

MINUTES

Regular Meeting
City Hall Council Chamber

June 15, 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 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, 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 Planning Services Walter (Walt) Scharer, AICP; and media representatives

Absent: Council Member Larry G. Ware

Mayor Alexander called the meeting to order at 6:00 p.m. and welcomed all who were in attendance. The Mayor remembered Council Member Larry Ware, who was hospitalized; Police Officer Josh Turner, also hospitalized; Senior Warehouse Clerk Carolyn Champion, for the loss of her mother; and Customer Service/Billings Supervisor Teresa Owens, for the loss of her father, as he gave the invocation. Police Officer Mark Boris, veteran of the United States Coast Guard, led the *Pledge of Allegiance*.

A. Approval of agenda:

Mayor Alexander announced that Item E-12 would be added under the Consent Agenda as follows: Approval of a resolution opposing consideration by the North Carolina General Assembly legislation that would reduce State collected local revenue: Resolution No. 44-2009.

1) Motion to adopt the proposed agenda

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

B. Special Presentations:

1) Recognition of City employees for contributions to United Way of Cleveland County – 2008 Golden Eagle Award

Mr. Howell congratulated City employees for their outstanding generosity to the 2008 United Way of Cleveland County campaign. Historically speaking, he emphasized that City employees have always realized the importance United Way has on the lives of the citizens of Shelby and Cleveland County. Mr. Howell recognized Safety and Risk Management Coordinator Lisa Wassen and Purchasing Manager David Young who served as co-chairs of the City's successful campaign. Mr. Howell stated that the City was one of four organizations that had an increase in contributions and was one of only two organizations that had a double digit increase, the City's increase being 13 percent.

Mayor Alexander presented the 2008 Golden Eagle Award to Mrs. Wassen, Mr. Young, and Mrs. Jolly for "Outstanding Employee Campaign Leadership".

- 2) Recognition of the Mayor's Outstanding Volunteer Service Recipients for May 2009: Police Sergeant Larry Cox, Police Sergeant Vic Haynes, Police Officer Scott Ledford, Police Officer Mark Boris, Police Officer George Gentry, Police Officer Luis Hernandez, and Police Officer Karen Hopper

Mayor Alexander reminded all of the Truman Street Community Project presentation given in April 2009.

Mayor Alexander commended Police Sergeants Larry Cox and Vic Haynes; Police Officers Scott Ledford, Mark Boris, George Gentry, Luis Hernandez, and Karen Hopper for their creativity, initiative, and for building a partnership with the residents of the Truman Street neighborhood.

The Mayor presented a framed certificate to Police Officers Scott Ledford, Mark Boris, George Gentry, Luis Hernandez, and Karen Hopper on behalf of the City of Shelby.

C. Public Comment: None

D. Public Hearings:

- 1) Proposed Fiscal Year 2009-2010 Annual Operating Budget for the City of Shelby

Mr. Howell commented that the City's proposed budget for Fiscal Year 2009-2010 remains intact as previously presented with no property tax increase and no public utility increases. He stated an electric rate rider has been included for the Renewable Energy Portfolio Standards Charge and is applicable to all customer accounts receiving electric service from the City. These charges are collected for the expressed purpose of enabling the City to meet its Renewable Energy Portfolio Standards compliance obligations as

mandated by the North Carolina General Assembly. Mr. Howell further stated that the public hearing has been properly advertised and the proposed budget has been made available for public inspection as well as posted on the City's website.

Mayor Alexander opened the public hearing at 6:14 p.m. and invited comments from the public.

The public offered no comments and Mayor Alexander closed the public hearing at 6:15 p.m.

- a. Consideration of the Fiscal Year 2009-2010 Budget Ordinance No. 23-2009

ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mr. Shores, City Council voted unanimously to approve and adopt Ordinance No. 23-2009 entitled, "CITY OF SHELBY FY 2009-2010 BUDGET ORDINANCE".

- b. Consideration of the Fiscal Year 2009-2010 Supplemental Budget Ordinance No. 24-2009

ACTION TAKEN: Upon a motion by Mr. Royster, second by Mrs. Patterson, City Council voted unanimously to approve and adopt Ordinance No. 24-2009 entitled, "CITY OF SHELBY FY 2009-2010 SUPPLEMENTAL BUDGET ORDINANCE".

- c. Consideration of the reimbursement resolution with regard to installment financings for Fiscal Year 2009-2010: Resolution No. 39-2009

ACTION TAKEN: Upon a motion by Mr. Mabry, second by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 39-2009 entitled, "CITY OF SHELBY REIMBURSEMENT RESOLUTION WITH REGARD TO INSTALLMENT FINANCINGS FOR FY 2009-2010".

- 2) Consideration of an Ordinance amending the Unified Development Ordinance and Zoning Map of the City of Shelby, North Carolina and granting a Special Use Zoning Permit for 714 East Marion Street: Ordinance No. 25-2009

Request to rezone 714 East Marion Street, lying within the jurisdiction of the City of Shelby, from the Residential 6 (R6) District and the Residential 10 (R10) District to the Residential Office-Conditional Use (RO-CU) District

Parcel ID No. 72281, Tax Map S 14, Block 6, Lot 5

After taking his oath, Mr. Scharer presented the staff report. Utilizing a map of the area, Mr. Scharer pointed to the subject property located on the southwest corner of East Marion Street and Belvedere Avenue. The trapezoid shaped parcel is currently dual zoned for the R6 and R10 Districts. The R6 District is primarily intended to accommodate a variety of high density residential uses and the R10 District is primarily intended to accommodate moderate density residential uses. Mr. Scharer explained that the RO District is primarily intended to accommodate high density multi-family residences; offices; public and institutional, business, professional, and personal services; and limited support retail businesses. One of the objectives of this district is to encourage land uses that serve as an adequate buffer between intensive non-residential uses and residential uses.

In addition to the R6 and R10 Districts, the surrounding zoning districts include General Business (GB) and Neighborhood Business (NB). Land uses include single family dwellings, banking, apartments, and commercial retail.

Mr. Scharer stated the applicant has requested the zoning change for said parcel with a single family dwelling and a Special Use Permit (SUP) to operate an interior design business.

Upon questioning, Mr. Scharer explained that a SUP authorizes the applicant to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then no person may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit. The permit runs with the land and unless expired or discontinued, any approved SUP is perpetually binding upon the property unless subsequently changed.

Mr. Scharer noted that according to the City's newly adopted Comprehensive Land Use Plan the property lies where three separate land use classifications meet: Neighborhood Revitalization, High Density Residential (HDR), and Medium Density Residential (MDR).

Prior to the public hearing, Mayor Alexander provided instructions as to the quasi-judicial process and as to the decorum of all public hearings. The Mayor added that written statements regarding this proposed rezoning request were received from Melissa and Bill DeVane, Lionel Dobson, Geri Eaker, Andy J. Starnes, and Debbie Ferrell.

Mayor Alexander opened the public hearing at 6:26 p.m. and reiterated the

necessity for the quasi-judicial process which requires the Council to make certain findings of fact relative to the specific proposal. Sworn testimony was given as follows:

Laura Beam who resides at 220 Fairway Drive in Shelby, North Carolina spoke in support of her Special Use Permit application. Ms. Beam stated her design business is more conducive to a home setting rather than a building. She plans to enhance the property with improvements and landscaping. Ms. Beam anticipates that the property location on Business 74 will bring business to Shelby and Cleveland County. She also plans to advertise other area businesses and locations at her business.

Mary Smith who resides at 806 East Marion Street in Shelby, North Carolina signed up to speak at this public hearing but declined the opportunity when called upon.

Kevin Gullion who resides at 300 Beaumonde Avenue in Shelby, North Carolina spoke against the proposed rezoning. Mr. Guillon stated there are many available properties already zoned for commercial use. It is his preference that neighborhoods should be allowed to remain as neighborhoods. Mr. Guillon researched over 12 vacant storefronts in Uptown Shelby and approximately 50 to 60 available sites in Shelby which could accommodate the proposed business use.

Eric Hendrick who resides at 926 Elizabeth Road in Shelby, North Carolina spoke in support of the proposed rezoning. Mr. Hendrick expressed the positive aspects of Ms. Beam's business with regard to aesthetics and stability of the corner at East Marion Street and Belvedere Avenue. He anticipated his property value would increase with the addition of the design business. Mr. Hendrick referred to a missed opportunity for the neighborhood if the property is not rezoned as requested.

Debbie Ferrell who resides at 220 Belvedere Avenue in Shelby, North Carolina signed up to speak at this public hearing but declined the opportunity when called upon. Ms. Ferrell did concur with Mr. Hendrick's comments.

Shelley Roberts who resides at 108 Belvedere Avenue in Shelby, North Carolina spoke against the proposed rezoning. Ms. Roberts stated that her property adjoins 714 East Marion Street. She expressed concerns about how this proposed rezoning and use will affect her property value and crime in the neighborhood. Ms. Roberts concurred with Mr. Gullion's statements.

Harriette Beam who resides at 410 Westfield Road in Shelby, North Carolina spoke in support of the proposed rezoning and Special Use Permit. Mrs.

Beam stated she has a vested interest in her daughter's business which will enhance the neighborhood with character and charm. From her working experience, Mrs. Beam said a design studio will fill a void for visitors to Shelby who seek out unique businesses.

Additionally, the applicant, Laura Beam, stated she explored the possibility of rental options, preferred to keep her business local and close to her family, was very aware of security issues and her surroundings, and the subject property fronted Marion Street and the other businesses in the area.

Mrs. Ferrell stated that she is a long-time resident of Belvedere Avenue who believes the proposed business as a conditional use will stabilize the corner and become an asset to the property values of the neighborhood.

Mr. Gullion raised the possibility of 714 East Marion Street becoming rental property if the business fails.

Mayor Alexander closed the public hearing at 6:43 p.m.

Having heard all of the evidence and arguments presented at the public hearing, Council found and determined that the application of Laura Ellen Beam is complete, and the following conclusions were made:

1. To the best of Council's knowledge, no non-conformities currently exist on the property and none will be created by the requested rezoning and special use permit; and
2. The use will not materially endanger the public health or safety if located where proposed and developed according to plan; and
3. The use will not substantially injure the value of adjoining or abutting property; and
4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the City of Shelby's Comprehensive Land Use Plan.

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mrs. Patterson, City Council voted unanimously to approve and adopt Ordinance No. 25-2009 entitled, "AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE AND ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

ACTION TAKEN: Upon a subsequent motion by Mr. Shores, second by Mr.

Royster, City Council voted unanimously to grant the Special Use Permit File No. 970-2009 for the property located at 714 East Marion Street.

E. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of June 1, 2009
- 2) Approval of Special Event Permit Application:
 - a. Mt. Calvary Baptist Church "Community Explosion" on July 18, 2009
- 3) Approval of a resolution recognizing the City of Shelby Electric Department for outstanding reliability and safety: Resolution No. 40-2009
- 4) Approval of a resolution accepting and approving a proposal for the land lease, construction, maintenance, and use of an automatic dependent surveillance-broadcast system by ITT Corporation at the Shelby-Cleveland County Regional Airport: Resolution No. 41-2009
- 5) Approval of a resolution accepting and endorsing the Solid Waste Management Plan of 2009 for Cleveland County: Resolution No. 42-2009
- 6) Approval of a resolution approving a financing agreement authorized by North Carolina General Statute 160A-20: Resolution No. 43-2009
- 7) Adoption of FY 2008-2009 Budget Ordinance Amendment No. 7: Ordinance No. 26-2009
- 8) Adoption of budget ordinance amendments for the City of Shelby's Destination Cleveland County Program: Ordinance No. 27-2009
- 9) Adoption of budget ordinance amendments for the City of Shelby's Fueling Station Project: Ordinance No. 28-2009
- 10) Adoption of an ordinance establishing a capital project and budgets for the City of Shelby's Ballistic Recovery System Project: Ordinance No. 29-2009
- 11) Approval of Notice of Meeting Cancellation of Shelby City Council

- 12) Approval of a resolution opposing consideration by the North Carolina General Assembly legislation that would reduce State collected local revenue: Resolution No. 44-2009

END CONSENT AGENDA

F. Unfinished Business:

- 1) Consideration of appointments to City Advisory Boards and Commissions:

a. Zoning Board of Adjustment

Mrs. Parduski reported that the terms of four incumbents including Morris Hudson and Extraterritorial jurisdiction (ETJ) members, Paula Kunka, David Banks, Sr., and Roger Holland, will expire July 2009. All four incumbents wish to continue their service. Mrs. Parduski explained that Ms. Kunka, Mr. Banks, and Mr. Holland, as ETJ members, must be reappointed by the Cleveland County Commissioners.

Mr. Shores nominated Morris Hudson and recommended Ms. Kunka, Mr. Banks, and Mr. Holland to the Cleveland County Commissioners for reappointment.

ACTION TAKEN: Upon a motion by Mr. Royster, second by Mrs. Patterson, City Council voted unanimously to close the nominations.

By unanimous vote, Council reappointed incumbent, Morris Hudson, to the Zoning Board of Adjustment for a term concluding July 2012; and recommended Ms. Kunka, Mr. Banks, and Mr. Holland to the Cleveland County Commissioners for reappointment.

b. Parks and Recreation Advisory Board

Mrs. Parduski reported that the terms of four incumbents, Samuel (Bee) Strain, Jr., Bill Young, Jim Taylor, and Shanda Hoskins, are set to conclude July 2009. All four incumbents wish to continue their service.

Mr. Shores nominated Samuel (Bee) Strain, Jr., Bill Young, Jim Taylor, and Shanda Hoskins.

ACTION TAKEN: Upon a motion by Mr. Royster, second by Mr. Hopper, City Council voted unanimously to close the nominations.

By unanimous vote, Council reappointed incumbents, Samuel (Bee) Strain, Jr., Bill Young, Jim Taylor, and Shanda Hoskins, to the Parks and Recreation Advisory Board for terms concluding July 2012.

G. New Business: None

H. City Manager's Report: None

I. Council Announcements and Remarks:

- 1) Mr. Mabry expressed his appreciation to City staff for a good job on the newly adopted budget.
- 2) Mr. Royster spoke to Mr. Ware and conveyed that he is in good spirits.
- 3) Mayor Alexander mentioned Independence Day and wished all a happy holiday. The Mayor announced that the West Warren Street Historic District has recently been added to The National Register of Historic Places listing.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mrs. Patterson, City Council voted unanimously to adjourn the meeting at 6:55 p.m.

Respectfully submitted,

Bernadette A. Parduski, CMC
City Clerk

W. Ted Alexander
Mayor

Minutes of June 15, A. D. 2009