the subdivision. This street was platted to serve Phases 3 and 4 of Grey Fox Forest. However, these phases have been reevaluated by the developer, the preliminary plat was allowed to lapse, and plans will now include only a few large estate lots. Therefore, the street in question is no longer necessary.

Mr. Scharer explained that under the provisions of North Carolina General Statutes the division of right-of-way in street or alley closings may be altered as to a particular street or alley closing by the assent of all property owners taking title to a closed street or alley by the filing of a plat which shows the street or alley closing and the portion of the closed street or alley to be taken by each such owner. The plat shall be signed by each property owner who has an ownership right in the closed street or alley.

Mayor Alexander opened the public hearing at 6:13 p.m. and invited comments from the public:

Chris Allen who resides at 1308 Moonshadow Lane in Shelby stated he represented the subdivision's association committee and spoke in support of the street closing. Mr. Allen requested that the City consider the closing and curbing of the opening of the existing street to comply with the neighborhood covenants and restrictions as well as remove the asphalt and concrete and provide sidewalks to curve with the potential road.

Upon questioning, Mr. Scharer responded and clarified that Mr. Allen's requests directed to the City are the responsibility of the subdivision's developer.

Mayor Alexander closed the public hearing at 6:15 p.m.

**ACTION TAKEN:** Upon a motion by Mrs. Patterson, second by Mr. Ware, City Council voted unanimously to approve and adopt Resolution No. 75-2008 entitled, "A RESOLUTION AND ORDER PERMANENTLY CLOSING A PORTION OF AN UNOPENED CITY STREET IN THE GREY FOX FOREST SUBDIVISION".

**E. Consent Agenda:**

**ACTION TAKEN:** Mayor Alexander presented the consent agenda. Mr. Shores 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 October 6, 2008
- 2) Approval of Special Event Permit Applications:
  - a. Central United Methodist Church and Uptown Shelby Association to co-sponsor Christmas on the Square Family Fun Walk on December 18, 2008
  - b. Cleveland County NAACP to sponsor a Voter Empowerment Parade on October 25, 2008
- 3) Approval of a resolution recognizing the City of Shelby Marketing Department for outstanding achievement in the area of energy efficiency: Resolution No. 76-2008
- 4) Approval of a resolution honoring Olympian Travis Padgett: Resolution No. 77-2008

- 5) Adoption of FY 2008-2009 Budget Ordinance Amendment No. 3:  
Ordinance No. 48-2008

**END CONSENT AGENDA**

F. Unfinished Business: None

G. New Business:

- 1) Consideration of a resolution authorizing the assignment of lease:  
Resolution No. 78-2008

Mr. Howell introduced a request from Destination Cleveland County (DCC) Chair Brownie Plaster that the City allow DCC to assign its lease with the City to its creditors. Mr. Howell reminded Council that DCC has raised approximately \$2 million for the Don Gibson Theatre project with much of it pledged to be paid over five years. Therefore, it is necessary for DCC to secure short-term financing so that the project construction can move forward. DCC has secured a commitment from five local banking entities for a participation loan with each bank taking an equal share of the loan. The banks have requested that DCC assign them the lease in the event of a default so that they could have some protection and ability to find someone else to assume the loan or purchase the building. This would allow them to recover their losses in the event of default. Mr. Howell stated the lease agreement required permission from Council to assign the lease to any individual or group.

Mr. Howell concluded with the following points:

- DCC would only be authorized to assign the lease to the participating banks in the event of default with advance notice to the City.
- The City still owns the building and could terminate the lease with proper notice regardless of who holds it.
- The lease is very specific as to the use of the property as an event center regardless of lessee.
- The City maintains a “right of first refusal” to purchase the property back should the lessee exercise its option to purchase at any point in time.

**ACTION TAKEN:** Upon a motion by Mr. Shores, second by Mr. Ware, City Council voted unanimously to approve and adopt Resolution No. 78-2008 entitled, “A RESOLUTION AUTHORIZING THE ASSIGNMENT OF LEASE”.

**2) Consideration of a resolution concerning the operation of the Natural Gas System: Resolution No. 79-2008**

**Mr. Howell presented Resolution No. 79-2008 for Council's consideration. He referred to this resolution as a procedural item but broad and flexible in its authorization allowing him and staff to manage and operate the natural gas fund budget (approximately \$21.5 million) and system on a daily basis with the stated authority to make day-to-day operational decisions. Mr. Howell said decisions regarding purchasing of the City's volumes, negotiations of operational contracts, as well as many other issues are made daily and weekly. This resolution merely seeks Council's authorization to continue as staff currently operates but also requires the City Manager to report to Council periodically on the operations of the natural gas system. Mr. Howell reiterated that he will continue to bring major contractual and policy decisions to Council for consideration, discussion, and approval.**

**ACTION TAKEN: Upon a motion by Mr. Royster, second by Mrs. Patterson, City Council voted unanimously to approve and adopt Resolution No. 79-2008 entitled, "A RESOLUTION CONCERNING THE OPERATION OF THE NATURAL GAS SYSTEM".**

**3) Community Round Up**

**Mayor Alexander proposed that the 14,000 customers of Shelby utilities be given the opportunity to "round up" their payments to the nearest whole dollar when paying their bills. The difference between what is owed, and the next dollar could be contributed to a fund to offset costs for utility line connections, underground wiring, and the like for non-profits such as Habitat for Humanity, various churches, North Carolina Baptist Men, Mission Serve, Cleveland County Community Development Corporation, Shelby Housing Development Corporation, and others that are attempting to revitalize communities and neighborhoods. The Mayor said currently there is very little the City can offer to these groups without everyone requesting the same thing. Given the current economic climate and the need for all to pull together this would give a relatively painless and voluntary means of raising funds to help groups to which a few hundred or a thousand dollars would mean a great deal. The Mayor concluded that the rebound effect could lead to improved economic development projects, an enhanced tax base and utility usage, and revitalized areas. Other cities, citing Kinston, North Carolina as an example, have done this for various projects particularly downtown improvements and utility assistance.**

**Mayor Alexander requested that Council consider this topic for further discussion at their upcoming annual retreat.**

Council took no action.

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

- 1) Mr. Howell advised Council that the City's first quarterly financial statements for the current fiscal year will be prepared shortly for their review. He cautioned that sales tax numbers and Powell Bill funding are down this year. Mr. Howell stated that staff will be reviewing the current budget, adjusting spending, and delaying certain projects until spring in an effort to address any developing budgetary concerns.

There was discussion to continue with the City's fuel conservation practices and the possibility of utilizing compressed natural gas as a transportation fuel alternative.

**I. Council Announcements and Remarks:**

- 1) Mr. Mabry reminded all to attend the Holly Oak Park Celebration on October 25, 2008.
- 2) Mrs. Patterson reminded all to vote on Election Day, November 4, 2008.
- 3) In conjunction with Breast Cancer Awareness Month, Mr. Hopper mentioned Cleveland Regional Medical Center's successful event, Walk for Hope, held on October 11, 2008.
- 4) Mr. Royster and Mr. Ware mentioned another successful event in the Art of Sound Festival held October 17-19, 2008.
- 5) Mayor Alexander announced that the Sanitation Department has scheduled Fall Bulky Item Pick-up for this week, October 20-24, 2008.
- 6) In addition to the other festivities previously mentioned, Mayor Alexander encouraged all to attend the Shelby Fall Festival and Liver Mush Exposition on October 25, 2008.

**J. Closed Session:**

- 1) To approve Minutes and General Account of the Closed Session of October 6, 2008
- 2) To complete the annual performance evaluation of the City Manager pursuant to North Carolina General Statute 143.318.11 (a) (6)

**ACTION TAKEN:** Mr. Shores made a motion to enter into a closed session to complete the performance evaluation of the City Manager pursuant to the appropriate North Carolina General Statute as cited. Council consulted with Mr. Yelton who advised that the topic met the statutory requirements for a closed session. The Mayor invited all Council members present and Mrs. Parduski to attend. The motion was seconded by Mr. Ware. The motion passed unanimously and Council moved into closed session at approximately 6:35 p.m.

**ACTION TAKEN:** Upon a motion by Mr. Royster, second by Mr. Shores, City Council voted unanimously to return to regular session at 7:20 p.m.

Mayor Alexander stated that Council has successfully completed a positive performance evaluation of the City Manager. By consensus, the Mayor will complete the necessary paperwork to share with Mr. Howell.

**K. 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 7:21 p.m.

Respectfully submitted,

Bernadette A. Parduski, CMC  
City Clerk

W. Ted Alexander  
Mayor

Minutes of October 20, A. D. 2008