

## MINUTES

Regular Meeting  
City Hall Council Chamber

March 17, 2008  
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 Attorney Sam B. Craig, City Manager Rick Howell, City Clerk Bernadette A. Parduski, CMC, Director of Finance Theodore B. (Ted) Phillips, CPA, Police Chief Tandy P. Carter, Fire Chief William P. Hunt, Director of Public Works Daniel C. (Danny) Darst, Jr., Director of Parks and Recreation Charlie Holtzclaw, and 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 6:03 p.m. and welcomed all who were in attendance. Mr. Shores gave the invocation and Mayor Alexander introduced Patrick Edward Tiernan, Jr., a former Corporal in the United States Marine Corps having served from 2002 to 2006, who led the *Pledge of Allegiance*.

**A. Approval of agenda:**

1) Motion to adopt the proposed agenda

Mr. Howell stated at the request of the applicant, Carolina Community Developers, LLC, that its Special Use Permit Application, Item B-2 under Public Hearings, be withdrawn from consideration. Staff recommended that the public hearing be held, as advertised, and Council's action on the matter be delayed until further notice.

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

**B. Public Hearings:**

1) Consideration of an ordinance to extend the corporate limits of the City of Shelby, North Carolina: Ordinance No. 9-2008

Mr. Scharer reminded Council that in March 2007 the City of Shelby accepted a donation of approximately 85 acres from the Hanna family for recreation purposes. This property is contiguous to the northern boundaries of the City

of Shelby on McBrayer Springs Road. Mr. Scharer added that the City is currently producing a Comprehensive Parks and Recreation Master Plan that includes the development of the Hanna property. Mr. Scharer stated that Council is provided the authority under North Carolina General Statutes to act upon the resolution of intent to annex, which was approved on February 18, 2008, after holding the required public hearing.

Mayor Alexander opened the public hearing at 6:11 p.m. and invited comments from the public.

The public offered no comments and Mayor Alexander closed the public hearing at 6:12 p.m.

**ACTION TAKEN:** Upon a motion by Mrs. Patterson, second by Mr. Mabry, City Council voted unanimously to approve and adopt Ordinance No. 9-2008 entitled, "AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF SHELBY, NORTH CAROLINA".

**2) SPECIAL USE PERMIT APPLICATION WITHDRAWN BY APPLICANT;  
PUBLIC HEARING HELD**

Consideration of an ordinance amending the Unified Development Ordinance and Zoning Map of Shelby, North Carolina and the granting of a Special Use Permit: Ordinance No. 10-2008

Mr. Scharer stated that the proposed rezoning is for a site adjacent to the north side of the Cleveland Mall property and has street access on East Marion Street near its intersection with Kings Road. The total area of the site is approximately 10 acres. The Planning and Zoning Board recommended approval of this rezoning request; however, the applicant, according to Mr. Scharer, plans to amend its application to include additional property for the proposal.

Mayor Alexander opened the public hearing at 6:13 p.m. and invited comments from the public.

The following individuals spoke in opposition to the proposed Special Use Permit Application and proposed zoning amendment submitted and withdrawn by the applicant, Carolina Community Developers, LLC:

- 1) Rex Morris who resides at 2452 Kings Road in Shelby
- 2) Eddie Sisk who resides at 117 Spiral Lane in Shelby
- 3) Brett Lawrence who resides at 119 Spiral Lane in Shelby
- 4) Dawn Africano who resides at 1848 East Marion Street in Shelby
- 5) Bill Crocker who resides at 414 Allen Street in Shelby

**Mr. Craig and Mr. Howell made the following points of clarification for the benefit of the speakers at this public hearing and the speakers at future public hearings, as well as the general public:**

- **With regard to public hearing requirements and procedures, a Notice of Public Hearing is published in a newspaper having general circulation in the area not less than ten (10) days before the date affixed for the hearing. City staff mails a written Notice of Public Hearing to the owners of all properties involved in the permit request as well as the owners of all properties any portion of which is within 100 feet of the property involved in the permit request. City staff also posts notices of the public hearing in the vicinity of the property involved in the permit request and takes any other action deemed to be useful or appropriate to give notice of the public hearing on any permit request.**
- **With regard to City Council action on special use permits, the City Council shall review the Application for a Special Use Permit and shall hold a public hearing on the application. The City Council, in considering Special Use Permit Applications, acts in a quasi-judicial capacity and, accordingly, is required to observe procedural requirements.**
- **The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of the Unified Development Ordinance (UDO) remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in the UDO rests on the party or parties urging that the requested permit should be denied.**
- **Following the public hearing, the City Council may proceed to vote on the permit request, refer it to committee for further study, or take any other action consistent with its usual rules of procedure.**
- **In considering whether to approve an Application for a Special Use Permit, the City Council shall consider whether the application is complete. If no Council Member moves that the application is found incomplete by specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete, then this shall be taken as an affirmative finding by the City Council that the application is complete.**
- **The City Council shall consider whether the application complies with**

all of the applicable requirements of the UDO. If a motion to this effect passes, the City Council need not make further findings concerning such requirements. If such a motion fails or is not made then a motion shall be made that the application be found not in compliance with one or more of the requirements of the UDO. Such a motion shall specify the particular requirements the application fails to meet.

- If the City Council concludes that the application fails to comply with one or more requirements of the UDO, the application shall be denied. If the City Council concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

Mayor Alexander closed the public hearing at 6:39 p.m.

Council took no action.

**C. Public Comment:**

- 1) Steve Padgett who resides at 105 Persimmon Creek Road in Kings Mountain spoke on behalf of the Cleveland County Chamber as the Chairman of the Board of Directors. Mr. Padgett informed Council that he learned on March 14, 2008 from the industrial real estate broker for the Copeland property that the building will be vacant on March 31, 2008.

**D. Consent Agenda:**

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

- 1) Approval of the Minutes of the Regular Meeting of February 18, 2008
- 2) Approval of Special Event Permit Applications:
  - a. Multiple Sclerosis Mid-Atlantic Chapter Fundraising Walk sponsored by the Multiple Sclerosis National Society – Mid-Atlantic Chapter and Uptown Shelby Association, Inc. on April 5, 2008
  - b. Shelby Art on the Square 2008 sponsored by Buffalo Creek Gallery and Uptown Shelby Association, Inc. on April 26, 2008

- 3) Approval of a resolution honoring James L. Robbs on the occasion of his retirement from employment: Resolution No. 15-2008
- 4) Approval of a resolution accepting the acquisition of real property from Jack E. Borders and wife, Hilda K. Borders, to the City of Shelby for property abutting the Shelby-Cleveland County Regional Airport: Resolution No. 16-2008
- 5) Approval of a resolution of support for the North Carolina Department of Transportation to evaluate, design and install a right turn lane at the intersection of South Dekalb Street and US 74 Bypass adjacent to Shelby High School on South Dekalb Street: Resolution No. 17-2008
- 6) Approval of a resolution accepting and entering into an agreement with ElectriCities of North Carolina, Inc. and Asplundh Tree Expert Company for line clearance trimming of the City's Electric Distribution System: Resolution No. 18-2008
- 7) Approval of a resolution accepting and entering into a First Amendment for an Agreement with BP Energy Company (formerly Prior Energy Corporation) entitled, "Gas Sales and Purchase Agreement": Resolution No. 19-2008
- 8) Approval of a resolution for the establishment and maintenance of a utility capital reserve fund for the City of Shelby: Resolution No. 20-2008
- 9) Adoption of FY 2007-2008 Budget Ordinance Amendment No. 6: Ordinance No. 11-2008
- 10) Adoption of an ordinance establishing a capital project and budgets for the City of Shelby's Natural Gas Projects for FY 2008: Ordinance No. 12-2008
- 11) Adoption of FY 2007-2008 Budget Ordinance Amendment No. 7: Ordinance No. 13-2008

#### **END CONSENT AGENDA**

#### **E. Special Presentations:**

- 1) Recognition of James L. Robbs on the occasion of his retirement from employment with the City of Shelby: Resolution No. 15-2008

Mayor Alexander called upon Mr. Robbs and recognized members of his immediate family. The Mayor formally read and presented framed Resolution

No. 15-2008 to Mr. Robbs. He also presented the key to the City and a City lapel pin to Mr. Robbs in honor of and with heartfelt appreciation for 30 years of his dedicated service to the City of Shelby.

2) Recognition of the Mayor's Outstanding Volunteer Service Recipients for December 2007: Sydney Smith and Tucker Smith

Mayor Alexander recognized the brother and sister team of Sydney and Tucker Smith who faithfully serve at Central United Methodist Church's soup kitchen every week.

Mayor Alexander presented the framed certificate to Miss Sydney Smith and Master Tucker Smith on behalf of the City of Shelby and the Cleveland Association of Volunteer Administrators (CAVA).

3) Recognition of the Mayor's Outstanding Volunteer Service Recipient for January 2008: Gene Allen

Mayor Alexander recognized Mr. Allen for his 57 years of volunteerism and most notably for donating a total of 28 ¼ gallons of his blood to date.

Mr. Allen recognized his wife, Loretta Allen.

Mayor Alexander presented the framed certificate to Mr. Allen on behalf of the City of Shelby and the Cleveland Association of Volunteer Administrators (CAVA).

4) Destination Cleveland County (DCC) update

Brownie Plaster, DCC Chair, began her presentation by reminding Council that on October 1, 2007 DCC entered into a lease agreement with the City for the old Flick Theatre to be renovated and reopened as the Don Gibson Theatre. At the time of the lease agreement, the City also issued a challenge grant and Mrs. Plaster announced that DCC has raised the necessary \$500,000 to qualify for those matching funds from the City.

Next Mrs. Plaster highlighted DCC's activities and accomplishments since October 2007 as follows:

Don Gibson Theatre

- Hired architect Stan Anthony of MBAJ Architecture
- Attended Rural Center Grant workshop in Waynesville, North Carolina

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November 1, 2007

- Unveiled plans for the Theatre to over 250 people – November 27, 2007
- Submitted grant to the Rural Center – December 17, 2007
- Submitted grant request to Duke Energy – February 8, 2008
- Currently working on grant request to Wachovia Foundation

### **Earl Scruggs Center**

- Met and subsequently hired Cissy Anklam of Museum Concepts to be the team co-coordinator for the Scruggs Center in November 2007
- Made presentation to the Cleveland County Commissioners on November 20, 2007 at which time they voted to proceed with the preparation of the lease agreement for the Courthouse
- Traveled to Nashville, Tennessee on December 13, 2007 to introduce Cissy Anklam to Earl Scruggs and family; visited with Executive Director of the Country Music Hall of Fame
- Continued Saturday work days at the Courthouse.
- Held two day meeting in February with Cissy Anklam's team here in Shelby
- Held a publicized community meeting to introduce the Master Planning Team to County residents with more than 250 people in attendance – February 4, 2008
- Traveled to Chapel Hill, North Carolina to meet with team members, faculty, staff and leaders at the Center for the Study of the American South and Duke University's Center for Documentary Studies

**Mrs. Plaster said the organization continues to work on strengthening its relationships with local, state, and federal officials and to speak to various groups, clubs, organizations, and associations about DCC. Mrs. Plaster mentioned DCC's upcoming events which include a special announcement and invitation in honor of Don Gibson's 80<sup>th</sup> birthday on April 3, 2008 and attendance at the League of Historic American Theatres Conference entitled, "Historic Theatres in Small Communities: Catalysts for Economic Revitalization", to be held April 13-15, 2008 in Newberry, South Carolina.**

**Next members of the Gibson Theatre Committee including Stan Anthony, John Schweppe, III, and Trip Boinest gave brief updates regarding the theatre project including the reconstruction phase with a tentative opening set for the second quarter of 2009, the hiring process for a theatre director, and the formation of The Friends of the Theatre. Mr. Schweppe recognized additional committee members, Robin Hendrick, Marlene Peeler, Gene LeGrand, and Wes Westmoreland, in attendance.**

### **5) Comprehensive Parks and Recreation Master Plan 2008**

Mr. Holtzclaw reminded Council that in June 2007 they authorized a new Comprehensive Parks and Recreation Master Plan with specific site plans for City Park, Holly Oak Park, and the Hanna property. Council also approved the formation of an Oversight Committee, which represented many different sports organizations throughout Cleveland County, to work with City staff and the consultants, McGill Associates, to ensure the plan addressed their respective areas of interest. Mr. Holtzclaw stated that the need for an updated plan was due to significant changes since the 1999 plan and the recent donation of a combined 130 acres of land from the Royster and Hanna families. Mr. Holtzclaw also stated that the Master Plan has recently been endorsed by the Oversight Committee and the Parks and Recreation Advisory Board. Other organizations including the Cleveland County Tennis Association, the Cleveland County Soccer Association, the Sharks Aquatics Club, Gardner-Webb University, Tar Heel Leagues, Inc., and the United States Specialty Sports Association have pledged their support and endorsement of the plan. Mr. Holtzclaw explained how the Master Plan ties to the City's current adopted planning documents including the Strategic Growth Plan, the Center City Master Plan, the Neighborhood Action Plan, and the Pedestrian Plan.

Mr. Holtzclaw introduced Mike Norris and Grant King of McGill Associates. As Mr. Norris began his presentation with an overview of the Master Plan, Mr. King distributed copies of the Comprehensive Parks and Recreation Master Plan – March 2008 to Council.

Mr. Norris stated that the City of Shelby Parks and Recreation Comprehensive Master Plan 2008-2018 provides the framework for guiding the Council and staff in both its current evaluation of and long-range planning for the parks and recreation system for the City. The framework for this Master Plan is based upon conducting an inventory of the existing park system and recording the observations. The assessment of these facilities, or lack of facilities, will identify the immediate facility needs in the community and predict the future needs of residents.

Mr. Norris said another purpose of the Master Plan is to recommend the addition or renovation of parks, programs, and recreational facilities. Not only does the Master Plan include recommendations, but it also prioritizes specific projects, such as recommended park upgrades, expansion and land acquisition, taking into consideration the identification of user population and the development of recreation standards. The Master Plan is action-oriented and will provide the City with a practical guide for its enhancement of the Parks and Recreation Department for the next ten years.

Mr. Norris explained the results of the Master Plan are based on the following discovery methods:



- A review of the study area that is within the City limits
- An analysis of the existing parks and facilities
- Community input
- Recreation standards that have been generically developed for municipalities and county governments

Additionally, to assure that the City's Master Plan contains distinctiveness, yet versatility, public input was sought from its integral components: The City of Shelby's Parks and Recreation Department, the Parks and Recreation Advisory Board, the Parks and Recreation Master Plan Steering Committee, the City Council, various City staff, and citizen representatives.

Mr. Norris reviewed the six major component sections of the Comprehensive Master Plan as follows:

- Section 1 – Introduction
- Section 2 – Population Trends and Projections
- Section 3 – Existing Park Facilities
- Section 4 – Recreation Needs Assessment
- Section 5 – Goals and Recommendations
- Section 6 – Action Implementation Plan

Mr. Norris provided the following as a list of priorities based upon the needs assessment process:

- Construct a new baseball/softball complex at City Park
- Begin phased construction of soccer complex at Hanna property
- Add picnic facilities, playground equipment and walking trails to City Park, Holly Oak Park, and Hanna property
- Continue working with neighborhood groups to re-establish some neighborhood parks
- Work with Planning and Recreation Departments to tie in greenways with parks
- Construct a splash and play pool at City Park
- Construct a splash pad at Holly Oak Park
- Build a new maintenance facility at City Park and convert existing building into a corporate picnic pavilion

Mr. Norris added that not only does the Master Plan make recommendations for a ten-year period of time, but it also suggests the means by which the identified objectives might be achieved. Opportunities for grants, partnerships, and outside funding are recommended as aids in the establishment of the Capital Improvement Plan and an operating budget.

The implementation of specific recommendations can begin upon adoption of the Master Plan. Mr. Norris outlined the following key steps:

- Secure a dedicated source of revenue to address the 10-year and beyond Capital Improvement Program and address the goals of the Master Plan.
- Provide staffing necessary to support and oversee the implementation of this plan and the proper maintenance and operation of this plan and the proper maintenance and operation of the facilities that are proposed.
- Create the City of Shelby Parks and Recreation Endowment Fund through North Carolina Community Foundation.
- Develop and implement educational and awareness programs such as public events and promotion of parks awareness by civic/environmental advocacy groups. These programs can be used to announce new park facilities and upcoming projects.
- Begin working on the proposed facilities that are listed in the 10-year and beyond Capital Improvement Program.
- Ensure that park and greenway planning is integrated with other regional planning efforts at the state and local levels, and with long-range and current land use, economic development, parks, environmental and community planning.

Mr. Norris concluded by stating that this Master Plan has laid out a set of strategies for expanding and developing a safe, convenient, and usable park system as reflected in the following:

- Expansion and enhancement of existing facilities
- Creation of new facilities in areas of demand

Mr. Howell reiterated that it was intended for the Comprehensive Parks and Recreation Master Plan document and presentation to be given for informational purposes at this time. Mr. Howell recommended that the Master Plan warrants further study by Council before its final adoption and suggested that it be the topic for a workshop discussion in the very near future. Mr. Howell commended all those who participated in the City's Parks and Recreation Master Planning process, which included staff, the consultants, sports groups, and citizens.

#### **F. Unfinished Business:**

- 1) Consideration of an order authorizing the issuance and sale by the City of Shelby, North Carolina of a \$3,835,500 combined enterprise system revenue bond, Series 2008 and authorizing the execution and delivery of certain documents in connection therewith: Resolution No. 21-2008

Mr. Phillips introduced Resolution No. 21-2008 for Council's consideration which authorizes the formal issuance and sale of \$3,835,500 in combined enterprise system revenue bonds. Previously, Council authorized a resolution of findings and determinations on February 4, 2008 and requested the Local Government Commission to sell the Series 2008 Bond at private sale without advertisement to Branch Banking and Trust Company (BB & T). Mr. Phillips stated that these funds have already been largely expended by the City per the adopted capital project budget ordinances previously approved by Council. Mr. Phillips explained that through the actual issuance of the debt, the City will ultimately reimburse itself for cash flow expended for the construction of the Eastside Sewer Phase I Project, the Lattimore Natural Gas Line Replacement Project, and the Influent Pump Station Project at the Wastewater Treatment Plant.

Mr. Howell emphasized the importance of previous and current Council's commitment to reinvesting in the City's utility infrastructure, both new and replacement, in serving the City's customers and in terms of overall economic development for Cleveland County.

**ACTION TAKEN:** Upon a motion by Mr. Mabry, second by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 21-2008 entitled, "AN ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE CITY OF SHELBY, NORTH CAROLINA OF A \$3,835,500 COMBINED ENTERPRISE SYSTEM REVENUE BOND, SERIES 2008 AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH".

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

**a. Appearance Commission**

Mrs. Parduski reminded Council that there are two vacancies on this board created by the expired terms of incumbents, which concluded in January 2008. The application of Marywinn Amaya was received on March 14, 2008.

Mr. Royster nominated Marywinn Amaya.

By unanimous vote, Council appointed Marywinn Amaya to the Appearance Commission for a term concluding January 2011.

By consensus, Council elected to continue the nominating process, including the recruitment of applicants.

**b. Alcoholic Beverage Control Board**

Mrs. Parduski reported that the terms of two incumbents are set to conclude April 2008. Council nominated Freddie Harrill and Gerald L. Weathers on February 18, 2008. Additional applications on file included the following: Durwin Jerrod Briscoe, Sarah E. (Sally) Kirby-Turner, and Wayne Walton.

Mr. Shores nominated Durwin Jerrod Briscoe.

Mr. Hopper nominated Wayne Walton.

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

- Durwin Jerrod Briscoe received one affirmative vote (Shores).
- Freddie Harrill received a unanimous vote.
- Wayne Walton received one affirmative vote (Mabry).
- Gerald L. Weathers received three affirmative votes (Patterson, Royster, and Hopper).

By consensus, Council reappointed Freddie Harrill and appointed Gerald L. Weathers to the Alcoholic Beverage Control Board with terms concluding April 2011.

G. New Business: None

H. City Manager's Report:

- 1) Budget Workshop Schedule – Mr. Howell informed Council that it will be necessary to schedule budget sessions at their next meeting of April 7, 2008.
- 2) Human Resources Director – Mr. Howell is in the process of filling the position and anticipates making an appointment to the position on May 1, 2008.
- 3) Health Insurance – Mr. Howell continues to shop the employee health insurance coverage and will share the information as it becomes available.
- 4) Council announcements:

Mr. Mabry stated he was very impressed by the overall Parks and Recreation Master Planning process. On behalf of Keep Shelby Beautiful, Mr. Mabry announced that the Great American Cleanup is set for April 19, 2008. Mr. Darst added that the Department of Public Works' Spring Bulky Item Pick-up is scheduled for April 21-25, 2008.

Mr. Shores recently attended a Lake Norman Rural Planning Organization Transportation Advisory Committee meeting and gave a brief update on the US 74 Shelby Bypass Project.

Mr. Hopper was present at a lengthy, well-attended Zoning Board of Adjustment meeting at which a petition for a halfway house on North Morgan was heard and ultimately denied by the Board.

Mayor Alexander reminded Council that a groundbreaking ceremony hosted by Duke Energy at the site of their Cliffside project will take place on March 25, 2008. He also mentioned that the Centralina Council of Governments, Catawba Regional Council of Governments, and the Charlotte Regional Partnership are hosting an event, "CONNECT – Live the Vision", at the Hilton Charlotte Center City on March 31, 2008.

Mayor Alexander presented the document entitled, "Cleveland County 2007: A Community Assessment", which is available for review.

Mr. Mabry and Mr. Hopper reminded Council that the Cleveland Association of Government Officials (CAGO) will meet on March 20, 2008 at the Law Enforcement Center.

**I. Adjournment:**

**1) Motion to adjourn**

**ACTION TAKEN:** Upon a motion by Mr. Shores, second by Mr. Mabry, City Council voted unanimously to adjourn the meeting at 7:55 p.m.

Respectfully submitted,

Bernadette A. Parduski, CMC  
City Clerk

W. Ted Alexander

**Mayor**

**Minutes of March 17, A. D. 2008**