Black City of Shelby Council Members Called-out by other Blacks to FIRE Rick Howell!!!! I call them out too-along all with the White Council Members!!! I do not discriminate. I call out every Elected official when they do wrong!!! Red and Yellow, Black AND White!!! Report, analysis, evaluation, informed opinion and truth by Robert A. Williams

History and focus:

In 2008 the City of Shelby commissioned a group of “experts” to develop a 10-Year Masterplan for the City of Shelby. At the time I read that Masterplan, especially the part about removing the Confederate Soldier Memorial and all the other memorials around the Court Square. Vietnam, Korea, WWI and WWII too. History is history and I do not support trying to re-write it. Just learn from history and go on to do better in the future. Re-writing history is just a ploy for so-called “leaders” to ignore bad things and forge3t they ever happened. For the purpose keeping on doing the bd things over and over

again. Forever it often seems.

Willie Green also read this 10-Year Masterplan and found that the City of Shelby was looking to build a sports complex as a public-private partnership. Willie, being a former NFL player, winner of two Superbowl Rings and now a businessman with a focus on sports and doing good things for students, especially athletics, was interested. Interested enough to contact the City of Shelby to explore this opportunity to fulfill what the City of Shelby had proclaimed to the world as what they wanted to do. And why not. Willie also has a Master's Degree in Sports Administrations. That, plus business experience made Willie Green a perfect for what Shelby said that they were looking for.

So, Willie contacted the City of Shelby. City Manager and Mayor too asking if they were still interested in building a sports complex, along the lines of a private-public partnership as described in their 10-Year Masterplan. Documents show the City was interested. Willie then began developing his ideas. Willie also contracted with Shelby Mayor Stan Anthony, an architect by trade, to do his preliminary architect work.

Things were good and the planning was developing nicely. To the point that Willie needed to hire the architect that would do the final work. Willie shopped the work around to various architects and selected the one with the best value (price). It was NOT Mayor Stan Anthony's firm and things went South from there. To the point of lawsuits in State Court, Federal Court and back to State Courts. As things stand right now, there is a lawsuit again Rick Howell for defamation. There are lawsuits against City Council member Violet Dukes as well as Mayor Stan Anthony. On a related, but unrelated matter involving a building project Willie Green was working on, but the City council denied his zoning change request without even allowing Mr. Green to speak, lawsuits are developing out of that too.

But the Rick Howell, as an individual, lawsuit has progressed the most and will be the topic for the rest of this article.

Regarding Rick Howell's role as the City Manager for Shelby, normally such a position, when performed in a proper, legal, ethical and unbiased manner has immunity from prosecution. Unless malicious intent and a corrupt intent can be shown. Then a public official, elected or employed, can be sued as an individual. But there is a high standard of proof required.

So, Willie Green filed his lawsuit against Rick Howell in an individual capacity. Rick Howell, using a City paid attorney filed a Motion to Dismiss the lawsuit based on his having immunity. A Court hearing was scheduled for December 10, 2019 and I attended that hearing, along with others.

In that hearing, with Judge W. Todd Pomeroy presiding, Rick Howell's Shelby taxpayer paid lawyer and her pitch to the judge that Rick Howell had immunity from prosecution. Willie Green's self-paid attorney presented facts. laws and evidence that there was indeed malicious and corrupt intent on Rick Howell's part; therefore, Rick Howell could be sued in his individual capacity.

As for me, I sat up front where I could see and hear everything that was going on as best as possible. I observed and noted Rick Howell seeming to squirm as the old saying goes, "like a whore in Church." Rick Howell's city-paid attorney, Martha Thompson, seemed to be unprepared and halting in her statements. It reminded me of a person trying to stick to a phony script that is different than the truth-and trying to hide the difference.

On the other hand, Willie Green's self-paid attorney was well prepared, had his facts straight and answered every question from the Judge and Howell's attorney correctly and without any hesitation.

The judge, Superior Court Judge W. Todd Pomeroy from

Lincolnton was also observed to be totally alert, paying attention and not missing anything. This was my first-time court-watching with this judge presiding. I was well impressed. Judge Pomeroy was obviously aware that stripping immunity from a City Manager such as Rick Howell was a bid deal, a REAL big deal, and he did not intend to make any mistakes. And to the best of my understanding, Judge Pomeroy did not make any mistakes. Judge Pomeroy ruled that Rick Howell's conduct was malicious and corrupt, Howell COULD be tried in his individual capacity and denied Howell's Motion to Dismiss-which allows the lawsuit to continue toward a jury trial.

Of course, this puts Shelby City Manager Rick Howell in a fix with only two choices. Appeal the Judges ruling. Or, man-up for what you did and just go to trial and face a jury as they decide what your justice will be. Rick Howell choose to appeal the Judges ruling and continue using his city paid attorney. And continue to delay. Delay, DELAY!!! Hoping Willie Green will be struck by a streak of lightning. Fearing that it is himself, Rick Howell, that will be struck by a streak of lightning. And perhaps the whole City council and Mayor, before this blatant miscarriage of justice against Mr. Willie Green is over with.

As of April 17, 2020 Rick, Howell's city paid attorney filed a 35-page legal document, called an "Appellant's Brief" to the North Carolina court of Appeals. Mr. Green has 30 days to file his answer to Howell's brief and the Appeals Court will have everything in their hands. Of course, there will be probably another 6 months delay doing that.

This is where we are with this report. Up to date to the very minute with the status of the case. However, the Court of Public Opinion has just kicked in. And members of the black community, including Mr. Willie Green are speaking out. (And me as I have read Howell's Appellant's Brief.) This is where this part of this article starts!!!

Rev. Dante Murphy speaks-out, **in no uncertain terms**, to Shelby City Council members Rev. Charles Webber and Andrew Hopper and copies the rest of the City of Shelby government and the black community leadership.

On Friday, May 1, 2020, 01:56:27 PM EDT, SCEPUL wrote:

> *Rev. Charles Webber & Mr. Andrew Hooper,*
>
> *The purpose of this email is to follow up with clarifications and provide you with* ***indisputable justification to move forward with the termination of City Manager Rick Howell and to settlement the dispute with Mr. Willie Green****.*
> *Attached is Rick Howell's Appellant Brief to the N.C. Court of Appeals dated April 17, 2020. In his sworn brief, Rick Howell presents troubling misrepresentations of the truth that the average black person would be fired for.*
> *Rick Howell makes a reckless attempt to explain away his defamatory statements against Mr. Green by deeming it as "rhetorical hyperbole." This is absurd and should be embarrassing to the attorney that used such language as an excuse for Mr. Howell's actions.*
> *The powers and duties of a City Manager are statutorily prescribed in the City Code of Shelby, Sec. 2-112, and N.C. Gen. Stat. § 160A-148. The City Code and N.C. Gen. Statute states that the "City Manager shall be the chief administrator of the city, [H]e shall attend all meetings of the Council and recommend any measures that he deems expedient." According to the brief Mr. Howell exercised "deliberation, decision, and judgment" and was statutorily required in his official role as City Manager to* ***"recommend any measures that he deems expedient to City Council."***
> *Mr. Howell's disclosures about Mr. Green's financial status was information either obtained illegally or fabricated. These concerns are further exacerbated when Mr. Howell inferred that Mr. Green's intentions were criminal. The malicious attack was used to make recommendations to the Council that Mr. Green be prevented the opportunity to appear*

before the Council and present his proposal.

Mr. Howell is also reckless and untruthful in stating that 1) "Green, on behalf of 5-Star, approached the City with a business proposal, without the City ever having sought proposals for a sports complex or for a public-private partnership and, 2) "[T]he City did not agree to Green's proposal for building a sports complex at the Holly Oak Park location." Mr. Howell failed to mention that Mr. Green was responding to the City of Shelby's Comprehensive Parks and Recreation Master Plan, 2008-2018, where the City of Shelby called for a public-private-partnership with a private business to build and operate a sports facility in the City of Shelby.

The City of Shelby initially expressed excitement about a partnership with Mr. Green as indicated by a proposal to Mr. Green on June 24, 2016, to (a) lease portions of Holly Oak Park for $1 per year, (b) provide Mr. Green with all utility connections, building inspections and permits at no-cost, (c) share cost for site preparation and tree removal, and (d) the City also offered Mr. Green annual operating subsidies to cover some of his expenses.

I regret having to be so direct about these matters and including the "white community" in what is supposed to be "family matters" of the black community. However, it is disheartening to see honorable men in the African American community being pimped out to further the cause of discrimination and corruption. Furthermore, citizens do not elect third party lawyers to govern, but rather, it is the duty of elected officials to advocate for the will of the people.

This is a plea to you to stop this unjust attack and deal with the malicious actions of the city manager and correct the wrongs perpetuated against Willie Green.

Rev. Dante' Murphy

Mr. Willie Green adds Comments to Rev. Murphy's Message:

7:34AM 5/2/2020

Councilman Webber and Councilman Hopper,

To follow-up on Rev. Murphy's email. Please take the time to read the attached Appellate Brief of Rick Howell's defense. As to why he made the stereotypical defamatory and damaging comments about an African-American businessman that resulted in the City Council voting to deny me the opportunity to make a public proposal for a partnership with the City.

In his Appeals Court filing, Mr. Howell is clearly misrepresenting the truth about the City not interested in a public-private-partnership with my company to build a sports facility in Shelby, and even more damaging he is now claiming that he was only joking – by using "rhetorical hyperbole" – when Mr. Howell told the Council Members that Willie Green "does not have the money or financial backing to build the sports complex…" and he also accused me of attempting to engage in a criminal act.

Rick Howell has proven himself not to be the type of City Manager we need to grow this community moving forward by welcoming minority businesses. But don't just rely on my word, read the 2017 City of Shelby Economic Development Strategic Plan where the report identifies two of the biggest "threats" to the City is "Not having effective leadership in place to encourage and "capture" growth opportunities and the "lack of diversity." We have all heard the phrase in the black and white community "if it's not Rick's idea, it's not a good idea." Is this the type of community we want to continue to live in where one mans' decision is the bible?

It is time for our black elected officials to step up and show the type of leadership the minority community is looking for so that we will have the same opportunity to do business in the City of Shelby as others. You can start by removing Rick Howell as City Manager.

I look forward to the opportunity to speak with you and others on ways we can resolve all matters and offer my suggestions on how to improve the relationship between our local government and the minority community.

Willie A. Green, Sr.

Robert A. Williams adds the following comments:

TO: Rev. Charles Webber, Andrew Hopper, Violet Dukes, David Causby, David White, Eric Hendrick, Mayor Stan Anthony, City Manager Rick Howell and others

Rev. Dante Murphy and Mr. Willie Green speak from the perspective of being a black person to other members of the black community who are elected leaders of the City of Shelby. I am speaking out as a person who is concerned that the leadership of the City of Shelby, all of you, are not acting in good faith and in a responsible manner. I do not live and vote in the City of Shelby, but I live in Cleveland County and vote and pay taxes in Cleveland County and the City of Shelby has partnered with Cleveland County in many ways, including the Shelby natural gas and sewer lines that run in front of my house that I pay for but have chosen not to hook up to because of costs that are not competitive as well as me not having any say in the manner in which they are operated and maintained.

That being said, I agree on all the principal arguments that Rev. Murphy and Mr. Willie Green have pointed out to Rev. Webber and Mr. Hopper as well as to the rest of you. I believe each of you, in one way or another will be sued in your individual capacity before all of this is over with. Also, I cannot understand for a minute how Rev. Webber and Mr. Hopper, who were not on the City Council at the beginning of these issues have allowed themselves to be trapped into the possibility of losing their house, property and personal savings by not speaking out in these matters. I can only

believe that Rev. Murphy, in his direct manner and pointed words, has accurately described Webber and Hopper's actions. Or inactions as it may be.

To the point of City Manager Rick Howell's Appellate Brief. As I previously noted that I attended the Motion Hearing that is the basis for Howell's appeal as well as have read Howell's Brief very closely, I have made and include my appraisal notes of the brief as related to the actual truth of the matter. Note that the Brief, in total, contains about 35 pages.

Note that the text of the brief itself is numbered at the bottom. Those page numbers are the ones I used in my comments below. The entire brief is also attached, so don't believe a word I say until you read it for yourself.

Robert A. Williams

RAW Comments on Rick Howell's Appellant's Brief: (Remember that Rick Howell filed this appeal brief because Judge W. Todd Pomeroy was convinced that Rick Howell acted with malicious and corrupt intent as alleged in Mr. Willie Green's lawsuit.)

Rick Howell Appeal—RAW Comments:

Page 1 Issues Presented
Paragraph 1. Understated. Rick Howell is a public official but his malicious intent and illegal actions were the reasons Judge Pomeroy ruled that his immunity did not apply-thus allowing him to be sued individually. No Error.

Paragraph 2. No error. Judge correctly ruled that Howell's malicious intent and illegal actions were the reason motion to dismiss was denied and trial based on facts of the case could continue. Howell's conclusion was not based on an investigation of the facts and Howell's lack of even a cursory investigation of the facts shows his conclusion was knowingly

false and contrived to defame Willie Green such that the city council would vote against doing business with Willie Green

Page 2. Statement of the case:

Second unnumbered paragraph. Judge correctly considered Rick Howell's defamatory email correspondence to city council, which on its face, without investigation of its truth or falsity and actually false, which shows malicious intent and illegal acts.

Third unnumbered paragraph. Depends on what the law says are the allowed time frame of the appeals process.

Page 2, Statement of the Grounds for Appellate Review: Starts on page 2 and continues
Paragraph 1. Defendant Howell is attempting to try the facts of the case in the appeals court instead of before a jury. Perhaps Howell has right to appeal but no right to try the case in appeals court by muddying the legal waters such that his malicious intent and illegal actions are forgotten about amongst all the verbiage regarding immunity. Note defendants claim that judge's ruling was immediately appealable, but defendant in actuality did NOT immediately appeal but defendant has taken every opportunity to delay, obfuscate and even violate court orders.

Later in this section Howell says "absolute immunity is effectively lost if a case is erroneously permitted to go to trial." In this matter the judge's ruling to permit the case to continue was not erroneous. Malicious intent and illegal acts are apparent and so demands the case to go to trial to determine the facts of the case. A ruling by the Appellate Court to deny defendants appeal does not deny defendant of any of this rights and privileges if the trial court does not find defamed Willie Green. Also, having precedents that found other cases were erroneous, does not mean that this judge has made any erroneous ruling against defendant. Defendant's appeal

seems to have forgot that point in his appeal.

Page 5. Statement of Alleged Facts:

On page 6 it says Willie Green “is a self-described public figure.” Mr. Green has always described himself as the only “black businessman” in Shelby. There is a significant difference. Later in that paragraph Howell falsely states that Mr. Green approached the City of Shelby with a business proposal without the City ever having sought such a proposal. This is blatantly false and destroys the credibility of City Manager Rick Howell since the City of Shelby’s 10-year Masterplan approved (I believe) in 2008 called for exactly what Mr. Green was proposing. Willie Green has plenty of info on the details of the Master-Plan and how the timeline of events occurred-with documented proof. Most of this, perhaps all of this is false or misrepresented such that the meaning is false.

The email on page 8 appears to be an accurate depiction of what Rick Howell actually provided to the City of Shelby council, but the facts as stated by Howell in this email are false and the conclusion and recommendations are made with an obvious malicious intent and illegal acts. Previous statements by defendant in this Appeal Brief well describe the duties of the Shelby City Manager and lying to the council is NOT one of those duties or responsibilities. Neither is communicating false and unconfirmed information and opinions to the council.

Page 9 had some correct statements that Mr. Green had never had an audience with the City Council, but the fact is the City Council, apparently under Howells recommendations, never allowed Mr. Green to present them with anything. This was also the fact in a public meeting when Mr. Green had submitted a Re-Zoning Request to the city on an entirely different matter and the City Council refused to allow Mr. Green to answer questions from the public or even to speak one word.

Page 9. Argument:
Rick Howell falsely claims the Judge committed improper and error in his ruling of the “uncontroverted facts.” The only uncontroverted facts are those that have been provided by Mr. Green in his complaint and arguments to the judge in the hearing of Howell’s Motion to Dismiss held December 10, 2019.

A trial Jury is the proper tryer of facts and this appeal should therefore be denied and this case proceed to find the truth and administer the appropriate justice in this matter.

Page 10 Standards of Review:

Section I. Howell continues his march of inaccuracies and misrepresentations in every instance. Obviously, a pattern that the Appeal Court should be made officially aware of. Every standard or review in these Standards of Review were argued fully in the Motion to Dismiss Hearing before Judge W. Todd Pomeroy on December 10, 2019-Except for Defendants claim of “rhetorical hyperbole” in section E on page 23 of Howell’s Brief.

Every claim in Defendant’s appellate brief contends that Defendant Rick Howell was acting properly in his role as a Public Figure and the City Manager for the City of Shelby’s City Council. Therefore, deserving immunity, absolute of limited immunity. Yet Defendant argues in Section II. E. on Page 23 that Defendant Howell is stating “in arguendo” that he was exercising his right to use rhetorical hyperbole, basically a joke, as protected speech in his official role as an investigator and finder of fact in his written defamatory email recommendation to the Council of the City of Shelby. Telling jokes to the City of Shelby Council is found nowhere in Defendant’s brief or city policy or in law. Such conflicting logic as this was not presented to the Court on December 10, 2019 and has no basis in this appeal except to show that Defendant is close to a Rule 11 violation and subsequent sanction for causing undue delay and expense to

Plaintiff in this matter.

Plaintiff Willie Green argues the Court on December 10, 2019 heard all the claims and arguments of defendant Howell in that hearing and the Judge clearly understood the law and implications of removing immunity from Defendant Rick Howell for his clear action that were defamatory, malicious, wonton and corrupt. But the facts and evidence presented then, as it is now, in this answer to Howell's appellate brief is that the Court did not erroneously rule in anything material to this case and that Defendant's arguments are not valid. i.e. The Motion Hearing Judge was correct in his findings of fact and of law.

RAW Note: Basically, all the statements Defendant uses in Section II, A-E (pages 13-23) are examples of defendants failed logic and deceptive twists and turns of arguments that, in every case, leaves out the relevant facts and the truth of the matter.

Page 24 Section III:
In this section Defendant **Rick Howell plays the race card** as well as mis-stating in footnote 10 that the city of Shelby had not sought unsolicited proposals. If not, why did they adopt the 10 Year plan?? The 10 Year plan was a statement of exactly what the City of Shelby stated they wanted and Mr. Green making contact with the City of Shelby and offering negotiated proposals was entirely appropriate.

Also, defendant's two years of negotiation clearly indicates that at some point Rick Howell and the City of Shelby ceased to negotiate in good faith for what they said in their resolution that they wanted.

Also, first sentence on page 26 says Howell based his statements of facts as known to him. Howell did not attempt to find the facts or he would have known that his conclusion was incorrect. Failure to do due diligence is a good example of

malicious intent and corrupt intent.

Page 26-Conclusion
Total misrepresentation of facts and conclusion. Defendant's own brief shows in almost every instance that the facts are distorted to leave out relevant information. Clearly an obvious attempt to deceive the Appellate Court into making an erroneous finding.

Folks, nobody ever said that keeping up with corruption in government is easy. Rev. Murphy, Mr. Willie Green and myself have spent a lot of time and effort trying to bring about an ethical, legal, unbiased and just operation of the City of Shelby as well as Cleveland County. YOU can do your part by paying attention and keeping yourself informed. That is what we are doing. Not one word of what has been said in this article is based on what somebody told us or what we might want to believe. We have looked up the law, attending hearings and meetings and speak from our own experience. If somebody on the street who doesn't know anything tells you that this is "hooey," just walk away from that fool and never believe anything he or she might every say again.

Stay tuned folks. Everything here is public record and so will be Mr. Green's official response to Rick Howell's Appellant's Brief. Will provide that too when available. And Note that this will most likely be tried in court sometime in the future, Plan on attending and see for yourself what your government agencies are doing. And spending your tax dollars on.

Brief of Appellant Rick Howell4.17.2020.1