

MINUTES

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

November 3, 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 Robert W. (Bob) Yelton, City Clerk Bernadette A. Parduski, CMC, Director of Finance Theodore B. (Ted) Phillips, CPA, Customer Services Manager Rhonda Lingerfelt, 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, Director of Parks and Recreation Charlie Holtzclaw, Director of Planning Services Walter (Walt) Scharer, AICP; and media representatives

Mayor Alexander called the meeting to order at 6:00 p.m., acknowledged members of the City's Planning and Zoning Board, and welcomed all who were in attendance. Mr. Royster gave the invocation and Mrs. Lingerfelt led the *Pledge of Allegiance*.

A. Approval of Agenda:

- 1) Motion to adopt the proposed agenda

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

B. Special Presentations:

- 1) Cleveland 20/20 Economic Development Partnership Quarterly Update – Michael Chrisawn, President, Cleveland County Chamber of Commerce, and Dave Hart, Vice President, Economic Development, Cleveland County Chamber of Commerce

Mr. Chrisawn delivered opening remarks on the current conditions relating to the area's economic development opportunities. He spoke about the difficult overall economic situation, hopefulness about the Chamber's ongoing active projects, and the competitive nature of economic development work. Mr. Chrisawn introduced Mr. Hart.

Mr. Hart presented the area's overall economic development picture. He is currently overseeing 20 active projects which change daily. Mr. Hart stated that 93 percent of the potential prospects are seeking new or existing buildings with high ceilings and expansion options for their businesses, which desire speed to market. Mr. Hart referred to Copeland, Universal Manufacturing, Alpha Mailing, and Shelby Industrial Park as the top buildings (product) in the County for marketing. Specifically within Shelby's corporate limits, Mr. Hart has two active projects and three expansions and stated that economic development is limited by lack of product (land and buildings).

Mr. Hart stressed the importance of upgrading the Chamber's website in order to provide the best information to those researching new locations for businesses. Mr. Hart shared that Chamber staff is in the process of applying for designation in the North Carolina Department of Commerce 21st Century Communities Program and working on a web-based supplier net to feature local manufacturers.

Mr. Hart also took the opportunity to invite Mayor Alexander and Council to Cleveland 20/20's open house at the newly renovated Copeland building on November 17, 2008 at 11:30 a.m. The event, hosted by John Barker, Sr. and Binswanger, will include tours of the facility.

2) Proposed Identity Theft Detection and Prevention Program – Theodore B. Phillips, Director of Finance

Mr. Phillips provided background information relating to the development of the City's Identity Theft Detection and Prevention Program. Mr. Phillips stated that in order to combat the problem of identity theft, as part of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), the Federal Trade Commission (FTC) and several other federal agencies have issued rules requiring creditors to develop, adopt, and implement written Identity Theft Prevention Programs. The rules are often referred to as the "Red Flag" requirements and apply to all municipal utility and other operations that provide a service for which payment is deferred until a future date. The central objective in the development of a program is the identification, detection, and response to "Red Flags". Under the rules, "Red Flags" mean a pattern, practice, or specific activity that indicates the possible existence of identity theft.

Mr. Phillips summarized the basic elements of a creditor's program which must contain reasonable policies and procedures to:

- Identify relevant "Red Flags" for covered accounts and incorporate those "Red Flags" into the program

- Detect “Red Flags” that have been incorporated into the program
- Respond appropriately to any “Red Flags” that are detected to prevent and mitigate identity theft
- Ensure the program is updated periodically to reflect changes in risks to customers or to the safety and soundness of the creditor from identity theft

Mr. Phillips concluded by stating the responsibility for implementing and updating the City’s program lies with the Identity Theft Committee comprised of the City Manager, Police Chief, Finance Director, and Information Services Manager. The City’s Customer Services Manager serves as the Program Administrator and will be responsible for program administration, ensuring appropriate staff training, reviewing any staff reports regarding the detection of “Red Flags” and the steps for preventing and mitigating identity theft, determining which steps of prevention and mitigation should be taken in particular circumstances, and considering periodic changes to the program.

Mr. Phillips added that the FTC suspended enforcement of the new “Red Flags Rule” from November 1, 2008 until May 1, 2009; however, staff desires to move forward with implementation and recommended Council’s approval at this time.

3) City of Shelby’s Comprehensive Land Use Plan Update – Walter Scharer, Director of Planning Services

Mr. Scharer began his presentation with a comparison of the proposed Comprehensive Land Use Plan and the current Land Development Plan for the City which was adopted in 1999. Today’s plan is a derivative of the initial Land Development Plan that was adopted in 1963. Updates of this plan were prepared in 1972 and 1994. Mr. Scharer stated the Comprehensive Land Use Plan that staff has been developing since October 2007 is a completely new plan for land use in the City of Shelby. The draft Comprehensive Land Use Plan includes a Future Land Use Map to encompass a greater study area for the Shelby-Cleveland County Regional Airport, the PPG Plant, the Eastside Sewer Project Phases 1 and 2, and the US 74 Future Bypass. The second dramatic difference between the current Land Development Plan and the proposed Comprehensive Land Use Plan is the Framework Plan which includes three scenarios, Small Town in a Country Setting, Greenways and Open Space, and Village Centers, as proposed by the Steering Committee in February 2008. Mr. Scharer stated that it is important to note that the Land

Use Plan is tied directly to an Economic Feasibility Analysis and introduced consultant, Frank Warren of Warren & Associates.

Mr. Warren explained that his role was to provide market and economic guidance to the Land Use Plan.

Mr. Warren presented and summarized the following data as to:

- Population Trends, 2000-2008
- Housing Units by Tenure, Planning Area 2000 and 2008
- Net Housing Units by Year Built, Planning Area, 2008

Issue: Mr. Warren pointed out that an older and increasingly vacant housing stock has limited market potential.

- Household Trends by Income Cohort, Planning Area, 2000-2008
- Median Household Income Trend, 2000-2008

Issue: Mr. Warren noted that Cleveland County is falling behind the State's urban areas.

- Population Forecasts, 2008-2020
- Employment by Industry, Cleveland County, 2000-2007

Issue: Mr. Warren reiterated that job losses negatively impact housing and retail markets, and reduce the property tax base.

- Employment by Industry, Planning Area and Cleveland County, 2007
- Employment by Industry, Planning Area, 2007

Issue: Mr. Warren questioned why more people who work in the Planning Area do not live in the Planning Area.

- Forecasted Office Space, Planning Area, 2007-2020
- Forecasted Office Land, Planning Area, 2007-2020
- Forecasted Industrial Space, Planning Area, 2007-2020
- Forecasted Industrial Land, Planning Area, 2007-2020

- Retail Sales Forecast, Planning Area, 2008-2020
- Retail Square Feet Forecast, Planning Area, 2008-2020
- Retail Acres Forecast, Planning Area, 2008-2020
- Demand, Planning Area, 2008-2020

Mr. Warren concluded his presentation with the following thoughts for consideration:

- New housing units with traditional designs in neighborhoods with greater connectivity and amenities
- Mixed-use retail and office – synergy of combined trips and reduced congestion
- Industrial land and buildings for jobs that pay higher wages and reflect labor force skills

Next, Mr. Scharer introduced consultant, Kevin Walsh of HNTB.

Mr. Walsh provided an overview of the range of Land Use Typologies and where those land uses have been strategically placed on the Comprehensive Land Use Plan Map. He concentrated his comments on the Neighborhood Revitalization (Draft Plan Goal 9) and Corridor Revitalization (Draft Plan Goal 6) areas. Mr. Walsh recognized the recommendations of the City Center Master Plan and utilized the Uptown Master Plan District as a key land use.

Padam Singh of HNTB continued the presentation by presenting Goal 9 of the Draft Comprehensive Land Use Plan, Neighborhood Revitalization – Protect and revitalize the inner core neighborhoods. Mr. Singh detailed the policy recommendations and discussed the implementation strategies as follows:

- Revitalize and preserve various neighborhoods around uptown through collaboration with residents and provision of incentives
- Revitalize specific sections within neighborhoods to concentrate on core areas for redevelopment that can leverage improvements by private sector around such core areas
- Encourage citizen participation in neighborhood revitalization efforts

- Investigate opportunities to become an “Entitlement City” to receive direct funding from the U S Department of Housing and Urban Development (HUD)
- Provide better connectivity by creating new streets to major activity centers such as uptown

Donal Simpson of HNTB continued the presentation by presenting Goal 6 of the Draft Comprehensive Land Use Plan, Corridor Revitalization – Protect and enhance major routes as viable transportation corridors by ensuring their safety, capacity, and coordination with the adjacent land uses. Mr. Simpson detailed the policy recommendations and discussed the implementation strategies as follows:

- Preserve the capacity of US 74/Dixon Boulevard as a major arterial road and assess the relationship of adjacent land uses within this corridor
 - Detailed Corridor Analysis with North Carolina Department of Transportation (NCDOT):
 - Fix the safety problems
 - Gain better mobility
 - Upgrade the land uses
 - Provide gateways into uptown
 - Improve the image
 - Analyze a range of alternatives:
 - Fix the worst safety and congestion problems
 - Grade separate the major intersections
 - Fully separate through traffic from local traffic
 - Evaluate based on:
 - Mobility
 - Cost
 - Economic benefit
 - Funding
 - Environmental effects
 - Timing of improvements
- Preserve the major routes as viable transportation corridors and address issues of congestion, safety, and design

- Establish Lafayette Street as a major gateway corridor into the City
- Establish Marion Street as a major gateway corridor into the City

There was discussion concerning the growing uncertainty as to whether the NCDOT will ever build a new 74 Shelby Bypass and the interim solutions proposed by the consultants.

In closing, Mr. Scharer encouraged Council's input into the final draft of the Comprehensive Land Use Plan. Mr. Howell reminded Council again that the adoption of a Comprehensive Land Use Plan is one of most important decisions they will make in that it provides a specific document that will guide City development and growth over several years. He anticipated completion of the plan within the next couple of months with consideration for Council's adoption in early 2009. Mayor Alexander and Mr. Howell expressed appreciation to staff, the Planning and Zoning Board members, the consulting team, and the citizens for their work on this project.

Council received the presentation for informational purposes and took no action.

C. Public Hearing:

- 1) Consideration of an ordinance amending the Unified Development Ordinance (UDO) to reduce the amount of surety required to record a final plat for an unfinished subdivision: Ordinance No. 49-2008

Mr. Scharer provided background information regarding this textual amendment to the City's UDO and explained that before a final plat for a major subdivision may be approved, all infrastructure improvements to said subdivision must be completed. However, in lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the City may enter into an agreement with the developer whereby the developer shall complete all required improvements. Once said agreement is signed by the developer and the security required herein is provided, the final plat may be approved if all other requirements of the ordinance are met.

To secure this agreement, the developer shall provide a Surety Performance Bond and/or a Cash or Equivalent Security in the amount of 150 percent of the entire estimated cost to cover the costs of the uncompleted improvements. Mr. Scharer stated that the intent is to allow a developer to record a final plat for a major subdivision so lots may be conveyed. At the same time the Bond and/or Letter of Credit ensures the completion of the subdivision and protects the interest of the City as well as citizens living near said subdivision and those who may have purchased lots within the subdivision.

In consideration of a proposal to reduce the 150 percent calculation, Mr. Scharer conducted a study of other cities and counties across the State and found that the vast majority of these localities utilized 125 percent to calculate their bonding requirements for subdivisions. Mr. Scharer concluded by stating that the Planning and Zoning Board reviewed and recommended the UDO text amendment to reduce the amount of surety required to record a final plat for an unfinished subdivision from 150 percent to 125 percent.

Mr. Howell added that the additional percentage protects the City and its taxpayers from the volatility of the market as well as inflation should the developer walk away from a project. In this case, the City is responsible for the public improvements because the developer has been given approval by the City to record the plat, sell lots, and build houses.

Mayor Alexander opened the public hearing at 7:31 p.m. and invited comments from the public.

The public offered no comments and Mayor Alexander closed the public hearing at 7:32 p.m.

ACTION TAKEN: Upon a motion by Mr. Royster, second by Mrs. Patterson, City Council voted unanimously to approve and adopt Ordinance No. 49-2008 entitled, "AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REDUCE THE AMOUNT OF SURETY REQUIRED TO RECORD A FINAL PLAT FOR AN UNFINISHED SUBDIVISION".

D. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of October 20, 2008
- 2) Adoption of an ordinance establishing a capital project and budgets for the City of Shelby's Safe Routes to Schools Project: Ordinance No. 50-2008
- 3) Adoption of a budget ordinance amendment for the City of Shelby's Airport Grant 8.1 Project: Ordinance No. 51-2008
- 4) Adoption of FY 2008-2009 Budget Ordinance Amendment No. 4:

Ordinance No. 52-2008**END CONSENT AGENDA**

E. Unfinished Business: None

F. New Business:

- 1) Consideration of a resolution adopting an Identity Theft Detection and Prevention Program: Resolution No. 80-2008**

ACTION TAKEN: Upon a motion by Mr. Shores, second by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 80-2008 entitled, "A RESOLUTION ADOPTING AN IDENTITY THEFT DETECTION AND PREVENTION PROGRAM".

- 2) Consideration of an ordinance amending Section 12-5 of the Shelby City Code of Ordinances: Ordinance No. 53-2008**

Mr. Holtzclaw introduced Ordinance No. 53-2008 which proposes amending the City's policy involving cemetery call backs. Mr. Holtzclaw explained that the current policy calls for a trained staff member to be on standby for call backs every weekend day and holiday until 11:00 a.m. throughout the year to lay off a grave. This cemetery service is very seldom used and is costing the City between \$4,000 and \$5,000 per year in additional expenses and manpower. From July 2007 to September 2008 there have been a total of 138 weekend and holiday call back days that only used 18 days. This equates to almost \$300 per call back day and left 118 days (approximately 87 percent) that the service was not used.

Mr. Holtzclaw conducted a survey of several other municipal and private cemeteries and found that about half either do not offer this service or charge a significant fee for the call backs. Mr. Holtzclaw also held meetings with seven local funeral home owners and directors in June and September 2008. The consensus among the owners and directors was to eliminate the service due to lack of use, with the understanding that certain holidays that represent a four-day period with weekends, notably Thanksgiving and sometimes Christmas, be given special consideration. Also due to Saturdays and Sundays being eliminated, notifications made during regular City days of operation/business, Monday through Friday, must be made prior to 4:00 p.m. (previously 3:00 p.m.) for same day service. Mr. Holtzclaw further stated that the option of charging a call back fee does not help the City's situation as it would only discourage use of the service thereby increasing the actual call back cost.

Mr. Holtzclaw concluded by stating that in an effort to diminish the impact on staff, and as a matter of reducing costs for a seldom used service, it is his recommendation and request to Council that consideration is given to adopting the proposed cemetery ordinance reflecting changes that will accomplish the intended objective.

ACTION TAKEN: Upon a motion by Mr. Hopper, second by Mr. Ware, City Council voted unanimously to approve and adopt Ordinance No. 53-2008 entitled, "AN ORDINANCE AMENDING SECTION 12-5 OF THE SHELBY CITY CODE OF ORDINANCES".

G. City Manager's Report: None

H. Council Announcements and Remarks:

- 1) Mr. Hopper reminded all voters to vote tomorrow, which is Election Day.
- 2) Mr. Ware reminded Mayor and Council that the City will celebrate Veterans' Day with an appreciation luncheon on Friday, November 14, 2008.

I. Closed Session:

- 1) To approve Minutes and General Account of the Closed Session of October 20, 2008
- 2) To establish or instruct the staff or agent concerning the negotiation of the price and terms of a contract concerning the acquisition of real property pursuant to North Carolina General Statute 143-318.11(a) (5)

ACTION TAKEN: Mr. Royster made a motion to enter into a closed session pursuant to the appropriate North Carolina General Statute as cited. Council consulted with Mr. Yelton who advised that the topic met the statutory requirements for a closed session. The Mayor invited all Council members present and Mr. Howell, Mr. Yelton, and Mrs. Parduski to attend. The motion was seconded by Mr. Ware. The motion passed unanimously and Council moved into closed session at approximately 7:40 p.m.

ACTION TAKEN: Upon a motion by Mr. Royster, second by Mr. Shores, City Council voted unanimously to return to regular session at 8:00 p.m.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion by Mr. Royster, second by Mr. Shores, City Council voted unanimously to adjourn the meeting at 8:01 p.m.

Respectfully submitted,

Bernadette A. Parduski, CMC
City Clerk

W. Ted Alexander
Mayor

Minutes of November 3, A. D. 2008