

MINUTES

Regular Meeting: Workshop Session
George W. Clay, Jr. Utility Operations Center

January 7, 2008
Monday, 6:00 p.m.

Present: Mayor W. Ted Alexander, presiding; Council Members Christopher H. (Chris) Mabry, Larry G. Ware, Jeanette D. Patterson, Michael R. (Mike) Royster, Joel R. Shores, Jr., Andrew L. Hopper, Sr.; City Manager Rick Howell, City Attorney Sam B. Craig, City Clerk Bernadette A. Parduski, CMC, Director of Finance Theodore B (Ted) Phillips, CPA, Director of Utilities Brad R. Cornwell, PLS, EI, Police Chief Tandy P. Carter, Fire Chief William P. Hunt, Director of Public Works Daniel C. (Danny) Darst, 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 6:00 p.m. and welcomed all who were in attendance. Mr. Royster gave the invocation and Mr. Mabry led the *Pledge of Allegiance*.

A. Approval of Agenda:

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

B. Public Hearings: None

C. Public Comment:

- 1) Peter Cabaniss who resides at 500 East Suttle Street in Shelby stated he represents the City of Hope Ministry. Mr. Cabaniss requested information from City staff as to how to go about hanging a banner to advertise his seven week course, "Purpose Driven Life", between two light poles near the church property sponsoring the event.
- 2) Steve Padgett who resides at 105 Persimmon Creek Road in Kings Mountain stated that he is the Chairman of the Board of Directors of the Cleveland County Chamber. Mr. Padgett expressed his appreciation to Council for their past support of the Chamber and pledged the continued support of the Chamber to the City of Shelby and its citizens.

Mayor Alexander reminded Council that the Chamber's annual banquet will be held on Thursday, January 10, 2008, at 6:00 p.m. at the Triple D Banquet

Hall.

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

- 1) Approval of the Minutes of the Regular Meeting of December 3, 2007
- 2) Approval of City Council meeting schedule adjustments
 - a. Rescheduling of the regularly scheduled City Council meeting of Monday, January 21, 2008, to Tuesday, January 22, 2008
 - b. Scheduling of a Special Meeting on Monday, January 14, 2008, to discuss and set the agenda for the Annual City Council Retreat
 - c. Scheduling of a Special Meeting on Friday, February 29 and Saturday, March 1, 2008, for the Annual City Council Retreat
- 3) Adoption of an ordinance authorizing demolition of a dwelling located at 408 Gardner Street: Ordinance No. 1-2008
- 4) Electric Division Cable Replacement Projects:
 - a. Adoption of an ordinance establishing a capital project and budgets for the City of Shelby's Electric Division Cable Replacement Projects: Ordinance No. 2-2008
 - b. Approval of a resolution for the City of Shelby's declaration of official intent to reimburse: Resolution No. 1-2008

END CONSENT AGENDA

E. Special Presentations:

- 1) Shelby-Cleveland County Regional Airport Layout Plan Update Review – Gary Bouthillier, PE, WK Dickson & Company, Inc. and Brad R. Cornwell, PLS, EI, Director of Utilities

Mr. Cornwell began the presentation of the Airport Layout Plan (ALP) by reviewing the process of updating the Plan which began in early 2006 and involved City staff, City Council, Cleveland County Commissioners, the

Airport Advisory Board, the North Carolina Department of Transportation Division of Aviation, and concluded with the Division of Aviation's recommended revisions to be made by the City's consultant, WK Dickson, in September 2007. Mr. Cornwell stated that WK Dickson completed these changes and the document is ready for Council's review and approval.

Mr. Cornwell introduced Gary Bouthillier, PE, of WK Dickson & Company and made available portions of the ALP on presentation boards for Council's viewing.

Mr. Bouthillier began his presentation by providing an overview of an ALP including the consultant's process and components. An ALP is a scaled drawing of existing and proposed land and facilities necessary for the operation and development of the airport. The ALP is a key communication and agreement document between the airport owner and the Federal Aviation Administration (FAA). It represents an understanding between the airport owner and the FAA regarding the current and future development and operation of the airport. The City's current document was adopted in 1996. Mr. Bouthillier reminded Council that the ALP is a requirement to be competitive and eligible for funding assistance through the North Carolina Division of Aviation (NCDOA) as well as the FAA. The federal funding rate equates to .90 cents per dollar with a City match of 10 percent. As part of the ALP process, WK Dickson completed an inventory of the entire airport and its properties and a 20-year forecast period which included the industry trends in aviation growth for the area and an airport the size of Shelby-Cleveland County Regional Airport. The results concerning the long-term needs of the airport facility are compiled in the ALP and submitted to the State for their concurrence.

City staff submitted the ALP to the Division of Aviation in July 2006. Since that time, the Division held the ALP in review until the State reassigned an Airport Project Manager to Shelby. In September 2007 the new Airport Project Manager recommended a few minor revisions to the plan, which have been completed, and according to Mr. Bouthillier, the facilities are essentially the same as originally submitted in 2006.

Mr. Cornwell emphasized that Council's adoption of the ALP does not commit the City to any one project or grant funding however in order to obtain funding, the project must be identified on the plan. Utilizing the presentation boards, Mr. Cornwell pointed out the location of several existing airport facilities as well as future projects.

There was discussion among Council, staff, and Mr. Bouthillier regarding the airport's existing runway length of 5,000 feet versus the State's recommended runway length of 5,500 feet and the Shelby-Cleveland County

**Regional Airport Transportation Improvement Program (TIP) 2009-2013
Project Listing.**

- 2) Annual Audit Report and Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2007 – Brian J. Broom, CPA, Director, Dixon Hughes, PLLC**

Mr. Broom introduced himself as the lead auditor of the 2007 audit conducted for the City of Shelby and at the conclusion of the audit, Dixon Hughes assisted with the preparation of the City's financial statements known as the Comprehensive Annual Financial Report (CAFR). The City's 2007 CAFR was again submitted to the Government Finance Officers Association Certificate of Excellence in Financial Reporting Program for consideration and Mr. Broom mentioned the City has received this prestigious award for ten years. In accordance with audit standards, Mr. Broom reminded Council that the City is responsible for all its financial records.

Mr. Broom summarized the Auditors' Report and highlighted the following items during his presentation:

- Page 4 – Dixon Hughes expressed an unqualified opinion based on the results of the 2007 audit because it is without restriction or limitation. Mr. Broom stated that the City is the recipient of over \$500,000 in federal and state funding which requires the auditors to perform additional procedures and issue additional reports to comply with federal and state requirements. Dixon Hughes' reports on compliance and internal control disclosed two material weaknesses in internal controls over financial reporting (monthly reconciliation and segregation of duties) as well as the associated corrective action plans, which are detailed in the CAFR.**

The table, which summarizes data of the City's government wide financial activity, was created under the Governmental Accounting Standards Board (GASB) Statement No. 34, Basic Financial Statements and Management's Discussion and Analysis for State and Local Governments, and indicated an increase in net assets (referred to as net worth).

- Page 5 – The table summarizes fund balance information. The Local Government Commission (LGC) recommends that every governmental entity maintain their available fund balance in the general fund at the larger of 8 percent (of expenditures and transfers to other funds) or half the group average. The City's available fund balance percentage is at 19.05 percent for 2007 and the group average available fund balance percentage is approximately 41 percent for 2006.**

- **Page 6 – The table summarizes property tax collection and collection rates. The City’s ratio of taxes collected to net levy is at 90.79 percent, which is a significant decrease over 2006.**

Mr. Broom explained that the decline in the current levy collection percentage is due to a large voluntary annexation that took place on June 30, 2006, but was not recorded by the County Assessor’s Office until after January 1, 2007, making the bill due upon receipt but no interest or penalty until after January 5, 2008. By excluding the \$410,375 receivable from above, the current percentage would be 96.32 percent.

- **Page 7 – The pie charts show a two-year comparison of general fund expenditures.**
- **Page 8 – The pie charts show a two-year comparison of general fund revenues.**
- **Pages 9-12 – Items To Be Communicated and Auditors’ Response**

There were no major issues or concerns that were discussed with management in connection with Dixon Hughes’ 2007 audit.

- **Page 13-14 – Communication of Internal Control Related Matters**

Dixon Hughes recommended for Council consideration two areas to enhance existing control policies and to assist management in day-to-day operations:

- **Information Technology – Implement a formal password policy**

Mr. Howell stated that this situation has been corrected and the City policy is in place.

- **Whistleblower Policy**

- **Pages 15-18 – Recent Developments in Local Government Regulation and Legislation**

This section summarized the most significant changes that may require revisions to the financial accounting standards currently used by the City. Mr. Broom mentioned a set of eight new Statements on Auditing Standards relating to the auditor’s risk assessment process which will

increase the time and cost of the auditing process next year.

ACTION TAKEN: Upon a motion by Mr. Ware, second by Mr. Royster, City Council voted unanimously to accept the 2007 Audit and Financial Statement Summary Report as prepared by Dixon Hughes.

3) Minimum Housing and Nuisance Codes

Mr. Howell introduced the topics Mr. Pruett and Mr. Scharer were requested to present to Council namely the minimum housing standards and the nuisance ordinance. Mr. Howell stated that both of these items were identified by Council at the 2007 annual retreat for review. Messrs. Pruett and Scharer's specific presentations are intended to educate Council on the existing code provisions, enforcement due process requirements, and suggested changes or solutions to address weaknesses in the ordinances. Mr. Howell also intended to promote discussion and feedback on how to improve the ordinances as well as garner support for needed changes that will better enable staff to address the real issues plaguing many City neighborhoods and impacting the quality of life of citizens.

Mr. Pruett began his presentation by defining minimum housing as a set of conditions that determines if a building is safe and livable. If a structure does not meet the criteria and a petition is filed, then it is inspected by a code enforcement officer and placed under a cost analysis process, and will either be repaired or possibly destroyed based on the results. Currently, properties deemed in a dilapidated condition are subject to be demolished if the owner gives consent, is not available, or chooses not to renovate. However, structures not sufficiently damaged or in a deteriorated condition are left vacant or boarded up. Mr. Pruett stated that City staff does not have a mechanism that prevents or catches minor minimum housing violations before they turn into greater problems. Mr. Pruett suggested that all properties left vacant for more than 180 days should be subject to demolition, pending due process for the owner and opportunity to fix the problem.

Mr. Howell reiterated that all property owners would still be allowed the opportunity to renovate the problem areas before further action was taken by the City. Each case would be handled on a case by case basis and all owners would be given due process.

Mr. Pruett reviewed his department's accomplishments to date which included 278 demolitions since June 1999 when these records began being kept. In 2007, there were 36 minimum housing complaints and 27 demolitions. After viewing maps and data of potential problem areas in the City, Council members and Mr. Craig discussed the following points:

- Council and City staff must be mindful that the demolition of properties is a long, difficult process involving serious and sensitive issues. In this regard, due process was stressed.
- The City has a significant demolition backlog and it will take time to catch up.
- The City's long term housing goals are important to the overall health of the City i.e. crime rate, property values, and quality of life.
- Housing goals should include building tax and utility customer bases and establishing desirable neighborhoods i.e. Neighborhood Action Plan.
- The City must take a proactive approach to affordable housing and promote strategies for home ownership, stability, and accountability.
- The City should consider directing tenants with housing complaints to utilize the court system via Legal Aid.

Mr. Howell concluded the minimum housing portion of the presentation by acknowledging that these suggestions, as well as every aspect of fairness and legality, will be taken into account when Mr. Craig begins drafting the revisions to the ordinance.

Next, Mr. Scharer addressed Council about nuisances. The City is currently basing its nuisance law on how the State defines it. Vehicles and properties are determined to be nuisances if they are deemed detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the City. Currently, nuisance complaints must be individually investigated through the City's nuisance abatement and the vehicle abatement processes. In 2007, the City abated 415 nuisances including 287 real property nuisances and 128 automobiles nuisances covering 20 square miles for a population of approximately 20,000. Mr. Scharer said his staff time per nuisance averages two to four hours.

Both Mr. Howell and Mr. Scharer proposed that Council consider taking action by using its State-given right to define "nuisance" outside the predetermined sense, as well as the public's input, when revising the ordinance. Council suggested staff research best practices in surrounding municipalities for recommendations, make the nuisance presentation to various interested citizen groups to obtain feedback, consider arrest powers for City enforcement officers, and prosecution for habitual nuisance offenders.

Mr. Craig cautioned Council to make a rationale basis between the nuisance and the health, safety, and welfare of its residents; advised against vague ordinances that are unenforceable; and stated that defining nuisances within the City limits are completely different than defining nuisances in the County.

F. Unfinished Business:

- 1) Consideration of a resolution adopting the Airport Layout Plan for the Shelby-Cleveland County Regional Airport: Resolution No. 2-2008

ACTION TAKEN: Upon a motion by Mr. Ware, second by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 2-2008 entitled, "A RESOLUTION ADOPTING THE AIRPORT LAYOUT PLAN FOR THE SHELBY-CLEVELAND COUNTY REGIONAL AIRPORT".

- 2) Consideration of a resolution revising and updating the Rules and Regulations and Minimum Commercial Operator Standards at the Shelby-Cleveland County Regional Airport: Resolution No. 3-2008

Mr. Cornwell stated that in conjunction with the updated Airport Layout Plan project, staff has included a revised Rules and Regulations and Minimum Commercial Operator Standards for the airport. These rules and regulations are simply a guide and also an insurance coverage standard for all airports. The modifications include the airport name change and the hangar lease agreements which were written by the City's previous legal representation. Mr. Cornwell said the previous document had been adopted in 1999.

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mrs. Patterson, City Council voted unanimously to approve and adopt Resolution No. 3-2008 entitled, "A RESOLUTION REVISING AND UPDATING THE RULES AND REGULATIONS AND MINIMUM COMMERCIAL OPERATOR STANDARDS AT THE SHELBY-CLEVELAND COUNTY REGIONAL AIRPORT".

G. New Business: None

H. City Manager's Report:

- 1) Cleveland County Sanitary District

Mr. Howell stated that Don Melton, Chairman of Cleveland County Sanitary District Board, in his letter dated December 14, 2007 requested a resolution of support from City Council for the construction of the John Cline Reservoir in Upper Cleveland County as proposed. Prior to Council's consideration of the resolution, Mr. Howell suggested he schedule a meeting with the

Cleveland County Sanitary District Manager to address the City's issues of concern (water quality and water flow) regarding the proposed reservoir. Council concurred by consensus. Mr. Howell will continue to provide updates on this matter to Council .

Mr. Howell reminded Council that the Essentials of Municipal Government Program is scheduled for March 5-7, 2008 in Asheville, North Carolina.

I. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Royster, City Council voted unanimously to adjourn the meeting at 8:15 p.m.

Respectfully submitted,

Bernadette A. Parduski, CMC
City Clerk

W. Ted Alexander
Mayor

Minutes of January 7, A. D. 2008