

MINUTES

Regular Meeting
City Hall Council Chamber

April 3, 2017
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David W. White, David Causby, Dennis C. Bailey, Dicky Amaya; City Manager Rick Howell, City Attorney Robert W. (Bob) Yelton, City Clerk Bernadette A. Parduski, Director of Finance Justin S. Merritt, MPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Energy Services Julie R. McMurry, Assistant Fire Chief Todd McMurry, and Director of Planning and Development Services Walter (Walt) Scharer, AICP; and Reporter Casey White of The Shelby Star

Absent: Council Member Ben Kittrell

Mayor Anthony called the meeting to order at 6:00 p.m. and welcomed all who were in attendance. The Mayor gave the invocation and Mr. Causby led the *Pledge of Allegiance*.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

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

B. Special Presentation:

- 1) City of Shelby Electric Asset Management Plan – Michael Dawson, PE, Design Engineer, Progressive Engineering Consultants, Inc.

Mr. Howell introduced the subject matter of the presentation by stating for a number of years the City has been developing asset management plans to identify and address capital needs within the City's utility systems. The Electric System Asset Management Plan is similar to previous working plans and will serve as a long-range planning guide with regard to the City's electric distribution center for the next several years. Mr. Howell stated the plan will ultimately be brought to Council for formal consideration and approval.

Next, Mr. Dawson began his presentation by sharing the findings of the electrical distribution system planning study conducted by Progressive

Engineering Consultants. The City of Shelby authorized the study of its electrical distribution system to determine if its electric system is capable of providing reliable electricity to its 9,900 customers in and around Shelby. Mr. Dawson stated primary focus was placed on substation capacity, conductor loading, and circuit ties, which then determined what areas of the system needed improvements. A construction schedule and cost estimates have been prepared such that the improvements to the electrical distribution system will occur in an order that will be the most beneficial to the City's electrical system needs.

With regard to data sources, Mr. Dawson stated the information which was gathered during the initial phase of the study was taken from the City of Shelby. The City provided Supervisory Control and Data Acquisition (SCADA) system records and the North Carolina Municipal Power Agency Number 1 (NCMPA1) wholesale power bills which included circuit load and power factor information. Information on bus impedances and fault duties were furnished by Duke Energy. Mr. Dawson added site visits were also conducted.

With regard to the analysis of the existing substation facilities, Mr. Dawson reported the City presently has four delivery points or substations in service and a total of 14 circuits. Most of the equipment is in good condition and is recommended for continued use.

With regard to substation capacity and circuit ties, Mr. Dawson stated substation capacity is critical during normal operating as well as during emergency conditions. He considered a "worst case" condition if one delivery point failed. Mr. Dawson reported the City has ample substation capacity to serve the load during emergency conditions; however, there is a need for additional circuit ties.

With regard to the analysis of the existing distribution system, Mr. Dawson stated the study required calculation of peak loading, voltage drop, and percent conductor thermal loading at approximately 3,100 points of the City's 146 miles of primary conductors with available fault currents being calculated at major junction points, changes in wire sizes, and terminal points on the existing distribution lines. These calculations are based on the existing load data and system characteristics as well as the load projections for the subsequent ten-year period. Following the review of the load growth over the most recent five and ten year periods, Mr. Dawson further stated load increases for the purposes of this study were projected at an annual rate of 1 percent through the year 2026.

Mr. Dawson reported potential load growth did not cause any areas of excessive voltage drop. Therefore, there are no recommendations on any system changes due to voltage drop concerns. Also, there are no recommendations on any system changes due to conductor thermal overload during normal operating conditions. During the study and analysis of reactive loads, it was concluded the City's operating power factor is above 96.5 percent at all the responsible stations. There is no need for any additional capacitor banks at this time. With regard to continuous thermal capacity, Mr. Dawson reported the existing equipment and construction practices are consistent with prudent distribution system operation and are recommended for future use. With regard to interrupting capacity, Mr. Dawson reported all of the 14 vacuum circuit breakers in the stations have an interrupting capacity of at least 20,000 amperes. Therefore, all units are adequate and recommended for continued use.

Mr. Dawson stated the following improvements represent an overview of the recommendations for modification and expansion of the existing electric system in order to meet the previously discussed minimum accepted standards of electrical distribution system performance and to provide adequate service at the projected design load level.

- Upgrade the SCADA system

The City's existing SCADA Master has been in operation since 2004. The SCADA system monitors and controls the entire electric distribution system as well as parts of the City's gas, water, and wastewater systems. City personnel use the system to monitor information such as circuit amps, volts, power factor, substation breaker position, reclosing functionality, and more. It is also used to remotely control equipment like substation breakers, voltage regulators, and generators. The SCADA Master is responsible for collecting the data from each remote terminal unit on the system, dispersing that information to SCADA workstations, and notifying City personnel of key events or alarms on the system, as well as keeping historical data used for reports and analysis. The system's hardware is nearing end of life, with replacement parts becoming difficult to obtain. The system is vital to the City's operation and is in need of replacement.

- Reconductor areas of the system

In order to increase the reliability of the system, it is recommended to reconductor several areas of the system. Spread throughout the entire system is approximately 47,000 feet of copper conductor. Copper is small in size and has limited ampacity. These lines have become brittle with time and are more prone to being damaged during storms. While copper conductor is

the best choice for conductivity and ampacity, it is common practice in today's electric systems to replace aging smaller copper conductor with larger aluminum conductor as it is less expensive than the copper equivalent, is lighter, and easier to work with in most cases. In addition, aluminum conductor is less prone to theft as the value of copper scrap has increased significantly over the last decade. Replacing this smaller copper conductor will improve reliability and create additional circuit ties. The additional circuit ties allow the ability to transfer loads to multiple feeders and/or substations, enabling the City to restore power during emergency conditions quicker and easier.

- Clean up all remnants of previously converted 4kV construction

During previous system conversions, some areas of the old 4kV distribution system were quickly converted to 12 kV to save time and money. In the process, some 4 kV construction practices were left in place and some 4 kV lines were abandoned. These areas pose safety and reliability concerns. It is recommended that the City clean up these areas of the system in order to have a safer and better organized infrastructure.

- Perform substation upgrades

There are several substations upgrades and maintenance items that are also recommended. Many of the voltage regulator controls are nearing end of life, some are over 20 years old and parts are no longer available. Other components are exhibiting intermittent failures and incorrect readings, such as remote terminal unit (RTU) boards, SCADA radios, panel meters and battery charger displays. Other items like aging poles and substation fences pose safety and reliability concerns.

- Create two new circuits

The creation of two new circuits is recommended in order to adequately serve the existing load and anticipated system load growth. At the present time, if Station 8 were to be rendered out of service, there is enough capacity at the remaining three stations to adequately serve the City's load; however, Circuit 8-2 does not have a direct tie to another station. This circuit would have to be tied with either Circuit 8-1 or 8-3 and then be tied to another station. This creates a very large load on a single circuit, approaching the maximum thermal operating conditions of the main feeder, and is not recommended. The creation of Circuit 8-4 will split the load from Circuit 8-2 and allow for Circuit 8-4 to have a direct tie to another station. Circuit 8-2 can then be tied with Circuit 8-1, 8-3, or 8-4 to another station, but will now have a reduced load and allow the transfer to be below the maximum thermal

operating conditions for the main feeder.

Next, Mr. Dawson discussed the two areas of the distribution system that have the potential for load growth to exceed the 1% rate used in this study: Foothills Commerce Center and areas near the new Shelby Highway 74 Bypass. It is difficult to predict the impact these two areas could have on the distribution system as there are too many unknowns. Presently, the City has cleared and graded several new lots at the Foothills Commerce Center in an effort to attract new customers. They have also expressed interest in constructing shell buildings to garner additional attention. While the number of new customers and their load requirements are unknown, it is possible to establish a limit on load requirements of the entire commerce center based on the capacity of the distribution line that serves the area. As part of the recommendations of this study, Foothills Commerce Center would be served by a new circuit out of Station 11 that will be used to primarily serve the commerce center load only. Progressive's recommendation would be to construct a new circuit from Station 9. This new circuit (from Station 9) will likely be several miles in length and require eighteen (18) months to plan and construct with an estimated cost of \$1,000,000.

The Shelby Highway 74 Bypass is presently under construction. There are three (3) interchanges that will be near the City. Each interchange could provide potential for growth, but it is not yet known how much growth, the type of growth, nor the rate of growth each would provide. Presently, the City does not provide electric service to the location of each interchange. The City would need to determine if they will be able to serve the areas. Each interchange would need to be evaluated to determine the load requirements and the necessary equipment that would be needed to serve the customers.

To sum up, Mr. Dawson stated Progressive's recommendations provide a long-range plan for increased system reliability. The Electrical Distribution System Planning Study is an orderly, cost effective improvement and expansion guide. The construction schedule and cost estimates of \$3.4 million can be spread out over five years.

Council received the information. No action was required at this time.

C. Second Reading:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 21-2017

Mayor Anthony recapped this proposed zoning map amendment for property located at Gidney Street near Deerfield Drive, which passed by Council's

vote of 3 to 2 on March 20, 2017. However, according to North Carolina General Statute 160A-75, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two-thirds of the actual membership of the Council. An ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by Council. Therefore, this ordinance must be approved by Council at a second reading before it may take effect.

Mr. Howell clarified this matter has been brought back to Council for a second reading and action. Accordingly, approval of this ordinance now only requires a simple majority of the members present for adoption.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Ordinance No. 21-2017 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

D. Public Hearing:

- 1) Consideration of a resolution granting a Special Use Permit to Mission Development, Inc. for Gidney Street near Deerfield Drive: Resolution No. 22-2017

With regard to the receipt of ex-parte communication, which includes direct or indirect communications on the substance of a pending case, and the requirement for the disclosure of same, Mr. Bailey, Mr. Causby, and Mr. White disclosed communications related to this matter.

Mayor Anthony opened the public hearing at 6:32 p.m. and sworn testimony was given as follows:

Mr. Scharer introduced Resolution No. 22-2017 and the proposed Special Use Permit request by Mission Development, Inc. Utilizing both a zoning map and the site plan for the project, Oakwood Terrace, he pointed to the site on Gidney Street which is approximately 8 acres in size. The property is currently vacant and has been rezoned to Residential 6 (R6) District. The applicant is proposing an 80-unit multi-family development. Mr. Scharer further stated the City of Shelby allows multi-family developments with more than 25 units by a Special Use Permit issued by City Council.

Mr. Scharer reminded Council the burden of persuasion on the issue of whether the development, if completed as proposed, complies with all of the applicable standards of Unified Development Ordinance (UDO) remains at all

times on the applicant. Even if Council finds that the application complies with all other provisions of the UDO, it may still deny the permit if it concludes, based upon the information submitted at the hearing, the development, more probably than not:

- Will materially endanger the public health or safety; or
- Will substantially injure the value of adjoining or abutting property; or
- Will not be in harmony with the area in which it is to be located; or
- Will not be in general conformity with the Comprehensive Land Use Plan or other plans officially adopted by Council

Mr. Scharer concluded by stating the proposed Special Use Permit request is consistent with the Shelby Comprehensive Land Use Plan.

Mayor Anthony provided instructions as to the quasi-judicial process. To find facts, Council conducts a formal evidentiary hearing. Under the rules for an evidentiary hearing, no communication with the presiding body is allowed outside of the hearing. Due process mandates that all parties must present factual evidence under sworn testimony. Each finding, which was requested to be stated by the speaker, must be supported by competent, material, and substantial evidence, not unsupported allegations, inadmissible hearsay, or lay opinions. Council must make findings of fact and then apply the existing laws and policies to those facts to arrive at a decision. The information provided by Mr. Scharer within the agenda packet is to be considered evidence to be factored in as part of the decision-making policy.

For the sake of the public, Mr. Bailey explained as a licensed, credentialed real estate broker he cannot consider any information outside of the hearing, including his own real estate expertise. Council members are bound by North Carolina General Statutes that all evidentiary hearings are conducted in this formal matter due to State law mandates.

Jeffrey Littlejohn who resides at 329 Deerfield Drive in Shelby, North Carolina spoke against the proposed Special Use Permit application and expressed his concerns about how the crime rate relates to low-income housing. Mr. Littlejohn stated it is the duty and obligation of citizens to protect fellow citizens and law enforcement officers. He made reference to a book authored by Harold Kushner and provided his insight about bad growth and good growth as presented by Mr. Kushner. Mr. Littlejohn posed this question to Council: "Do we need these low-income apartments to help Shelby grow?"

Stephen Drake who resides at 195 Ruckbridge Road in Mills River, North Carolina is a partner with Mission Development, Inc., the applicant

requesting a Special Use Permit for the proposed project, Oakwood Terrace. Mr. Drake stated Mission Development specializes in workforce housing. Oakwood Terrace is a North Carolina Housing Finance Agency affordable housing community consisting of 80 apartments. A market study conducted by Mission Development confirmed a demand for more than 1,200 such units and Oakwood Terrace will fill a small gap in that demand. Mr. Drake noted Gidney Street is a prime location for this development with its close proximity to several amenities. He addressed the community's concerns regarding litter, foot traffic, and crime. Mr. Drake concluded by stating Mission Development is devoted to the success of its properties by making a positive contribution to the community, fostering positive growth, and revitalizing the area.

David Allen who resides at 1414 Deborah Circle in Shelby, North Carolina spoke against the proposed Special Use Permit application, acknowledging his prior correspondence to Council members. Mr. Allen expressed his concern regarding the additional vehicular traffic from an 80-unit apartment complex which might average 10 trips per unit based on the North Carolina Department of Transportation's Trip Generation Manual. He stated he lost the sale of 104 Kenwood Drive due to increased crime in the neighborhood as quoted by the potential buyer. Mr. Allen stated the sidewalk the developer is required to install along Gidney Street will not include crosswalks for pedestrians to access the nearby amenities. With regard to safety issues, Mr. Allen stated the 80-unit complex represents more than the total of the single-family dwellings in the vicinity. Doubling the capacity with just one complex will increase vehicle and foot traffic tremendously. Mr. Allen counted 12 boarded-up properties in the Gidney Street area, indicating possible available units for renovation rather than 80-units creating more vacant single-family dwellings. Mr. Allen also expressed a concern for increased traffic near St. Mary's Catholic Church as well as the insufficient road connection from Gidney Street to Kings Road.

Denise Whisnant who resides at 117 Kenwood Drive in Shelby, North Carolina spoke against the proposed Special Use Permit application and requested Council postpone their decision in order for her to provide evidence for her testimony. Mrs. Whisnant expressed her concern about the increased crime rate in her neighborhood which can be verified by the crime reports on record. She also expressed her concern about increased traffic in the area since an 80-unit apartment complex will bring more than one vehicle per unit. Mrs. Whisnant mentioned there are several vacancies at other apartment complexes and a new complex may force those to close or become a nuisance to the area.

Mr. Scharer reiterated the Planning and Development Services Department mailed multiple written notices of the public hearing as well as the brochure on evidentiary hearings 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.

Christine Ashe who resides at 307 Horseshoe Drive in Shelby, North Carolina spoke against the proposed Special Use Permit application and requested Council postpone their decision in order for her to provide evidence for her testimony. Miss Ashe stated an apartment complex is not needed in the area and will not be in harmony with her neighborhood.

Mayor Anthony closed the public hearing at 7:04 p.m.

Having heard all of the evidence and arguments presented at the hearing, Council finds and determines the application is complete. Council was presented with no evidence as to the following findings as read by Mr. Bailey:

- The development will not materially endanger the public health or safety
- The development will not substantially injure the value of adjoining or abutting property
- Will be in harmony with the area in which it is to be located
- Will be in general conformity with the Comprehensive Land Use Plan or other plans officially adopted by Council

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve and adopt Resolution No. 22-2017 entitled, “A RESOLUTION GRANTING A SPECIAL USE PERMIT TO MISSION DEVELOPMENT, INC. FOR GIDNEY STREET NEAR DEERFIELD DRIVE”.

E. Consent Agenda:

ACTION TAKEN: Mayor Anthony presented the consent agenda. Mr. White made a motion to approve the consent agenda. The consent agenda and following items were unanimously approved:

- 1) Approval of the Minutes of the Regular Meeting of March 20, 2017
- 2) R-2707C US 74 Bypass Utility Relocations – Metcalf and Fallston Roads
 - a. Approval of a resolution accepting and approving a utility relocation agreement for water and sewer lines and a use and occupancy agreement between the City of Shelby and the North Carolina

Department of Transportation for relocation of utilities in conflict with the proposed US 74 Bypass: Resolution No. 23-2017

- b. Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's R-2707C Metcalf Road and Fallston Road Water Utility Relocation Project: Ordinance No. 28-2017**
- c. Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's R-2707C Fallston Road Sewer Utility Relocation Project: Ordinance No. 29-2017**

END CONSENT AGENDA

F. Unfinished Business:

- 1) Consideration of a resolution authorizing an agreement between the City of Shelby and Cleveland County for the administration of an Economic Development Agreement: Resolution No. 24-2017**

Mr. Howell introduced Resolution No. 24-2017 for Council's consideration. If approved, the resolution will enact an agreement between the City and Cleveland County regarding issues of mutual interest and cooperation related to the expansion of Clearwater Paper Corporation on the County-owned Washburn Switch Business Park property. Mr. Howell summarized the key points of the agreement as follows:

- The estimated cost of water and sewer improvements necessary for the expansion is approximately \$25 million. Clearwater Paper Corporation will contribute approximately \$8 million to the project and another \$3.5 million in funding has been secured by the City. The City has also applied for another \$11.25 million in grant funding.**
- The remaining infrastructure cost after grant totals come in will be borrowed by Cleveland County. The City will then pay the County back through property tax generated from Clearwater Paper Corporation over a 15-year period.**
- The City will also receive no less than 12.96 percent of the sales tax revenue collected in and distributed to Cleveland County for the term of its financing for the improvements beginning in July 2019. Mr. Howell stated that will account for an additional \$600,000 a year for the City.**
- Cleveland County and Clearwater Paper Corporation have agreed to voluntarily annex their Washburn Switch Business Park property to Shelby.**

Mr. Howell concluded by stating the City and its utility customers have invested a significant amount of money in bringing jobs to Cleveland County in the Washburn Switch area. This agreement between the City of Shelby and Cleveland County is aimed at expanding the future tax base for the City with future development and jobs.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 24-2017 entitled, "A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF SHELBY AND CLEVELAND COUNTY FOR THE ADMINISTRATION OF AN ECONOMIC DEVELOPMENT AGREEMENT".

Mayor Anthony declared a recess at 7:12 p.m. and reconvened the meeting at 7:14 p.m.

G. New Business: None

H. City Manager's Report:

- 1) Mr. Howell requested Council's consensus with regard to a letter drafted for Mayor Anthony's signature which addresses the Downtown Revitalization Community Development Block Grant (CDBG) awarded to the City of Shelby for the rehabilitation of blighted buildings in Uptown Shelby. By consensus, Council's authorization included the City's willingness to accept a third position on the Deed of Trust, the risk associated with this project, and its responsibility for repayment of federal CDBG funds should the property owner fail to complete the renovation of 14 West Marion Street, make the private investment requirements of the grant agreement, or sells the property prior to the four-year forgivable load period of the loan agreement. Mr. Howell reiterated the City ultimately agrees if these requirements and conditions have not been met, it will make repayment of the CDBG funds.
- 2) Mr. Howell acknowledged receipt of a letter dated March 29, 2017 from the North Carolina Department of State Treasurer, State and Local Government Finance, Fiscal Management Section to Mayor Anthony. Next, Mr. Merritt provided an explanation and the resolution of the issue. He stated the City maintains a bond portfolio and those investments are reported to and reviewed by the Treasurer's office. It was determined two University revenue bond investments with Summit Securities are not allowable investments for North Carolina local governments. Mr. Merritt explained local governments can invest in bonds that are obligations of the State of North Carolina or any North Carolina local government or public authority. The offering statements for both of these bond

issuances specify that they are not obligations of the State of North Carolina nor are they bonds of a North Carolina local government or public authority. The recommendation is to liquidate then re-invest the funds in statutorily allowable bond investments as soon as possible in order to minimize any losses on divestiture of the current University revenue bond investments. Mr. Merritt added as long as the City continues to hold these bond investments, the City's auditor will be required to disclose a statutory violation in the City's audit report each year the University revenue bond investments are held. The explanation was provided for informational purposes and Mr. Merritt will proceed with the recommendation to liquidate and re-invest.

- 3) With regard to the Shelby Police Department's Public Safety Answering Point (PSAP) Communication Addition Expansion Project, Mr. Howell is in the process of scheduling meetings for Council to review the plans and renderings and provide comment prior to the bidding process.
- 4) Mr. Howell announced a customer service satisfaction survey regarding the City's electric system is being conducted by Great Blue Research in partnership with ElectriCities of North Carolina beginning April 4, 2017.

I. Council Announcements and Remarks:

- 1) Mayor Anthony acknowledged receipt of a letter dated March 28, 2017 from Executive Director Audrey Whetten and Board President Fred Blackley of the Uptown Shelby Association expressing appreciation to the City of Shelby for its support of the recent NC Main Street Conference.
- 2) Mayor Anthony informed Council that he and Mr. Howell recently met with Eddie Holbrook of the Cleveland County American Legion World Series Baseball Office. Mr. Holbrook is planning a new concept, the Host City Welcome event, for welcoming the eight regional teams who will compete for the title. The Host City Welcome is in the development stages and more details will follow before the World Series begins in August 2017.
- 3) Mayor Anthony mentioned the Don Gibson Singer Songwriter Symposium was held March 31 and April 1, 2017. The events were well attended and well received.
- 4) Mr. Bailey reported he has received repeated complaints about one location with multiple vehicles parked on the property which has been reported to the City. He requested clarification concerning the City's parking ordinances as to front and side yards. Mr. Scharer explained the ordinance does not limit the number of vehicles parked on a property but

all vehicles located in the front yard must be on an improved surface with a defined border. Mr. Bailey also requested clarification with regard to abandoned, nuisance, or junked vehicles. Mr. Scharer explained those vehicles are governed by State statute, which the City adopted. However, the City has limited authority due to those statutory standards.

- 5) Mr. Amaya suggested a four-way stop be installed at the Lowe's Home Improvement rear entrance and the entrance to the proposed apartment complex, Oakwood Terrace. Mr. Howell responded the proposal can be reviewed by the Engineering Department and a recommendation brought back to Council for consideration.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to adjourn the meeting at 7:36 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of April 3, 2017