

MINUTES

Regular Meeting
City Hall Council Chamber

October 5, 2009
Monday, 6:00 p.m.

Present: Mayor W. Ted Alexander, presiding; Council Members Christopher H. (Chris) Mabry, Oliver Stanhope (Stan) Anthony, III, 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 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 Development Services Brian L. Pruett, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

Mayor Alexander called the meeting to order at 6:03 p.m. and welcomed all who were in attendance. Mr. Anthony gave the invocation and the staff and participants of HarvestWorks, Inc. led the *Pledge of Allegiance*.

A. Approval of agenda:

1) Motion to adopt the proposed agenda

Mr. Royster requested that Item C-6 under the Consent Agenda be removed and placed under Unfinished Business as Item D-3.

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

B. Special Presentations:

1) Recognition of the Mayor's Outstanding Volunteer Service Recipient for September 2009: HarvestWorks, Inc.

Mayor Alexander explained that HarvestWorks, Inc. falls under the umbrella of Cleveland Vocational Industries, Inc. (CVII), whose combined efforts make them the largest human services provider in Cleveland County. He also reiterated their motto, "WE WORK". The Mayor said that members of Keep Shelby Beautiful (KSB) nominated HarvestWorks, Inc.'s staff and participants who worked on the Gold Street Tree Planting Project on September 25, 2009 for their volunteerism. The HarvestWorks crew of seven members, led by Johnny White, brought their own tractor and auger to dig the holes for 50

crape myrtle trees, planted the trees, and covered them with dirt and mulch. To help give the trees a healthy start, the HarvestWorks crew will water and fertilize the trees throughout the month of October. The City and KSB are grateful to the HarvestWorks crew for their hard work and dedication in helping restore the tree canopy on Gold Street. Mayor Alexander also mentioned that HarvestWorks has worked and will work with other volunteer organizations in Cleveland County who need assistance getting their projects completed.

The Mayor recognized and introduced Mr. White, HarvestWorks Manager, and the staff members and participants of HarvestWorks in attendance. He presented a framed certificate to Mr. White and HarvestWorks, Inc. on behalf of the City of Shelby.

At the conclusion of the presentation, Mr. Scharer provided photographs of the Gold Street Tree Planting Project for the audience's viewing pleasure.

2) Raper-Roark Trust – Les Roark and Carolyn Raper Petty

Former Mayor Les Roark began his presentation by introducing Carolyn Raper Petty, the daughter of the late Reverend Sam Raper, minister and veteran City Council Member who passed away July 16, 2009. Next, Mr. Roark spoke to Council about the proposed Landscape Development Plan provided by Landscape Architect Fred Blackley which detailed the Raper Roark Plaza Renovations. Mr. Roark said the Raper Roark Trust Fund Board of Governors voted recently to pledge \$25,000 toward the new proposal, which would add several benches to the small park as well as other features. By consensus, Council received the information, approved the concept as proposed, and authorized City staff to work with the Raper Roark Trust in bringing the plan to fruition. Mr. Roark added the site will be rededicated and officially renamed Raper Roark Plaza.

Next Mrs. Petty, who took her father's place on the Raper Roark Trust Fund Board of Governors, delivered a touching tribute to him and reminisced of his outstanding contributions as one of Shelby's Founding Fathers of the latter twentieth century. She also expressed her heartfelt appreciation to the City of Shelby for all that was said and done to honor her father during his memorial service and ceremony.

Mrs. Petty, joined by her nephew, concluded her presentation by bestowing a donation in the amount of \$25,000 to the Raper Roark Trust Fund and the City of Shelby in memory of her father, Samuel A. Raper.

Mr. Roark provided the historical background which led to the collaboration between him and Sam Raper to create the Raper Roark Trust Fund in 1998, seeding it with \$25,000 and encouraging individuals and groups to add to it

for the perpetual beautification efforts of the Uptown Shelby area in order to enhance the quality of life for the citizens of and visitors to the City of Shelby. With the original purpose of the Trust Fund on his mind and in his heart, Mr. Roark matched Mrs. Petty's donation of \$25,000.

Mayor Alexander and each Council member highly praised and echoed their deepest admiration to both the Raper and Roark families for their phenomenal, awe-inspiring gifts and program.

Mayor Alexander also recognized the members of the Raper Roark Trust Fund Board of Governors for their work.

Mayor Alexander joined Mrs. Petty and Mr. Roark in the official presentation of their checks to the City of Shelby as they posed for photographs.

Lastly, the Mayor announced that Mr. Roark's 85th birthday is October 31, 2009 and offered him early happy birthday wishes.

- 3) Cleveland County Eat Smart Move More Coalition – Karma E. Edwards,
Director of Health Education/Health Promotion/CODAP Services,
Cleveland County Health Department

Ms. Edwards began her presentation with an overview of an ACHIEVE Community. ACHIEVE (Action Communities for Health, Innovation, and Environmental Change) is funded and sponsored by the Centers for Disease Control and Prevention (CDC) through its Healthy Communities Program. Selected national organizations collaborate with the CDC to enhance local communities' abilities to develop and implement policy, systems, and environmental change strategies that will help prevent or manage health-risk factors for heart disease, stroke, diabetes, cancer, obesity, and arthritis. Specific activities are directed toward reducing tobacco use and exposure, promoting physical activity and healthy eating, improving access to quality preventive healthcare services, and eliminating health disparities.

In January 2008, ten initial communities which included Cleveland County, were jointly selected by the National Association of Chronic Disease Directors (NACDD) and the YMCA of the USA (Y-USA) to pilot the ACHIEVE model in its first year. During the next five years, these organizations, along with the National Association of County and City Health Officials (NACCHO), the National Recreation and Park Association (NRPA), will individually select and fund approximately 40 new communities each year for a total of at least 200 ACHIEVE Communities. In March 2009, 43 communities were selected to join ACHIEVE. Ms. Edwards added that Cleveland County currently remains one of 53 ACHIEVE Communities nationwide and only one of two in North Carolina.

Ms. Edwards stated that in Cleveland County ACHIEVE became the umbrella for all of the local health initiatives and helped transition from programs to health-related policies and environmental change strategies. Cleveland County's ACHIEVE Action Plan began with a strategy to create a sustainable infrastructure, based on the rich history of successful partnerships, namely the Eat Smart Move More Coalition.

Next Ms. Edwards detailed the first year successes of the Coalition's Action Plan regarding nutrition ("EAT SMART"):

- Project NEMB (Nutrition Education and Menu Boards) at Burns, Crest, Kings Mountain, and Shelby Middle and High Schools
- Community Fruits/Veggies Forum
- Mobile Farmers' Market at the Cleveland County Health Department

Then Ms. Edwards detailed the first year successes of the Coalition's Action Plan regarding physical activity ("MOVE MORE"):

- Walk-to-School Days
- Physical Activity Policies at YMCA After-School Centers
- Free/reduced YMCA memberships
- Walking Routes and signage: 1 mile walk, 2 mile walk, and 3 mile walk
- Beneficial to City and County residents, Step One Challenge participants, Uptown Shelby Association and surrounding businesses, Shelby City Park, Shelby Running Club, Broad River Triathlon Club, Shelby Middle School, Cleveland County Memorial Library, and others

As an honorable mention, Ms. Edwards informed the Mayor and City Council that they beat the County Commissioners in the Step One Challenge this year.

Ms. Edwards mentioned that the establishment of the three walking routes within Uptown Shelby has been named as one of the top three projects among the 53 ACHIEVE communities and utilized as a model in Raleigh, North Carolina; Camden, South Carolina; Atlanta, Georgia; Alexandria, Virginia; Washington, DC; National Harbor, Maryland; Austin, Texas; and Denver, Colorado. She anticipates adding walking routes within the Town of Fallston, the Town of Boiling Springs, and the City of Kings Mountain.

At the conclusion of her presentation, Ms. Edwards expressed appreciation to the City of Shelby for its cooperation, partnership, and ongoing collaboration in the development of future policies and environmental changes as an ACHIEVE community. She pointed out that ACHIEVE provided a retro-scope for our community by helping its partners view a different

perspective than in the past and by helping its partners narrow the focus for how to improve our residents' health.

C. Consent Agenda:

ACTION TAKEN: Mayor Alexander presented the amended consent agenda. Mr. Mabry 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 September 21, 2009
- 2) Approval of Special Event Permit Application:
 - a. Marquee Lighting at The Don Gibson Theatre on October 27, 2009
- 3) Adoption of an ordinance authorizing demolition of a dwelling located at 334 Weathers Street: Ordinance No. 43-2009
- 4) Adoption of an ordinance authorizing demolition of a dwelling located at 918 Fallston Road: Ordinance No. 44-2009
- 5) Approval of a resolution approving an agreement with the North Carolina Municipal Power Agency Number 1 (NCMPA1) regarding compliance responsibilities associated with electric reliability standards: Resolution No. 62-2009
- 6) **REMOVED; PLACED UNDER UNFINISHED BUSINESS AS ITEM D-3**

Approval of a resolution accepting and entering into an agreement with the North Carolina Department of Environment and Natural Resources to accept funding for the City Park Enhancement Project (Contract No. 2646): Resolution No. 63-2009

END CONSENT AGENDA

D. Unfinished Business:

- 1) Consideration of appointments to City Advisory Boards and Commissions:
 - a. Shelby Appearance Commission

Mrs. Parduski reported that incumbent, Bridgette Amick, submitted her letter of resignation dated July 20, 2009. Ms. Amick's resignation has created a vacancy for an unexpired term concluding January 2011. There is only one application on file in the Clerk's Office that of Randy Skelton.

By consensus, Council continued the nominations.

b. Zoning Board of Adjustment

Mrs. Parduski reminded Council that incumbent, David Banks, Sr., passed away very recently. Mr. Banks was an Extraterritorial Jurisdiction (ETJ) member of this board and Council must give consideration to his replacement in the future. The vacancy for the expired term concludes July 2012 and currently there are no applications on file in the Clerk's Office.

Council received the information and took no action.

- 2) Consideration of a resolution authorizing execution of a Lease Agreement between the City of Shelby, North Carolina and the North Carolina Municipal Power Agency Number 1 and a Sublease Agreement between the North Carolina Municipal Power Agency Number 1 and Solar Star North Carolina I, LLC: Resolution No. 64-2009

Mr. Howell reminded Council of the recent Solar PV (Photo-Voltaic) Project presentation by Dennis Cameron of the North Carolina Municipal Power Agency 1 (NCMPA1) and their direction to staff to negotiate lease agreements among the various parties for the site at the Shelby-Cleveland County Airport in order to construct and operate a solar farm for electric generation purposes. Mr. Howell presented the Prime Lease and Sublease Agreements for Council's approval, commenting that both he and Mr. Yelton were satisfied with the content and the protection of the City's interests. Mr. Yelton noted that the Sublease Agreement has not been completely agreed upon between the Power Agency and the sublessee, Solar Star. Mr. Howell added that the resolution contained a provision which allows for non-substantive changes to the agreements if appropriate and necessary.

There was discussion regarding the possible expansion of Shelby's site and Mr. Cameron responded that Shelby is one of 19 cities participating in NCMPA1 and all sites would be given consideration for future projects over the next ten years in this regard.

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mrs. Patterson, City Council voted unanimously to approve and adopt Resolution No. 64-2009 entitled, "A RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT BETWEEN THE CITY OF SHELBY, NORTH CAROLINA AND THE NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1 AND A SUBLEASE AGREEMENT BETWEEN THE NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1 AND SOLAR STAR NORTH CAROLINA I, LLC".

- 3) **Consideration of a resolution accepting and entering into an agreement with the North Carolina Department of Environment and Natural Resources to accept funding for the City Park Enhancement Project (Contract No. 2646): Resolution No. 63-2009**

At Mr. Royster's request, Mr. Howell provided a synopsis of the implementation and funding of the 10-year Comprehensive Parks and Recreation Master Plan adopted by Council in 2008. He reminded Council that the City undertook an extensive master planning process for its parks and recreation system during 2007 and 2008. The Master Plan recommendations address existing and future park and recreation needs for programming and facilities, including securing dedicated sources of revenue from local, state, federal, and private money. Staff developed a strategy for phased-approach implementation of the Master Plan through the 10-year Capital Improvement Program, which incrementally funds the development of the Plan components. Grant funding would be a key component to the overall strategic plan. The North Carolina Parks and Recreation Trust Fund grant is the first step toward implementation of the Master Plan and if approved by Council, the City would formally accept the \$500,000 grant and therefore be required to match it equally. However, the cost of the first phase of the City Park Enhancement Project, which includes three multi-purpose ball fields with fencing and dugouts, a walking trail, horseshoe courts, a playground, a small picnic shelter, parking lot entranceway, sidewalks, site preparation, landscaping, planning costs, etc., is approximately \$1.3 million with the City's contribution at \$806,231. Mr. Howell assured Council that the City's proposed amount has been accumulated over the past few years from delays in capital improvements, expiration of the current Park and Recreation debt, and can be appropriated from unrestricted fund balance currently estimated at \$5.4 million. He added that the City's match can be made over four fiscal years. Once the project is complete, Mr. Howell stated continuing operational and employee costs (for part-time and/or seasonal hires) for the expansion are estimated to be \$30,000 beginning in Fiscal Year 2011-2012. However, a definite construction date has not been set and the project has not yet been put out for bids. Mr. Howell also mentioned the park improvements in youth sport activities might provide the potential to generate revenue for the community as visitors spend money in the area they visit.

A discussion was led by Mr. Shores, and later joined by Mrs. Patterson, expressing financial concerns over the required \$800,000 match in City money for this grant. Specifically, Mr. Shores would not favor withholding performance increases for City employees and/or raising taxes to make up a potential difference of this amount in the City's budget next year.

ACTION TAKEN: Upon a motion by Mr. Mabry, second by Mr. Royster, City Council voted unanimously to approve and adopt Resolution No. 63-2009

entitled, "A RESOLUTION ACCEPTING AND ENTERING INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ACCEPT FUNDING FOR THE CITY PARK ENHANCEMENT PROJECT (CONTRACT NO. 2646)".

E. New Business:

- 1) **Consideration of an ordinance amending Chapter 16, Article III. (Nuisances) of the City of Shelby Code of Ordinances: Ordinance No. 45-2009**

Mr. Scharer explained that North Carolina General Statute (NCGS) 160A-200 permits a municipality to notify a chronic violator of the municipality's overgrown vegetation ordinance that, the municipality may, without further notice, take action to remedy the violation and the expense of the action shall become a lien upon the property. Historically, this statute could only be used in select municipalities. Mr. Scharer stated the North Carolina General Assembly, this past legislative session, passed an amendment to NCGS 160A-200 that is effective as of October 1, 2009. This amendment permits NCGS 160A-200 to be used by any municipality that adopts the section by local ordinance.

Mr. Scharer said currently there are approximately 100 chronic violations of the overgrown vegetation in Shelby. The majority of these are abandoned properties and properties with absentee property owners. The addition of this section to the current nuisance ordinance would speed up the process to remedy overgrown vegetation on the applicable properties by as much as three weeks as well as eliminate a great deal of administrative time to handle those cases.

Mr. Scharer concluded by recommending Council's approval of this proposed amendment.

ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mr. Anthony, City Council voted unanimously to approve and adopt Ordinance No. 45-2009 entitled, "AN ORDINANCE AMENDING CHAPTER 16, ARTICLE III. (NUISANCES) OF THE CITY OF SHELBY CODE OF ORDINANCES".

F. City Manager's Report:

- 1) Mr. Howell said he would be bringing forth a proposal with regard to the Reverse Angle Parking Plan for Council's review and consideration shortly.
- 2) Mr. Howell reminded Council of Cleveland County Water's (CCW) request to purchase water from the City of Shelby. Even though a reservoir is

CCW's preferred alternative, CCW is proposing to enter into a long-term contract with the City of Shelby for the purchase of finished water on an as need basis. Mr. Howell has suggested that both parties should begin the process to work out the technical and legal details and develop the necessary agreements for Council's approval. Mr. Howell will provide updates as this matter develops.

- 3) Mr. Howell announced that the Certificate of Achievement for Excellence in Financial Reporting has been awarded to 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).
- 4) Mr. Howell mentioned the Essentials of Municipal Government course designed to help elected officials understand the basics of municipal government and identify strategies to address the challenges in governing North Carolina's municipalities. Topics include Ethics for Elected Officials, which fulfills the legislated requirement. Registration information will be supplied to Council.
- 5) After complimenting City staff for their excellent work to partner externally with other entities and internally among City departments, Mr. Howell requested Mr. Scharer to share the details of the Safe Routes to School (SRTS) grant. Mr. Scharer announced that the North Carolina Department of Transportation has awarded its second SRTS infrastructure and non-infrastructure cost reimbursement grants for 22 projects. The City of Shelby was a recipient of one of those infrastructure grants earmarked for a sidewalk along Forest Hill Drive and Beaumonde Avenue leading to Marion School as a mode of transportation for school children as well as a method of exercise.

The City of Shelby in partnership with Safe Kids Cleveland County, Cleveland County Schools, and Cleveland County Health Department are participating in the International Walk to School Day scheduled for October 7, 2009. The participants in the Fall 2009 Walk to School Day are Marion Intermediate and Shelby Middle Schools. Mr. Scharer invited all to attend.

- 6) Mr. Howell discussed new legislation effective October 1, 2009 in which landfills will no longer accept motor vehicle oil filters, recyclable rigid plastic containers, and wooden pallets. Banning these items from landfills in North Carolina is intended to encourage environmental responsibility and promote a growing recycling industry in the State. Mr. Howell said the City will do its part to educate its citizens about recycling and promote the use of the County's recycling centers.

- 7) Mr. Howell anticipates another set of personnel policies prepared by Mrs. Jolly to be forthcoming for Council's consideration and approval.
- 8) Mr. Howell informed Council that Mayor Alexander recently received a letter from Mayor Murphrey of Kings Mountain seeking an annexation agreement with the City of Shelby that would allow Kings Mountain to incorporate their wastewater treatment plant facility located on Potts Creek Road. Mr. Howell will schedule annexation discussions with Kings Mountain City Manager Marilyn Sellers and provide a progress report to Council.
- 9) At Mayor Alexander's request, Mr. Howell responded that the truck volume inquiry regarding Charles Road is still under consideration.
- 10) At Mr. Anthony's request, Mr. Howell responded he is attempting to get a status update on the Warren Square Redevelopment Project from Frank Warlick of Integrity Development.

G. Council Announcements and Remarks:

Mayor Alexander reminded all that the City of Shelby's Municipal Election is Tuesday, October 6, 2009.

H. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion by Mr. Anthony, second by Mr. Shores, City Council voted unanimously to adjourn the meeting at 7:48 p.m.

Respectfully submitted,

Bernadette A. Parduski, CMC
City Clerk

W. Ted Alexander
Mayor