

MINUTES

Regular Meeting
City Hall Council Chamber

June 21, 2010
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, Director of Finance Theodore B. (Ted) Phillips, CPA, Director of Utilities Brad R. Cornwell, PLS, EI, Fire Chief William P. Hunt, Director of Public Works Daniel C. (Danny) Darst, Jr., Director of Parks and Recreation Charlie Holtzclaw, 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. The Mayor gave the invocation and Cleveland County Manager David Dear led the *Pledge of Allegiance*.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

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

B. Special Presentations:

- 1) Cleveland County Commissioner Eddie Holbrook and Cleveland County Manager David C. Dear

On behalf of Cleveland County, including the Board of Commissioners and the Economic Development team, Mr. Holbrook expressed special appreciation to the City for its participation, partnership, and support during the recruitment efforts in bringing Clearwater Paper Company to Shelby and Cleveland County.

Mr. Dear echoed Mr. Holbrook's sentiments and added that the project would not have been possible without the foresight, planning, and investment in infrastructure by the Mayor, City Council, and Shelby's professional staff. Mr. Dear further complimented the City's staff who was with the County every step of the way.

Mayor Alexander, joined by all Council members, accepted the County's gift of a shadow box as Mr. Holbrook read the engraved plaque to them.

On behalf of the City and the Council, Mayor Alexander expressed thanks and gratitude to the County and reiterated that this partnership is the hallmark of many mutual successes both currently and for the future.

- 2) Recognition of William Andrew Thomassen on the occasion of his retirement from employment with the City of Shelby: Resolution No. 34-2010

Mayor Alexander called upon Mr. Thomassen and recognized his wife. The Mayor formally read and presented framed Resolution No. 34-2010 to Mr. Thomassen. He also presented the key to the City and a City lapel pin to Mr. Thomassen in honor of and with heartfelt appreciation for more than 30 years of his dedicated service to the City of Shelby.

Mr. Thomassen expressed his gratitude by stating that it has been his pleasure to work for the Shelby Gas Department and he will miss everyone.

- 3) Recognition of Wayne E. Wilson on the occasion of his retirement from employment with the City of Shelby: Resolution No. 35-2010

Mayor Alexander called upon Wayne Wilson. The Mayor formally read and presented framed Resolution No. 35-2010 to Mr. Wilson. He also presented the key to the City and a City lapel pin to Mr. Wilson in honor of and with heartfelt appreciation for more than 29 years of his dedicated service to the City of Shelby.

C. Public Comment: None

D. Public Hearing:

- 1) Proposed Fiscal Year 2010-2011 Annual Operating Budget for the City of Shelby
 - a. Consideration of the Fiscal Year 2010-2011 Budget Ordinance No. 18-2010

Mayor Alexander opened the public hearing at 6:19 p.m. and invited comments from the public:

Carroll Moore who resides at 908 Montrose Drive in Shelby, North Carolina

spoke against the proposed budget and stated he represents the elderly population on fixed budgets. He mentioned that Shelby's property tax rate is almost the same as Charlotte's property tax rate with Shelby's being just two cents less. He expressed his concerns about property taxes and the utility rate increases and requested Council consider reducing the proposed increases to a more reasonable level.

Cheryl Huntley who resides at 1854 East Marion Street in Shelby, North Carolina spoke against the proposed budget. She is a single mother with three children and works with the senior population. Ms. Huntley stated that the proposed utility rate increases will cause additional financial hardship for her and, in her opinion, for the elderly. She requested Council consider reducing the amount of the proposed utility rate increases.

Marilyn Price who resides at 120 Twin Lake Drive in Boiling Springs, North Carolina spoke against the proposed budget and in particular expressed her concerns about the utility rate increases as an advocate for the needy.

Mayor Alexander closed the public hearing at 6:25 p.m.

The Mayor gave each Council member the opportunity to make their remarks. The following main points were made:

Mr. Anthony offered no comments with regard to the proposed budget.

Mr. Mabry – Mr. Mabry acknowledged that these are challenging and tough times. He stated that the City's budget is a complicated issue and Council's largest responsibility. Mr. Mabry's considerations included the whole picture, providing services equally for every citizen, and making the right decision for the long term.

Mrs. Patterson – Mrs. Patterson expressed her concerns about the proposed utility rate increases and the financial impact on the unemployed and the elderly. She contacted the Salvation Army which has paid out approximately \$166,000 over the last two years to assist those in need with their utility bills. Mrs. Patterson believes the City also has considerably high numbers with regard to utility extensions and cut-offs.

Mr. Shores – Mr. Shores read a prepared statement and explained why he is opposed to the proposed utility rate increases. He stated that the current fund balance is \$3.2 million in the Water Fund and \$1.6 million in the Sewer Fund and asked the question, "What is a comfortable fund balance?" Mr. Shores believes the proposed utility rate increases will burden many citizens including the senior population as well as businesses. He mentioned the term

“after care” utilized in economic development circles and said it also needs to apply to the City’s budget process. Mr. Shores stated the utility rate increases are the highest overall in 20 years proposed during the worst economic times since the Great Depression. He quoted a line from the budget message: “Reserve funds in all our utilities although relatively healthy compared to past years still bear watching”. Mr. Shores concluded by stating Council needs to consider periodic reviews of fund balances rather than basing their evaluation of the budget on anticipation. He proposed 5 percent water and sewer rate increases now to be followed with quarterly financial reviews so that adjustments can be made accordingly, based on facts rather than assumptions.

Mr. Hopper reiterated as a governing body the bottom line is making the best decisions based on the facts at hand and he personally believes one must have the moral courage to do what is right in the face of adversity. He reminded Council that staff initially proposed 15 percent rate increases for water and for sewer and Council directed staff to lower those increases to 12 percent. As stewards of the public trust, Mr. Hopper concluded it is Council’s responsibility to balance their concern for citizens and employees with maintaining the City’s systems and ultimately making the tough, sometimes unpopular decisions in the best interest of all. He has and continues to support quarterly budget reviews.

Mr. Bailey stated that the City’s budget is a difficult task for Council. He commended and recognized staff for their hard work as well as the citizens in attendance. Mr. Bailey appreciated and supported Mr. Shores’ suggestion for quarterly budget reviews. He proposed a 7 percent rate increase for electric, water, and sewer.

Mayor Alexander acknowledged that there appears to be a division of Council regarding the proposed budget. The Mayor was convinced that the budget incorporated the assumptions laid out by the majority of the Council at their last budget session of May 26, 2010, which actually reduced the overall budget by 2 percent from last year, was in the best interests of the overall short and long term fiscal health of the City. Even then, this was an extremely difficult decision in light of the fact that so many have been affected by the downturn in the economy. The City continues to face increases beyond its control. In this year alone, the City again saw health insurance increases, with benefit cuts and City employees once again paying more. The City faced landfill increases by the County which were a result of increased regulations by the state and federal governments. There is an increase of what the City had to pay for retiree benefits to the Local Government Retiree System. The North Carolina Municipal Power Agency 1 (NCMPA1) increased the wholesale price the City pays for electricity by 5 percent. All of these

increases combined challenge the City's ability to maintain current levels of service as well as a fund balance that is both prudent and acceptable to the Local Government Commission (LGC) and the trustees of the bonds, for which the City has borrowed, in order to complete much needed water and sewer projects. The amount of debt service that these water and sewer projects increased by respectively will pay off in the long term economic viability of this community. In light of these and other continuing pressures from other forces far beyond the City's control, the Mayor felt that the recommendations set out by Mr. Howell and the parameters agreed upon by a majority of the Council at their May 26th meeting were the fiscally responsible response. Mayor Alexander understands and is completely sympathetic to those who are concerned about the rate increases. In fact, Council made the decision not to increase any rates last year despite the fact that we had a 5 percent increase in electric charges then. However, the electric and other increases the City faced again this year could not continue to be absorbed by the City budget without the process of cutting services. As far as utilities are concerned, it costs the same to operate these enterprises even when consumption is decreasing. When water, sewer, and electric usage go down, which they are, the City cannot just automatically cut back on the cost of personnel to run the plants or maintain the lines, equipment, and machinery. The Mayor concluded by stating he agreed with the suggestion to conduct quarterly budget reviews.

First Mr. Howell responded to Mr. Moore by stating that comparing Shelby's property tax rate to Charlotte's property tax rate is not a fair comparison. Charlotte's property values are significantly higher, with significantly more growth, than Shelby. Shelby's property tax rate of 43.5 cents per \$100 valuation places the City in the bottom 10 percentile statewide.

Mr. Howell reiterated this budget recommendation takes into account a number of issues and concerns. The uncertainties of the economy, the impact of the continuing decline and transition of the industrial tax and customer base, the completion of key utility infrastructure projects, no funding to provide for the continuation of performance pay program for City employees, health insurance increases and reduced benefits, etc. are just a few of the challenges that face the City. Additionally, this budget recommendation addresses the infrastructure and services associated only with maintaining current service levels. Establishing priorities is critical when you combine these revenue challenges with the infrastructure projects badly needed to make Shelby an even better place to do business and to continue to serve our citizens. Mr. Howell cautioned the use of reserve funds should be limited largely to emergency situations, protection of the City's credit rating with bondholders, cash flow for day-to-day operations, and capital projects. These monies are limited and unnecessary use to fund

annually recurring operational expenses only puts the City in a deeper financial dilemma. A stagnant customer base whose overall utility consumption is on the decline as well as the transition of this base from one that was once impacted by significant industrial use to one more reflecting a residential and commercial influence. The impact being that the same fixed costs are now being paid by fewer customers thus putting pressure on rates.

Mr. Howell clarified statistics over the increases indicating what it could truly cost senior citizens using less than 2,000 gallons of water per month who will see their bill rise by \$3.67 combined with sewer costs or \$44.00 annually. The 7 percent electric increase will average \$6.79 per month. Therefore the total monthly increase in water, sewer, and electric combined will equal \$10.46 or \$125.52 annually.

Upon questioning, Mr. Howell responded that no new positions are included in this budget however the nine vacancies are in the process of being filled.

ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mr. Mabry, City Council voted 3 (Mabry, Anthony, and Hopper) to 3 (Patterson, Bailey, and Shores) in a tie and Mayor Alexander voted to break the tie 4 (Alexander, Mabry, Anthony, and Hopper) to 3 (Patterson, Bailey, and Shores) to approve and adopt Ordinance No. 18-2010 entitled, "CITY OF SHELBY FY 2010-2011 BUDGET ORDINANCE".

b. Consideration of the Fiscal Year 2010-2011 Supplemental Budget Ordinance No. 19-2010

ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mr. Mabry, City Council voted 4 to 2 (Bailey and Shores) to approve and adopt Ordinance No. 19-2010 entitled, "CITY OF SHELBY FISCAL YEAR 2010-2011 SUPPLEMENTAL BUDGET ORDINANCE".

ACTION TAKEN: Upon a motion by Mrs. Patterson, second by Mr. Mabry, City Council voted 5 to 1 (Hopper) to reconsider its action on Ordinance No. 19-2010 entitled, "CITY OF SHELBY FISCAL YEAR 2010-2011 SUPPLEMENTAL BUDGET ORDINANCE".

ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mr. Mabry, City Council voted 3 (Mabry, Anthony, and Hopper) to 3 (Patterson, Bailey, and Shores) in a tie and Mayor Alexander voted to break the tie 4 (Alexander, Mabry, Anthony, and Hopper) to 3 (Patterson, Bailey, and Shores) to approve and adopt Ordinance No. 19-2010 entitled, "CITY OF SHELBY FISCAL YEAR 2010-2011 SUPPLEMENTAL BUDGET ORDINANCE".

- c. Consideration of the reimbursement resolution with regard to installment financings for Fiscal Year 2010-2011:
Resolution No. 40-2010

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 40-2010 entitled, "CITY OF SHELBY REIMBURSEMENT RESOLUTION WITH REGARD TO INSTALLMENT FINANCINGS FOR FISCAL YEAR 2010-2011".

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. Bailey, the consent agenda and following items were unanimously approved:

- 1) Approval of the Minutes of the Regular Meeting of June 7, 2010
- 2) Approval of the Minutes of the Regular Meeting of June 10, 2010
- 3) Approval of Special Event Permit Applications:
 - a. Mt. Calvary Baptist Church "Community Explosion",
Requested date: July 17, 2010
 - b. Amendment to Permit for the Foothills Farmers Market 2010 Season
- 4) Approval of a resolution declaring the intent of the City Council of the City of Shelby to consider the permanent closure of an unopened right of way at the north end of Branton Drive: Resolution No. 41-2010

END CONSENT AGENDA

F. Unfinished Business:

- 1) Consideration of a resolution authorizing a grant agreement between the City of Shelby and the Golden Leaf Foundation for the Foothills Commerce Center Job Ready Building: Resolution No. 42-2010

Mr. Howell introduced Resolution No. 42-2010, which would authorize the execution of an agreement with the Golden Leaf Foundation, for Council's consideration. The agreement allows the City to accept \$1 million of grant funding intended to be used for the construction of a "job ready" shell building in the Foothills Commerce Center and includes details regarding

administration of the grant. This building would be constructed in partnership with Cleveland County and the Golden Leaf Foundation.

Mr. Howell added that he and Mr. Phillips participated in a telephone workshop via conference call today to become acquainted with Golden Leaf's policies governing grants.

Mr. Howell recommended that Resolution No. 42-2010 be approved as proposed.

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mrs. Patterson, City Council voted unanimously to approve and adopt Resolution No. 42-2010 entitled, "A RESOLUTION AUTHORIZING A GRANT AGREEMENT BETWEEN THE CITY OF SHELBY AND THE GOLDEN LEAF FOUNDATION FOR THE FOOTHILLS COMMERCE CENTER JOB READY BUILDING".

2) Consideration of appointments to City Advisory Boards and Commissions:

a. Zoning Board of Adjustment

Mrs. Parduski reported the terms of three incumbents, Burel Harris, Michael Philbeck, and Thomas Martin, are set to conclude July 2010. All three incumbents wish to continue their service.

Mr. Shores nominated Burel Harris, Michael Philbeck, and Thomas Martin for reappointment to new terms concluding July 2010.

ACTION TAKEN: Upon a motion by Mr. Anthony, second by Mrs. Patterson, City Council voted unanimously to close the nominations and to accept the nominees by acclamation.

b. Parks and Recreation Advisory Board

Mrs. Parduski reported the terms of three incumbents, Allen Langley, David Carl Lynn, and Gene Matheney, are set to conclude July 2010. All three incumbents wish to continue their service.

Mr. Hopper nominated Allen Langley, David Carl Lynn, and Gene Matheney for reappointment to new terms concluding July 2010.

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Anthony, City Council voted unanimously to close the nominations and to accept the nominees by acclamation.

3) Consideration of a resolution stating the intent of the City of Shelby to annex satellite property owned by the City of Shelby:
Resolution No. 43-2010

Mr. Howell explained that even though the City is the owner of the Foothills Commerce Center site on Plato Lee Road and Artee Road, the property must meet the same annexation standards as privately owned property. Instead of presenting a petition to its self, the Council initiates the annexation process by adopting a resolution of intent. This resolution must state the City's intent to annex the property, describe it, and set a date for a public hearing. In addition, if the City is proceeding under the satellite annexation statute, the resolution must affirm the five statutory standards for satellite annexation. Once Council adopts the resolution of intent, it follows the same procedure for annexing City-owned property as it does for privately owned property.

Mr. Howell specified the five standards a satellite annexation must meet as set out in North Carolina General Statute 160A-58.1(b) as follows:

- Some part of the annexation area must be within three miles of the annexing City's corporate limits.
- No point in the annexation area may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
- The annexing city must be able to provide the same services to the annexation area that it provides to areas within its primary corporate limits.
- If the area is a subdivision, the entire subdivision must be annexed.
- The total area of a city's satellites may not exceed 10 percent of the area within its primary corporate limits.

Mr. Howell stated the public hearing for this proposed annexation will be advertised and conducted on July 19, 2010.

ACTION TAKEN: Upon a motion by Mr. Mabry, second by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 43-2010 entitled, "A RESOLUTION STATING THE INTENT OF THE CITY OF SHELBY TO ANNEX SATELLITE PROPERTY OWNED BY THE CITY OF SHELBY".

G. New Business:

- 1) Consideration of a resolution approving a financing agreement authorized by North Carolina General Statute 160A-20: Resolution No. 44-2010

Mr. Howell provided background information regarding the financing agreement. The City received proposals from five banks in response to the Request for Proposals (RFP) for the financing of the City's rolling stock (police cars, etc.) purchases as budgeted in FY 2009-2010. The total amount to be financed is \$903,162.56 and the financing term will be 59 months. After an evaluation of the proposals submitted by the various banks, it was Mr. Phillips' recommendation that the City select Branch Banking and Trust Company (B B & T) to finance this equipment. B B & T had the lowest interest rate at 2.36 percent with \$500.00 in fees for a total cash outlay of \$967,792.65.

ACTION TAKEN: Upon a motion by Mr. Bailey, second by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 44-2010 entitled, "A RESOLUTION APPROVING A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20".

H. City Manager's Report:

- 1) Mr. Howell stated that Mr. Cornwell recently provided him with two letters from the North Carolina Department of Environment and Natural Resources (NCDENR) regarding the City's First Broad Wastewater Treatment Plant (WWTP). Mr. Howell informed Council that the Division of Water Quality has determined that the Shelby plant provides adequate safeguards to ensure operation of the plant without requiring a certified operator to be on site 24 hours a day. Therefore, the City was granted a renewal of waiver from the 24 hour per day staffing requirement. The second letter details the new ammonia nitrogen limits imposed by the Division of Water Quality, including a six year compliance schedule in the City's National Pollutant Discharge Elimination System (NPDES) Permit. This should allow the City the time it will need to plan and construct the facilities necessary to ensure compliance with the new ammonia nitrogen limits. Mr. Howell added the Division is aware of the economic circumstances that face the City of Shelby and the fact that meeting the new limits will almost certainly require capital investment in wastewater infrastructure.
- 2) Mr. Howell updated Council on the progress of the pole attachment agreement between the City of Shelby and RST Communications.

Council concurred with staff's assessment of discussions to date.
- 3) Mr. Howell expressed his appreciation to Mr. Anthony, Mr. Bailey, and Mr. Hopper for their attendance and participation at Town Hall Day, the North

Carolina League of Municipalities' annual legislative action day.

- 4) Mr. Howell said he is in the process of applying for grant funding through the North Carolina Department of Commerce for an access road to the Foothills Commerce Center.

I. Council Announcements and Remarks:

- 1) Mr. Anthony requested clarification regarding quarterly financial/budget reviews.

Discussion between Council and staff followed as to the effective approach for analyzing, interpreting, and communicating the City's financial condition. At Council's discretion, staff can provide monthly financial statements and/or schedule quarterly financial/budget reviews.

- 2) Mrs. Patterson suggested the City offer balanced budget billing for utility bills. Mr. Howell responded that this payment option will be made available to customers in the very near future.
- 3) Mr. Bailey mentioned the Water and Sewer Asset Management Plan and its effect on the City's budget process. Mr. Howell elaborated that this project involves the collection of necessary information related to the water and sewer systems and will be used to update the current Water and Sewer Capital Improvements Plans. Its purpose is to evaluate the current condition and needs of each system and to determine the future revenue and expenditure needs of the systems. A specific list of projects in both funds will be a part of this plan. It is anticipated to be presented to Council at the end of August 2010 for review and approval. The plan will set a path forward for the next 20 years.
- 4) Mr. Hopper urged Council to address helping City employees since funding for monetary compensation is not available and to bring their ideas to the first quarterly financial review session for discussion. Mr. Hopper forwarded the County's proposal to grant their employees additional vacation time in lieu of salary increases to Mr. Howell for consideration.

Mr. Hopper shared some of his experiences from Town Hall Day which included discussing the potential loss of State collected local revenues earmarked for municipalities with legislators and witnessing the passage of the House Bill to authorize the Division of Motor Vehicles to produce special plates for Legion of Merit award recipients.

- 5) Utility-wise, Mr. Mabry mentioned the City's efforts with regard to energy conservation tips. Discussion followed and Mr. Howell said information regarding efficiency measures, rebate plans, programs and demonstrations, and energy audits is available through the City's Marketing Department and is posted on the website.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Bailey, City Council voted unanimously to adjourn the meeting at 7:53 p.m.

Respectfully submitted,

Bernadette A. Parduski, MMC
City Clerk

W. Ted Alexander
Mayor

Minutes of June 21, A. D. 2010