

## MINUTES

Regular Meeting  
City Hall Council Chamber

October 3, 2011  
Monday, 6:00 p.m.

**Present:** Mayor W. Ted Alexander, presiding; Council Members Christopher H. (Chris) Mabry, O. Stanhope (Stan) Anthony, III, Jeanette D. Patterson, Dennis C. Bailey, Joel R. Shores, Jr., Andrew L. Hopper, Sr.; City Manager Rick Howell, City Attorney Robert W. (Bob) Yelton, City Clerk Bernadette A. Parduski, MMC, Interim Director of Finance Elizabeth B. (Beth) Beam, CPA, Director of Human Resources Deborah C. (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, 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 gave the invocation and Mr. Mabry led the *Pledge of Allegiance*.

The Mayor recognized former Council Members Kevin Allen and Aileen Ford in attendance. Mrs. Patterson mentioned that October is recognized as National Breast Cancer Awareness Month. She expressed her appreciation to all for wearing the symbolic pink ribbons, which promote awareness of breast cancer issues.

**A. Approval of agenda:**

- 1) Motion to adopt the proposed agenda

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

**B. Special Presentations:**

- 1) Recognition of Sylvester Haynes on the occasion of his retirement from employment with the City of Shelby: Resolution No. 52-2011

Mayor Alexander called upon Mr. Haynes, who recognized members of his immediate and extended family, including fellow firefighters. The Mayor formally read and presented framed Resolution No. 52-2011 to Mr. Haynes. He also presented the key to the City and a City lapel pin to Mr. Haynes in

honor of and with heartfelt appreciation for his 28 years of dedicated service to the City of Shelby in the Fire and Rescue Department.

**2) Habitat for Humanity – Cleveland County Community Development Partnership – Director of Planning Services Walt Scharer, AICP**

Mr. Howell introduced the subject matter of the presentation to address an issue of concern that is specific to Habitat for Humanity (HFH) – Cleveland County but that may eventually affect a number of not-for-profit organizations owning donated residential properties within the City limits. As a volunteer organization with very limited resources, it is not always possible for HFH to utilize each donated property in a timely manner. Mr. Howell stated this has resulted in HFH properties with nuisance violations that many times bring down the very neighborhood that the City is striving to improve. He directed Mr. Scharer to begin initial discussions with HFH concerning their vacant and underutilized properties in an effort to ascertain possible solutions.

Mr. Scharer began his portion of the presentation with background information about HFH. HFH in Cleveland County is a locally run affiliate of Humanity International, a non-profit, ecumenical Christian housing organization. HFH works in partnership with people in need to build and renovate decent, affordable housing. The houses are then sold to those in need at no profit and with no interest charged. Volunteers provide most of the labor, and individual and corporate donors provide money and materials to build Habitat houses. Partner families themselves invest hundreds of hours of labor, “sweat equity”, into building their homes and the homes of others. One of the City of Shelby’s goals, as stated in the Neighborhood Action Plan (2006), is to identify infill housing opportunities and work closely with HFH to make the best use of these properties.

Mr. Scharer stated that HFH currently owns 19 properties within the City limits of Shelby. Many of these properties are in remote locations of the City; however, many are within distressed neighborhoods in the City’s core area. While it is HFH’s goal to build single family dwellings for new homeowners who have low to moderate income, it is not always the case with donated properties which have a tendency to become nuisances. Based on these issues and the fact that HFH could become a valuable partner with the City of Shelby in its neighborhood revitalization efforts, staff proposes that the City enter into serious discussions with HFH concerning its donated properties.

Mr. Scharer outlined a suggested scenario that the City of Shelby hold these properties for HFH for a period of time until HFH is ready to proceed with a single family dwelling construction project. This would eliminate HFH’s potential tax burden on these properties as well as the burden of property

maintenance. The City has the resources and overall interest in maintaining these properties for the current and long-term success of neighborhood revitalization. Mr. Scharer added that some of these properties may even be of no use to HFH but may be of some value to the City for other purposes such as recreation and/or utilities. In return, HFH and the City could come to an agreement to construct a single family dwelling which fits the character of the existing neighborhood or the character that the City would like to promote in a particular area.

Mr. Howell advised that cities have the statutory authorization to hold property and contract with any entity in order to carry out any public purpose, such as affordable housing, that the city is authorized by law to engage in. He was seeking Council's feedback in terms of how to address the HFH issue either traditionally or proactively. Discussion followed and included donation and cost issues related to holding, accepting, and returning multiple properties.

By consensus, Council directed Mr. Howell to pursue further discussions with HFH and to develop a Memorandum of Understanding for their consideration.

Mayor Alexander recognized HFH volunteers in attendance.

#### C. 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 Mrs. Patterson, the consent agenda and following items were unanimously approved:

- 1) Approval of the Minutes of the Regular Meeting of September 19, 2011
- 2) Approval of a Special Event Permit Application:
  - a. Rhythm and Roots Run 5K and 10K, requested date: November 5, 2011

Mr. Mabry stated he supported the Rhythm and Roots Run events but urged the applicant to notify all the local businesses along the routes about the requested road closures, etc.

- 3) Approval of a resolution declaring the intent of the City Council of the City of Shelby to consider the permanent closure of Crawford Street between North Washington Street and a point near First Street adjacent to hospital property: Resolution No. 56-2011

- 4) Approval of a resolution accepting property from the City of Hope:  
Resolution No. 57-2011

#### END CONSENT AGENDA

#### D. Unfinished Business:

- 1) Consideration of an ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 46-2011

Request to rezone properties located at 1401 Metcalf Road and 345, 351, 355, and 359 Magness Road from the Residential 20 (R20) District to the Residential 10 (R10) District

Cleveland County Parcel Identification No. 72347 or Tax Map S88, Block 1, Lot 49

Mr. Howell introduced Ordinance No. 46-2011 for Council's further consideration at this time. He also reminded Council of the public hearing conducted on August 15, 2011 concerning said rezoning application and their action to send the matter back to the Planning and Zoning Board for review with the hope that some reasonable compromise could be reached between the parties.

Mr. Scharer updated Council by stating that the Planning and Zoning Board reviewed the case for a second time on September 15, 2011. Several members of the Grey Fox Forest Property Owners Association spoke in support of their proposed zoning request. The Board reaffirmed their original recommendation to maintain the current zoning and deny the proposed zoning map amendment. Their findings were based on the proposed amendment being inconsistent with the City of Shelby Comprehensive Land Use Plan.

Next, Mr. Scharer provided a review of the specifics by stating there are three, separate, and distinct pieces to the subject property: One at the intersection of Metcalf Road and Magness Road, one at the intersection of Magness Road and Moonshadow Lane, and one near the end of Magness Road. The applicant is the Grey Fox Forest Property Owners Association, and not the property owner. However, it was noted that anyone under the provisions of the City's Unified Development Ordinance (UDO) and the statute may request a zoning map change on any given property. Staff had no knowledge of an agreement between the parties. Mr. Scharer also stated staff did not recommend approval of the zoning amendment based on the Comprehensive Land Use Plan.

**ACTION TAKEN:** Upon a motion by Mr. Bailey, second by Mr. Shores, City Council voted unanimously to deny Ordinance No. 46-2011 entitled, “AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA”.

Afterwards, Mr. Howell commented that Council has discussed in the past the need for some policy changes to the UDO text and zoning map in order to protect traditional, single-family neighborhoods from the potential negative impact of multi-family developments. He will prepare a policy discussion on this matter for Council’s consideration in the near future.

**2) Consideration of an ordinance revising Chapter 44 Utilities, Article IV, Sewer Service of the Shelby, North Carolina Code of Ordinances (Sewer Use Ordinance): Ordinance No. 47-2011**

Mr. Howell introduced Ordinance No. 47-2011 for Council’s consideration. If approved and adopted, this ordinance would address a number of deficiencies within the City’s current Sewer Use Ordinance. Mr. Howell stated these are deficiencies in that state and federal laws as well as rules and regulations dictate that local governments owning wastewater collection and treatment systems have adequate local ordinances that put a number of requirements in place as well as ensure that the local entity is enforcing such. According to Mr. Howell, the changes are reasonable and appropriate and he recommended approval and adoption of same at this time.

Mr. Cornwell explained that federal and state pretreatment programs give regulatory authority to the Environmental Protection Agency, states, and municipal governments to control the discharge of industrial wastewater into municipal Wastewater Treatment Plants (WWTPs) and Publicly Owned Treatment Works (POTWs). In 2011, the State of North Carolina Department of Environment and Natural Resources (DENR) adopted several different changes in legislation regarding Local Pretreatment Standards. The State is requiring that all municipal governments with pretreatment programs modify their existing Sewer Use Ordinances in order to comply with these legislation changes. DENR has provided a guidance document to all municipal pretreatment programs outlining the changes required and also noting several optional changes left to the discretion of the City of Shelby. Mr. Cornwell said staff has reviewed the changes in the State’s Sewer Use Model and made the necessary adaptations to be compliant with the mandatory requirements, choosing the best options regarding selections/wording left up to the local governments regarding the direction of their programs.

Mr. Cornwell concluded by stating the revised ordinance has been reviewed by the State and it has been deemed adequate, thus meeting the minimum requirements. He recommended Council's adoption to ensure compliance with the Local Pretreatment Standards.

**ACTION TAKEN:** Upon a motion by Mr. Shores, second by Mr. Bailey, City Council voted unanimously to approve and adopt Ordinance No. 47-2011 entitled, "AN ORDINANCE REVISING CHAPTER 44 UTILITIES, ARTICLE IV, SEWER SERVICE OF THE SHELBY, NORTH CAROLINA CODE OF ORDINANCES".

**E. New Business:**

- 1) Consideration of a resolution authorizing and awarding the contract for the purchase of rollout recycling carts using the "piggyback" method:  
Resolution No. 58-2011

Mr. Howell introduced Resolution No. 58-2011 for Council's consideration. He stated that Mr. Darst has pursued competitive pricing for this expenditure and after reviewing the informal quotes from all of the vendors, determined that the City can best be served by utilizing the "piggybacking" exception in North Carolina General Statute 143-129(g), which allows local governments to forego the formal bidding process and purchase from a vendor that has within the last 12 months contracted to furnish the exact item to another public entity. The contract must have been competitively bid by that entity under the bidding statutes and the vendor must agree to provide the exact same pricing extended to the other entity. In this case, the Town of Cary awarded a contract to Schaefer Systems International, Inc. in May 2011 to provide 95 gallon rollout recycling carts for the base unit price of \$48.40. This per unit price is below that of any other vendors' quotes and by using the "piggybacking" exception will save money and allow the City to avoid a time consuming and expensive bidding process.

Due to the fact this service is scheduled to begin in January 2012 and the City can realize a lower per unit price, Mr. Howell recommended Council's approval for the City to accept a piggyback bid from Schaefer Systems International, Inc. for the purchase of the 95 gallon rollout recycling carts.

**ACTION TAKEN:** Upon a motion by Mr. Bailey, second by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 58-2011 entitled, "A RESOLUTION AUTHORIZING AND AWARDING THE CONTRACT FOR THE PURCHASE OF ROLLOUT RECYCLING CARTS USING THE "PIGGYBACK" METHOD".

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

- 1) **Mr. Howell reported the Job Ready Shell Building at the Foothills Commerce Center is complete. The dedication ceremony is set for October 14, 2011 at 10:00 a.m. Mr. Howell took a moment to express his appreciation to Cleveland County, the North Carolina Department of Commerce, and the Golden Leaf Foundation, just to mention a few, for their partnership with the project; to the Mayor and City Council for their support; and commended City staff for their overall teamwork approach to all projects.**
- 2) **Mr. Howell informed the Mayor and Council that ElectriCities Chief Operating Officer Steve Shelton, a 30-year veteran of the public power organization, recently announced that he will retire at the end of the year. Mr. Howell suggested a resolution of recognition from the City would be appropriate and Council was in agreement.**
- 3) **Mr. Howell announced that the Certificate of Achievement for Excellence in Financial Reporting has been awarded again to our former Finance Director Ted Phillips and the City of Shelby by the Government Finance Officers Association (GFOA) of the United States and Canada for the City's Comprehensive Annual Financial Report (CAFR).**

**G. Council Announcements and Remarks:**

- 1) **As Council liaison to the Shelby-Cleveland County Regional Airport Advisory Board, Mr. Mabry reminded all to attend the Fly-in and Open House at Woodson Field on October 15, 2011 from 10:00 a.m. to 3:00 p.m.**
- 2) **Mrs. Patterson mentioned that the fencing at Newt's sidewalk café is particularly attractive and serves its purpose. She suggested that Council may wish to consider that all Shelby's sidewalk cafés should install similar fencing. Mr. Howell advised that such a change would require Council to amend the ordinance.**
- 3) **Mr. Hopper reminded all that this is an election year in Shelby and to please vote. Election Day is October 11, 2011.**
- 4) **Mayor Alexander invited Mr. Shores, Mr. Hopper, and Mr. Anthony to the Regional Mayors Meeting to be held on November 9, 2011 at 6:30 p.m. at the Don Gibson Theatre.**

**H. Adjournment:**

**1) Motion to adjourn**

**ACTION TAKEN:** Upon a motion by Mr. Shores, second by Mr. Anthony, City Council voted unanimously to adjourn the meeting at 6:58 p.m.

**Respectfully submitted,**

**Bernadette A. Parduski, MMC  
City Clerk**

**W. Ted Alexander  
Mayor**

**Minutes of October 3, A. D. 2011**