

MINUTES
Town Council Meeting
July 20, 2004
PROSPERITY, SC 29127
7:00 pm

Council Attendance: Mayor Bruce Connelly, Councilmen Larry Spotts;
Derek Underwood; Allen Gallman; G.W. Dawkins

General Attendance: Andrea Cantrell, Town Administrator; Hank
Bufkin, Town Attorney; Janet Chastain,
Clerk/Treasurer; Chief Benji Sease; Fred Sexton,
Public Works Director; Martha Counts; Dan
Murphy, Lisa Richardson, Codie Ruff, Rev. Eddie
Taylor, Tracie Shealy, C.A. Shealy III, Heidi Cole,
Rodney Epting, Paul Bowers, Andy Ackerman &
Mark Bowers and Paul Gable (Newberry Observer)

APPROVAL OF MINUTES:

Mayor Connelly presented the minutes of the June 22, 2004 council meeting to Council for approval. Councilman Spotts stated that on the last page of the minutes there is an error. Under the motion for "Allocation of 2004/2005 Funds" the vote carried three to one not four to one.

A MOTION by Councilman Dawkins to approve the minutes of June 22, 2004 with the previously stated correction; Seconded by Councilman Gallman and so approved unanimously.

Mayor Connelly apologized for not opening the meeting with prayer and asked that Mr. Gallman have a prayer at this time.

Councilman Gallman opened the meeting with prayer.

Mayor Connelly welcomed all for attending and invited them to come back any time.

Mayor Connelly requested that item "C" under New Business be moved to item "A" under New Business. He asked for any objections. There were none.

OPEN SESSION – PUBLIC

There was no one from the public signed up to speak at this time.

REPORT OF COMMITTEES:

Electrical, Fire Department, & Parade: Councilman Underwood stated that he had no report for the Fire Department at this time.

Councilman Underwood stated that he had been reviewing the cost associated with installation of electrical services for residential and commercial customers. He stated that he had presented all Council members with a list of rates and costs. He thanked Ms. Cantrell and Mr. Sexton for compiling this information for him. He reviewed residential underground and that stated material and labor total \$1,493.90. If the service is installed above ground the costs is less the trencher rental, which would be \$240.00. For commercial service a range was compiled. It depends on the size of the transformer. The range for installation would be between \$6,300.00 and \$10,000.00 for installation of electrical commercial service. Mayor Connelly questioned what the variable between these amounts would be. Councilman Underwood stated the largest price difference would be for the transformer, ranging from \$3,200.00 to \$7,000.00. Mayor Connelly requested that this information be filed for future reference.

Sanitation and Street: Councilman Dawkins stated that he had no major reports for Sanitation or Streets. Councilman Dawkins stated that he would like to mention that the railroad is finally repaving the railroad areas. This project will be starting soon. Fred stated that they would be putting up detour signs around this project.

Building, Recreation and Parks: Councilman Gallman stated that he had no report for buildings at this time.

Councilman Gallman stated that he had a presentation for the Recreation Department. He recognized Sabrina Manning, Recreation Director. Ms. Manning thanked the Mayor and Town Council for inviting them to come to the meeting and be recognized. She stated that present tonight are representatives of the two All-Star teams that represented the Town of Prosperity Recreation Program in tournaments this year. The Coaches Pitch team won their tournament and the Girls Softball team won first place in their tournament. She also stated that the Girl's Softball program has really taken off and expanded. The high school coaches are very excited about the progress that our program is making. Ms. Manning thanked the Mayor and Town Council again for the invitation to attend the Council Meeting.

Councilman Gallman stated that it takes a lot of time and effort to volunteer to coach a ball team. He stated that these programs keep the kids off the street and give them something productive to be involved in. He thanked the coaches for their time.

Mayor Connelly stated that the Town of Prosperity is very proud of these kids for their hard work in the recreation program. All the kids that participate in the recreation

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program should be praised for their hard work and determination. By participating in this program these kids are trying to better themselves and this will reflect positively on them later in life. Mayor Connelly thanked Councilman Gallman, Ms. Manning, Coaches and team players for their hard work. Mayor Connelly and Councilman Gallman presented the All-Star Coaches Pitch and Girl's Softball teams with certificates. Ms. Manning recognized Coach Eddie Hyman, representing the coaches pitch team. Coach Hyman thanked all the parents and children for there hard work and time. Ms. Manning recognized Coach Scott Bailey, representing the girl's softball team. Coach Bailey thanked the Town for having a girl's softball program for the girls to participate in. This is the second year for this program and it is doing great. He also thanked the parents for supporting the kids. Ms. Manning stated that for these team to even participate in the tournament play it requires a lot of time and travel for the parents and kids. She thanked everyone that helped make this possible for the kids. The trophies were presented to the Coaches of each team.

Police Department: Chief Sease stated that he had no report at this time.

Water and Sewer Department: Councilman Spotts stated that this month five new water taps and one new sewer tap were installed. He also reported a six-inch water main break on Forest Hills Blvd. There was also a two-inch water main break on Pearl Street, which required overtime work.

Mr. Bufkin questioned Councilman Spotts on what causes these water lines to break. Councilman Spotts stated that changes in temperature usually cause different levels of pressure in the ground. The cast iron pipes do not give therefore they break.

Town Administrator: Ms. Cantrell reminded everyone about the Prosperity's Hoppin' festival is coming up on August 20 and 21st. Many people are working hard to try and make this a spectacular event. Please help us to spread the word about these events. Mayor Connelly asked that Ms. Cantrell get each Council member a copy of the list of events.

Councilman Underwood stated that in the past the Town has supported the festival with some kind of donation. He asked if Council would be interested in donating to the festival this year. Councilman Gallman asked how much the festival needed. Ms. Cantrell stated that funds have been tight this year and the committee would gladly take whatever the Town is willing to donate. Councilman Underwood stated that he felt the Town should support the festival. It is a local event that brings people into our Town and supports our local merchants. Councilman Underwood stated that in the past the Town has given \$300.00. Councilman Gallman suggested that this year they increase their donation to \$400.00.

A MOTION by Councilman Gallman that the Town makes a donation of \$400.00 to the Prosperity's Hoppin' festival; Seconded by Councilman Underwood and so approved unanimously.

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Town Attorney: Mr. Bufkin stated that he no report for Open Session. He requested that he be given time to address Council in Executive Session regarding pending litigation.

A MOTION by Councilman Dawkins to add an Executive Session to the agenda for the purpose of discussing pending litigation; Seconded by Councilman Gallman and so approved unanimously.

Old School Renovations: Mayor Connelly stated that the One-Cent Sales Tax committee has approved the request of the Renovation committee. If the continuation of the One-Cent Sales Tax funds are approved by the voters this fall then these funds will go towards the renovation of the back part of the auditorium. Councilman Underwood asked the amount that was approved. Mayor Connelly stated that it was around ten to twelve thousand.

NEW BUSINESS

Ms. Martha Counts – Sewer: Mayor Connelly welcomed Ms. Counts to the meeting. Ms. Counts stated that she was concerned about her property in relation to the new addition to Wightman Church. She stated that she was concerned about the sewer lines that run along the back of her property not accommodating for this addition. She stated that she did not want sewer backing up on her property. Mayor Connelly stated that this is a wonderful project for Wightman Church however the Town definitely does not want this project to negatively affect Ms. Counts' property or any surrounding property in any way. Mayor Connelly stated that Mr. Sexton has been trying to locate the exact placement of the sewer line so that we can determine what needs to be done. He stated that once the Town determines what is to be done we would be sure to advise Ms. Counts. Ms. Counts stated that she was also concerned about her yard being torn up. She was also concerned about the transformers that were recently moved up next to her property line. Ms. Counts questioned if they would make any noise. Mr. Sexton stated that they did not make noise. Mayor Connelly stated that the yard would not be dug up unless absolutely necessary. Ms. Counts stated that she also wanted to express concern regarding her gate getting left open. Three different times it has been left open. Mayor Connelly questioned if it was Town employees that left the gate open. Ms. Counts stated she was not certain but would like for them to be more aware of it. Mayor Connelly asked Mr. Sexton to make the utility workers aware of this.

Dan Murphy – Newberry Electric Cooperative: Mayor Connelly stated that he had invited Mr. Murphy to the meeting tonight to discuss with Council the areas of concern. Mr. Murphy thanked everyone for inviting them to attend the meeting. He stated that Newberry Electric Cooperative and the Town of Prosperity have a great working relationship. In the past we have assisted each other during bad weather and other situations.

Mr. Murphy stated that Newberry Electric Cooperative has been forced to deal with issues regarding growth as it relates to the effects of annexation to their service territory. When we deal with issues we try to make sure that the decisions that are made are

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defendable and fair. He also stated that Mayor Connelly had expressed to him that growth is also approaching the Town of Prosperity. There are some issues in regards to a possible new grocery store as well as a small commercial complex. Mayor Connelly stated that he had asked Mr. Murphy to put on paper some dollar figures regarding these projects. Mr. Murphy has done this and it has been presented to Council. Mayor Connelly stated that the Town of Prosperity felt that the Town could service these new customers however Newberry Electric Cooperative has also expressed their desire to service this area because they already have lines there. Mayor Connelly stated that some agreement had to be reached between the two of us. He stated that the Town already services some customers in these two areas. Newberry Electric Cooperative has stated that if their lines are not utilized they will be of no value to them. Mr. Murphy presented Council with a diagram of how their lines run through Prosperity. Mr. Murphy pointed at that the City limits of Prosperity begin approximately at Kid's Unlimited Childcare facility. He pointed out where Newberry Electric Cooperative has a three-phase line running through this Highway 76 area. The line was installed to serve the growth expected in these areas. If this line is not utilized for its intended purpose then it is devalued. Mr. Murphy stated that they are also dealing with this same issue with the City of Newberry. Annexations have extended the city limits into the service areas of Newberry Electric Cooperative. Then the issue comes up as to who will service the customers in these annexed areas. The City of Newberry made the decision to service these customers. Mr. Murphy stated that the General Assembly has acknowledged that when annexations occur they do have a devaluing effect on other electric providers that have lines in those areas. Many years ago they instituted the statute 5827-1360 and it basically acknowledges the devaluing effect of annexation on electric service providers in territories where they have taken on obligations to serve. If annexation occurs and the City decides that the electric provider can not provide service to the area that was formerly there territory or growth area this statute does acknowledge the devaluing affect on this utility provider. Once the City or Town decides that they will service the growth area this statute gives the other electric provider the right to go to the City or Town and state there wishes to sale the already installed electrical lines for a said price. Mr. Murphy stated that this is the price that he has presented to the Mayor and Council. It is the estimated value of the electrical lines owned by Newberry Electric Cooperative that run through the Town of Prosperity in the area of question. If negotiations begin between the Town of Prosperity and Newberry Electric Cooperative, once the price has been presented for the purchase of the electrical lines then there would be a sixty day negotiation period. If no decision is reached during that sixty day period then the statute states that the case would be passed on to an arbitrator. The arbitrator would then hear cases presented by both sides and decide what amount of money should fairly be paid for the electrical system. Mr. Murphy stated that the Newberry Electric Cooperative just went through this process with the City of Newberry. He also stated that the formula that they have used in putting together an estimated value for their electrical system is the formula in the statute. The statutes also states that the Cooperative could also recover the costs of rebuilding the electrical system after detaching the portion of the line that would be sold to the Town of Prosperity. Mr. Murphy went on to explain the costs included in detaching the lines and rebuilding the system. He went on to say based on the statutory formula the following estimate was composed: reproduction costs new less depreciation

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of the existing .97 miles of electric line would be \$22,000.00 and reintegration costs would be \$145,200.00. Mr. Murphy stated to relocate their line outside the city limits at a place where it might be utilized would be costly because the city limits are irregular. Mayor Connelly asked if Council had any questions. Councilman Gallman stated that he would like to see the Town service our own customers. Mayor Connelly stated that a decision does not have to be made immediately. Mr. Murphy stated that this situation had been taken to their Board and the decision was made that they would have to remain consistent. The litigation that Newberry Electric Cooperative currently has with the City of Newberry parallels this case and they would have to remain consistent in their position as it pertains to the effect of annexations on current electrical lines. Mayor Connelly stated that he would like to avoid an arbitration position if possible. Both sides have expressed that they would like to service any new customers in the area of discussion however a decision does not have to be made right now. The Town has to consider the fact of not having revenue from these customers even though we will be required to furnish them police protection and garbage pickup because they are in the Town of Prosperity city limits. This would be a drain to the Town. Mayor Connelly stated that his intention tonight was for Mr. Murphy to present the intent of Newberry Electric Cooperative to Council so that Council would be aware of all positions involved. He also stated that he would like to work through this and try to keep a good relationship with the Cooperative. Mr. Murphy stated that he encouraged the Council to look at all options for everyone concerned before making a decision. He also stated that there are talks of an industrial park in this area, which would also benefit the expansion of the Prosperity area. He talked further regarding growth in the City of Newberry and how Newberry Electric Cooperative is working with them on a franchise in which Newberry Electric Cooperative would service the new growth areas however it would benefit all involved. Mr. Murphy stated that this situation is similar to this situation in Prosperity. If this land in Prosperity is developed into a grocery store or strip mall the Town will be faced with building new electrical lines if the Town chooses to service this customer. By giving the franchise to Newberry Electric Cooperative the Town would benefit as well as Newberry Electric Coop. Mr. Murphy asked the Council to consider all options before making a decision. Councilman Spotts asked Mr. Murphy to again state the figures that he presented earlier. Mr. Murphy stated that the estimate was \$382,444.00 for everything. He stated that these figures were put together quickly and may vary slightly. He went on to explain all that would be required to relocate the line. Councilman Underwood questioned how the franchise fee would work. Mr. Murphy stated that with the situation with the City of Newberry the franchise fee would be 4 to 5%. Mr. Murphy stated that the Newberry Electric Cooperative would be glad to form a franchise with Prosperity for all the outlying areas. He stated that they would try to work with Prosperity in whichever direction that they wanted to pursue. Mayor Connelly asked that Mr. Murphy go into further explanation regarding the franchise. He questioned how often the franchise would be paid. Mr. Murphy stated that most likely the franchise fee would be paid quarterly. The percentage would have to be discussed and agreed upon by both parties involved. Councilman Underwood questioned the possibility of including in a franchise customers that are already serviced by Newberry Electric Cooperative but have since annexed into the Town. Mr. Murphy stated that they usually do not include current customers in a new franchise agreement.

Reimbursement of Expenses – Larry Spotts: Councilman Spotts stated that he would like to get it on the record and clarify the daily limit of reimbursed expenses. He stated that it was his understanding that the daily limit was \$30.00. Councilman Underwood stated that this is only for meals. Mayor Connelly stated that the State per diem is \$30.00. Councilman Underwood stated that the amount reimbursable for meals for State employees depends on the department that you work for. Councilman Spotts stated that he did not want the reimbursable amount left open. Mayor Connelly agreed that a limit needed to be placed on this. Councilman Underwood suggested that an amount be set however if travel is required to a more expensive area then require receipts to be submitted and approved by three Council members before being paid. Councilman Dawkins agreed and stated that he felt the amount should stay at \$30.00 per day for meals.

A MOTION by Councilman Dawkins that the daily reimbursement for meals be \$30.00 a day; Seconded by Councilman Underwood and so approved unanimously.

First Reading of Electric Rates Ordinance: Ms. Cantrell read the proposed ordinance. (See attached copy of ordinance) Mayor Connelly stated that these rates were required this year to balance the budget. Councilman Underwood questioned the percentage of increase. Ms. Cantrell stated that there was a 3% increase.

A MOTION by Councilman Underwood to approve the First Reading of the Electric Rates Ordinance with a 3% increase; Seconded by Councilman Gallman ; the vote carried four to one with Councilman Spotts opposing.

OLD BUSINESS

2nd Reading of Cutoff & Late Fee Policy: Ms. Cantrell presented the policy for cutoff and late fees. (See attached copy of policy)

A MOTION by Councilman Gallman to approve the second reading of the Cutoff and Late Fee Policy; Seconded by Councilman Dawkins and so approved unanimously.

GENERAL INFORMATION

Councilman Underwood stated that over the past couple years there has been an issue of certain lots within the Town that are a hazard. Council has discussed the possibility of adding a usage fee to these vacant lots to encourage the property owners to sale or at least renovate the property for a better use. Councilman Underwood stated that he had been working with Councilman Gallman to put together a proposal related to this issue for Council to consider. He stated that he had spoken with the City of Newberry regarding the definition of what a vacant lot, building or other property would be. The City of Newberry has no definition in place. Mayor Connelly stated that they have building codes to address these issues. Councilman Underwood stated that it was his recommendation that the Town establish a working definition and then implement the

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fees. The amount of the fees will have to be determined by Council. The fee will be an availability fee for utilities. He stated that it was there recommendation that a letter be sent out to property owners prior to implementation of the fees. Certain exemptions to the fee will be made. If the property is listed or for sale we would not consider this property vacant because they are actively searching for someone to rent or buy the property. If someone purchased a second lot beside a home the second lot would not be charged availability. Councilman Underwood stated that a committee needed to be over this and review each property in question to determine its status. Once the committee decided to take action then a letter would be sent to the property owner stating what the fees would be. Councilman Gallman stated that he would like to see Mr. Bufkin look over these procedures before implementing them. Mayor Connelly stated that Council could take this as information tonight. Councilman Underwood presented Ms. Cantrell with the policy that they had written up. Mr. Bufkin questioned if the purpose of this policy was to raise money or force the use of the property. Councilman Underwood stated that the only purpose in pursuing this was to force the use of the property. Mr. Bufkin stated that Council would have to be careful and apply the fees to all lots that fall within the definitions. He stated that he would not recommend putting properties for sale as an exception. If this is an exception all the property owner has to do is put a sale sign on the property and they will be excluded from the fees. Mr. Bufkin stated that this would be very difficult to implement. Mayor Connelly stated that the reason behind pursuing this is to try to control the run down vacant lots in the Town. Councilman Spotts stated that Council might want to consider adopting the International Building Maintenance Codes that are currently being used by the City of Newberry. These codes state that the Town has the right to charge the property owner if the Town is forced to clean up the lot. They also state the standards in which a property owner must comply by. The City of Newberry sends the property owner a registered letter stating what is required and if they do not comply within the time frame given then the City cleans up the property and issues the property owner a bill for the costs. Councilman Underwood stated that he has requested a copy of this code for Council to review. Mayor Connelly stated that there have been lots of complaints regarding vacant lots that need to be cleaned up and Council needs to find a way to address this issue. Councilman Underwood stated that the City of Newberry charges a \$50.00 flat fee plus \$25.00 per hour for clean up. Mr. Bufkin stated that Council may also want to consider what kind of staff that it would require to implement these building maintenance codes. He stated that the City of Newberry has a large staff to be able to implement this program. Mayor Connelly asked that Council consider these suggestions and he also asked that Ms. Cantrell look into this and see what would be in the best interest of the Town. Mr. Bufkin stated that the Town has made some progress in this department compared to years past. There have been several lots that have been cleaned up already. Mr. Bufkin stated that Council needed to consider all options before making a decision.

Mayor Connelly reviewed with Council several letters that he had received. The first letter is from Ms. Essie Wicker and in the letter she asked that Council consider a thirty-minute handicap space in front of Prosperity Drug Store. The second letter is from Debra Ruff on Wheeler Street and in her letter she is requesting the extension of a sidewalk from N. Wheeler Avenue to S. Wheeler Avenue. Mayor Connelly stated that the Capital

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Sales Tax committee turned down a request for a sidewalk down South Main Street. There is the need for sidewalks there as well as on Wheeler Street. Mayor Connelly asked that Ms. Cantrell check with DOT and the Newberry CTC to see if there are any funds available. Councilman Underwood suggested moving the handicap spot in front of the Back Porch to the middle of the block in order to make it serviceable for more stores. Mayor Connelly stated that this might be something Council wants to consider. Mr. Bufkin stated that the merchants need to be talked to before making any changes. Ms. Cantrell stated that everyone needs to be aware that if you have a handicap spot it has to be handicap accessible. She stated that there is not room in that area at the present to make the changes needed. Mayor Connelly asked that Councilman Dawkins talk to the merchants and get their opinion on this.

EXECUTIVE SESSION

A MOTION by Councilman Underwood to go into Executive Session to discuss pending litigation; Seconded by Councilman Gallman and so approved unanimously.

A MOTION by Councilman Dawkins to adjourn the Council Meeting at 8:57 p.m.; Seconded by Councilman Gallman and so approved unanimously.

Janet Chastain
Clerk/Treasurer