

MINUTES

Regular Meeting
City Hall Council Chamber

August 17, 2009
Monday, 6:00 p.m.

Present: Mayor W. Ted Alexander, presiding; Council Members Christopher H. (Chris) Mabry, Jeanette D. Patterson, Michael R. (Mike) Royster, Joel R. Shores, Jr., Andrew L. Hopper, Sr.; City Manager Rick Howell, City Attorney Andrea Leslie-Fite, City Clerk Bernadette A. Parduski, CMC, 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, Jr., Director of Parks and Recreation Charlie Holtzclaw, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

The seat occupied by the late Council Member Larry Ware was draped and left vacant in his memory.

Mayor Alexander called the meeting to order at 6:00 p.m., welcomed all who were in attendance, and recognized former Mayor Les Roark. The Mayor gave the invocation and Ms. Leslie-Fite 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 Mrs. Patterson, City Council voted unanimously to approve the agenda as presented.

B. Special Presentations:

- 1) Honoring the life and memory of Larry Gerald Ware: Resolution No. 50-2009

Mayor Alexander called upon Linda Ware who introduced the members of her immediate family in attendance. The Mayor formally read and presented framed Resolution No. 50-2009 to Mrs. Ware.

- 2) Honoring the life and memory of Samuel Anderson Raper: Resolution No. 51-2009

Mayor Alexander called upon Carolyn Raper Petty who introduced the members of her immediate family in attendance. The Mayor formally read and presented framed Resolution No. 51-2009 to Mrs. Petty.

3) North Carolina Municipal Power Agency 1 (NCMPA1) Potential Solar Project – Dennis Cameron, Manager, NCMPA1 Projects

Mr. Howell made opening comments and provided background information on the subject matter of NCMPA1's presentation. He introduced Matt Schull as the Division Director and Dennis Cameron as the Manager of NCMPA1 Projects.

Mr. Cameron began his presentation entitled, Renewable Energy – Solar PV (Photo-Voltaic) Project, by stating that NCMPA1 is committed to energy efficiency and renewable energy options to meet the growing demand of its 19 public power communities of which Shelby is a participant.

During the course of his presentation, Mr. Cameron highlighted the following key points:

- NCMPA1 is interested in constructing a solar farm facility on approximately 10 acres at the Shelby-Cleveland County Regional Airport in order to help the agency and the City of Shelby achieve compliance with North Carolina's Renewable Energy and Energy Efficiency Portfolio Standard (REPS) by the timelines established through North Carolina legislation.
- NCMPA1 has selected a private development company to develop its first Solar PV Project in Shelby. The initial investment was estimated at \$7 million. Approximately 80 percent of this value is property tax exempt under recent Statute changes approved by the North Carolina General Assembly to encourage solar power investment in the State. The remaining 20 percent of value is subject to property tax.
- NCMPA1 will reimburse the City for one-half the cost of extending its current electric distribution system from the general vicinity along NC Highway 18/NC Highway 150 to the airport property. The estimated cost is \$320,000 for the entire project and is to be shared equally.
- This electric line extension provides the City with the opportunity to serve electric to the airport, including the new terminal building, as well as other properties in the vicinity, allowing potential for system growth in the future.

- The benefits of the project include: Helping NCMPA1 members, including Shelby, to meet renewable energy requirements; demonstrating Shelby's commitment to green energy; providing a great business recruiting tool; and adding the potential for an educational attraction.

Discussion included the Federal Aviation Administration's clearance for the project, security fencing of the site, and lease arrangements among NCMPA1, the City, and the developer.

Mr. Cameron concluded his presentation by requesting Council to approve the City of Shelby and NCMPA1 moving forward with utilizing the proposed site for the agency's first Solar PV Project and to authorize the City Manager and the City Attorney to negotiate a lease agreement with NCMPA1 for Council's consideration.

Council received the information and, by consensus, directed Mr. Howell to enter into a lease negotiation with NCMPA1 for use of this site as proposed.

C. Public Comment: None

D. Public Hearing:

- 1) Consideration of an ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 38-2009

Request to rezone properties located on the west side of South Lafayette Street to include 750, 800, 820, and 900 South Lafayette Street from the General Industrial (GI) District to the General Business (GB) District

Parcel ID Nos. 19625, 59636, 19627, and 19628 or Tax Map S 27, Block 1, Lot Nos. 1-4

Utilizing a map of the area, Mr. Scharer stated that this proposal originated as a rezoning for 750 South Lafayette Street from the GI District to the GB District. Land uses in the area include a mixture of retail and service businesses. Staff recommended that the Planning and Zoning Board also consider 800, 820, and 900 South Lafayette Street, adjacent parcels with similar characteristics, for the same zoning change.

Mr. Scharer further stated this area has been zoned industrial since zoning was first adopted in Shelby in 1952. The Comprehensive Land Use Plan designates this area as the Lafayette Street Corridor as outlined in the City Center Master Plan. Also, the properties are located in the area of the intersection of South Lafayette and Dixon Boulevard, which is designated as

one of the three Major Activity Centers outlined in the Comprehensive Land Use Plan. The Dixon Boulevard/Lafayette Center could be a mixed use development with retail and employment uses that takes advantage of the access. Mr. Scharer said all of this could be designed to become a gateway into the Uptown Shelby area.

Mr. Scharer concluded by stating that the Planning and Zoning Board recommended this proposed zoning change for 750, 800, 820, and 900 South Lafayette Street.

Mayor Alexander opened the public hearing at 6:35 p.m. and invited comments from the public:

Joe Miller who resides at 271 Ingonish Drive in Gastonia, North Carolina and represented O'Reilly Automotive, Inc. spoke in favor of the rezoning application.

Mayor Alexander closed the public hearing at 6:36 p.m.

Upon the advice of the City Attorney, Mr. Royster requested to be recused from voting on this rezoning matter due to a potential conflict of interest.

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Hopper, City Council voted unanimously to excuse Mr. Royster from voting on Ordinance No. 38-2009.

ACTION TAKEN: Upon a subsequent motion by Mr. Mabry, second by Mrs. Patterson, City Council voted unanimously (Mabry, Patterson, Shores, and Hopper with one abstention, Royster) to approve and adopt Ordinance No. 38-2009 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. 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 August 3, 2009
- 2) Approval of a resolution accepting property from Cleveland Community College Foundation, Inc.: Resolution No. 54-2009

- 3) Approval of a resolution accepting property from Max H. Hopper:
Resolution No. 55-2009
- 4) Approval of a resolution authorizing disbursement of Travel and Tourism
funding for Fiscal Year 2009-2010: Resolution No. 56-2009

END CONSENT AGENDA

F. Unfinished Business:

1) Reverse Angle Parking Plan

Mr. Howell provided Council with an update to the reverse angle parking presentation and discussion held on August 3, 2009. In particular on South Washington Street, Mr. Howell had Public Works staff temporarily mark three reverse angle parking spaces on the west side of South Washington Street. He is in the process of scheduling each Council Member to meet with him on site for a parking demonstration. Mr. Howell plans to request authorization from Council to implement a trial Reverse Angle Parking Plan on South Washington Street on both sides of the street from Pinkney Street to Holland Street. If Council is agreeable to a trial period, staff will obtain additional feedback from property owners and businesses.

2) Consideration of an ordinance establishing a capital project and budgets for the City of Shelby's Solar Farm Electric Line Extension: Ordinance No. 39-2009

Mr. Howell explained that this item was placed on the agenda for consideration in anticipation that Council would authorize lease negotiations between the City and NCPMA1 for the development of the Solar Farm Project on the airport property. He said adoption of the ordinance would allow staff to move forward with the design and bidding of the project in order to meet desired timeframes for construction.

Upon questioning concerning the construction estimate for the South Dekalb Street Electric Distribution Line Extension, Mr. Cornwell clarified the right-of-way clearing estimate, which does not include cost for right-of-way acquisition if required.

ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mr. Royster, City Council voted unanimously to approve and adopt Ordinance No. 39-2009 entitled, "AN ORDINANCE ESTABLISHING A CAPITAL PROJECT AND BUDGETS FOR THE CITY OF SHELBY'S SOLAR FARM ELECTRIC LINE EXTENSION".

3) Consideration of appointment to the City Council Ward 2 Vacancy

Mayor Alexander explained that it is the obligation and responsibility of the City Council to seek out a qualified replacement for a vacancy. By general law, a Council has great freedom in filling a vacancy, both in the procedure it follows and the person it appoints. Mayor Alexander added that it is the duty of the Council to discuss filling the vacant seat in open session.

Council previously agreed to require that interested citizens submit a formal application for their consideration. The Mayor and Council were gratified by the interest and expressed their gratefulness to the candidates who applied. However, Mayor Alexander stated only one person can be selected.

The Mayor read the names of the applicants as follows: Linda Toms Ware, David Walton White, Bruce Wayne Arton, Charles R. Duval, David Jeffrey Forms, Jonathan Daniel Owen, and Oliver Stanhope Anthony, III. Those present were allowed to stand and were recognized.

At Mayor Alexander's request, Mrs. Parduski verified that each applicant is a registered voter resident in the City of Ward 2.

The Mayor announced that Council chose to vote by written ballot of which the ballots must be signed and would be available for public review following the conclusion of the selection process. Council also agreed to decide the matter by a majority vote and to winnow candidates with no or minimal votes from the process.

Ballot 1 – Council cast the following votes:

Linda Toms Ware received one (1) vote (Patterson).

David Walton White received two (2) votes (Royster and Shores).

Oliver Stanhope Anthony, III received two (2) votes (Mabry and Hopper).

Ballot 2 – Council cast the following votes:

David Walton White received two (2) votes (Royster and Shores).

Oliver Stanhope Anthony, III received three (3) votes (Mabry, Patterson, and Hopper).

Mayor Alexander congratulated Mr. Anthony on his appointment to City Council and announced that his oath ceremony will take place at the Council meeting of September 21, 2009.

ACTION TAKEN: Upon a motion by Mr. Royster, second by Mr. Hopper, City Council voted unanimously to appoint Oliver Stanhope Anthony, III to the Shelby City Council Ward 2 vacancy for the unexpired term concluding December 2011.

G. New Business:

1) Consideration of Notice of Meeting Change (*cancel/reschedule*)

Mr. Howell recommended that the regular meeting of Monday, September 7, 2009, be cancelled as is customary and in keeping with past practice in observance of the Labor Day holiday.

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Hopper, City Council voted unanimously to cancel the September 7, 2009 meeting of Shelby City Council in observance of the City's Labor Day holiday.

H. City Manager's Report:

- 1) Mr. Howell updated Council on the certification process for the Foothills Commerce Center in the North Carolina Department of Commerce Certified Sites Program. The Technical Review Team is scheduled to make a site visit on August 18, 2009.**
- 2) Mr. Howell updated Council on legislative issues, noting that the General Assembly recently concluded its 2009 session. The State budget reduces the municipal share of beer and wine tax revenues for 2009-2010, part of the overall budget cuts/tax increases necessary to balance the budget. Mr. Howell said this is a two-thirds decrease for 2009-2010, and the City will need to decrease its expected revenues by two-thirds or approximately \$63,000 for this fiscal year via a budget amendment. The formula is adjusted for 2010-2011, and the funding level will be restored for the May 2011 distribution.**

Mr. Shores educated the media and the public on the impact of the State's decision to withhold the municipal share of beer and wine tax revenues for 2009-2010, which equates to the funds generated by a one-half cent of property tax in Shelby.

Mr. Howell said that the major municipal legislative issue left unresolved was annexation reform. A compromise bill was proposed on the House side entitled, "Annexation – Omnibus Changes", with a referendum provision, which added strong changes to service requirements, density standards, and other provisions for municipalities thus making it more

difficult to undertake city/town initiated annexations. The Senate did not take up the bill and the law remains intact for now.

- 3) Mr. Howell reported on the progress of the Fueling Station Project and he anticipates pumping fuel by the end of September 2009.
- 4) With regard to the Airport Terminal Project, Mr. Howell said the old terminal is set for demolition on August 26, 2009.
- 5) Mr. Howell distributed a packet of maps and information about the Westside Sewer Project, the Westside Water Project, the Eastside Sewer Project, and the Eastside Water Project prepared by Mr. Cornwell for Council's review.

I. Council Announcements and Remarks:

- 1) Mrs. Patterson requested Council to join her in sending North Carolina State Senator Debbie Clary a greeting card in honor of her 50th birthday on August 29, 2009.
- 2) Mr. Hopper announced that Cleveland County Commissioner Mary Accor will ascend to the presidency of the North Carolina Association of County Commissioners (NCACC) on August 29, 2009 in Hickory, North Carolina, the site of NCACC's Annual Conference.
- 3) Mayor Alexander shared the details of his recent trip to Shelby's Sister City, Jinotega, Nicaragua. He presented Council members with a gift of coffee, which is the principle crop of the region known as the Coffee Belt of Central America.

J. Closed Session:

- 1) To approve the Minutes and General Account of the Closed Session of August 3, 2009
- 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 approve the Minutes and General Account of the Closed Session of August 3, 2009 and to complete the performance evaluation of the City Manager pursuant to the appropriate North Carolina General Statute as cited. Council consulted with the City Attorney who advised that the topics met the statutory requirement for a closed session. The Mayor invited all Council members present to attend. The motion was seconded by Mr. Royster. The

motion passed unanimously and Council moved into closed session at 7:10 p.m.

ACTION TAKEN: Upon a motion by Mr. Royster, second by Mr. Hopper, City Council voted unanimously to return to regular session.

K. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion by Mrs. Patterson, second by Mr. Hopper, City Council voted unanimously to adjourn the meeting at 7:45 p.m.

Respectfully submitted,

Bernadette A. Parduski, CMC
City Clerk

W. Ted Alexander
Mayor