



DANVILLE CITY COUNCIL WORK SESSION AGENDA

MUNICIPAL BUILDING

February 4, 2020

7:30 P.M.

MEETING CALLED TO ORDER

MEETING MINUTES

- A. Consideration of Approval of Minutes from Regular Work Session held on January 7, 2020.
Council Letter Number CL - 2279.

WORK SESSION ITEMS

- A. Consideration of Authorizing the City Manager to Execute the Agency Designation Agreement with American Municipal Power.
Council Letter Number CL - 2263.

PROGRAM UPDATE

ECONOMIC DEVELOPMENT UPDATE

COMMUNICATIONS FROM

- A. City Manager
- B. Deputy City Manager
- C. City Attorney
- D. City Clerk

E. Roll Call

TEN MINUTE RECESS

CLOSED MEETING

As Permitted by Subsection (A)(3) of Section 2.2-3711 of the Code of Virginia, 1950, as amended for discussion or consideration of the acquisition of real property or of the disposition of publicly held real property; and

As Permitted by Subsection (A)(5) of Section 2.2-3711 of the Code of Virginia, 1950, as amended for discussion concerning a prospective business or industry related to economic development.

- A. Motion to Convene in Closed Meeting.
- B. Motion to Reconvene in Open Meeting.
- C. Motion to Certify Closed Meeting.

ADJOURNMENT

Council Letter

City of Danville, Virginia



CL-2279

A.

Work Session Meeting

Meeting Date: 02/04/2020

Subject: Consideration of Approval of Meeting Minutes

From: Susan M. DeMasi, City Clerk

COUNCIL ACTION

Work Session: 02/04/2020

SUMMARY

Consideration of Approval of Minutes from Regular Work Session held on January 7, 2020.

Council Letter Number CL - 2279.

Attachments

Meeting Minutes

January 7, 2020

A Regular Work Session of the Danville City Council convened on January 7, 2020 at 8:34 p.m. in the Conference Room located on the Fourth Floor of the Municipal Building. Council Members present were: L.G. "Larry" Campbell Jr., Mayor Alonzo L. Jones, Dr. Gary P. Miller, Sherman M. Saunders, Fred O. Shanks, III, Vice Mayor J. Lee Vogler, Jr., and Madison J.R. Whittle (7). James B. Buckner and Adam J. Tomer were absent (2)

Staff Members present were: City Manager Ken Larking, Deputy City Manager Earl B. Reynolds, Jr., City Attorney W. Clarke Whitfield Jr., and City Clerk Susan M. DeMasi.

Mayor Jones presided.

Mayor Jones noted Council Member Shanks had a request which would be followed by a straw poll.

Mr. Shanks explained the Resolution that came out of Virginia Beach last night was not controversial, and the one from Chesapeake was not either. They did not take any stands with regard to Constitutional offices or asking local law enforcement not to do what they are supposed to do. It did not use the term Sanctuary City, but called it a Constitutional City; it set out the facts and states what they support. Mr. Shanks stated he hoped Council would use this or something similar to work with, to come up with a resolution, and encouraged Council Members to look at the maps of communities that have adopted a resolution such as this.

Vice Mayor Vogler noted he would ask Council to have something that most, if not all of Council could support, and questioned what a majority of Council felt comfortable with. Was it a resolution that simply states that Council asks the General Assembly not to pass any laws that infringe on people's Constitutional rights. Mr. Vogler stated he thought that was a pretty universal statement that he believes Council was behind. He thought Council needed to take a vote, and if they are not going to vote on it, they need to say why.

Council Member Saunders questioned what had changed. The Constitution talks about the right to bear arms; no rights were being taken that he was aware of. The cities and counties have taken their position, and that was their choice. Why does Council now have to say they agree with other people around the state on becoming a Second Amendment Sanctuary City, he did not see any new net advantage to this. The Constitution gives the right to bear arms; citizens have that right. Council Member Campbell noted his agreement with Mr. Saunders and stated his concern was the individuals that spoke tonight, and the past few sessions, no one came up to say anything against that. They only heard from citizens in the community who were concerned about this one particular statement moving forward.

Mayor Jones stated those who came to speak were very courteous and at first, he looked at it from the perspective of the City as whole, what does this do for the City and the position it was in right now. There was something that came out today that he was totally against, about gun ranges. Mayor Jones noted Council Member Tomer has stated he would vote no on any resolution that mentions the Second Amendment, sanctuary city or gun laws, and noted his agreement with Mr. Tomer, if it mentions 2A, Sanctuary City or gun laws, he too would be voting no.

After further discussion, Vice Mayor Vogler stated he would like to offer what he said as a resolution, Mayor Jones noted he could agree with that, that Council ask the General Assembly not to pass any laws that infringe on people's Constitutional rights.

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Mayor Jones took a straw poll and three Council members noted their support of Vice Mayor Vogler's suggested resolution; the suggested Resolution failed.

COMMUNICATIONS

Council Member Miller questioned Almagro; City Manager Ken Larking noted he will get a complete response to him; there are many neighborhoods throughout the City in similar circumstances.

Mr. Saunders requested the City Manager present some form of expression to C.G. Hairston's family. Mayor Jones noted his agreement, and Mr. Whitfield stated the IDA would be doing something as well.

CLOSED MEETING

At 8:56 p.m., Vice Mayor Vogler **moved** that this meeting of the City Council of Danville, Virginia be recessed and that Council immediately reconvene in a Closed Meeting for the following purposes: discussion or consideration of the acquisition and/or disposition of real property for a public purpose where discussion in an open meeting would adversely impact the bargaining position of the City as permitted by Subsection (A)(3) of Section 2.2-3711 of the Code of Virginia, 1950, as amended, more specifically to consider both the acquisition of a specific parcel or parcels of real property as well as the disposition of a specific parcel or parcels of real property; and to consider an Economic Development discussion and update concerning prospective business or industry where no previous announcement has been made and/or the expansion of an existing business or industry where no previous announcement has been made as permitted by Subsection (A)(5) of Section 2.2-3711 of the Code of Virginia, 1950 as amended, and more specifically to consider the location of a prospective new business or industry to the area and expansion of an existing business or industry.

The Motion was **seconded** by Council Member Saunders and carried by the following vote:

VOTE: 7-0-2
AYE: Campbell, Jones, Miller, Saunders,
Shanks, Vogler and Whittle (7)
NAY: None
ABSENT: Buckner, Tomer (2)

Upon unanimous vote at 9:27 p.m., Council reconvened in open session and Vice Mayor Vogler **moved** for adoption of the following Resolution:

CERTIFICATE OF CLOSED MEETING

WHEREAS, the Council convened in Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia, 1950, as amended, requires a Certification by the Council that such Closed Meeting was conducted in conformity with Virginia Law;
NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each Member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements of Virginia Law under Section 2.2-3711 were heard, discussed or considered, and

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(ii) only such public business matters as were identified in the Motion by which the Closed Meeting was convened were heard, discussed or considered by the Committee.

The Motion was **seconded** by Council Member Miller and carried by the following vote:

VOTE: 7-0-2
AYE: Campbell, Jones, Miller, Saunders,
Shanks, Vogler and Whittle (7)
NAY: None
ABSENT: Buckner, Tomer (2)

MEETING ADJOURNED AT 9:28 P.M.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

DRAFT

Council Letter

City of Danville, Virginia



CL-2263

Work Session A.

Work Session Meeting

Meeting Date: 02/04/2020

Subject: Whitmell Solar and Ringgold Solar Metering and Billing-American Municipal Power

From: Jason Grey, Utilities Director

COUNCIL ACTION

Work Session: 02/04/2020

SUMMARY

The City of Danville will begin receiving solar energy from (2) five megawatt solar farms on Irish Road beginning this summer. The Irish Road and Whitmell solar generating facilities will be owned and operated by Navisun and produce approximately 24,000,000 kilowatt hours. The City will also receive twelve megawatts of solar energy from the Danville farm solar facility. This solar facility will be owned and operated by Strata Solar and looks to be operational by June 1, 2020. From a financial perspective, staff would like City Council's approval to have American Municipal Power (AMP) meter the three solar generating assets and bill the City for the energy and capacity produced. AMP currently provides this service for the Kentuck solar farm and Schoolfield Hydro facility.

BACKGROUND

In July 2018, the City of Danville entered into a twenty-five-year agreement with Strata Solar for twelve megawatts of solar generation at Danville Farm solar facility located in Ringgold, Virginia. The City also entered into another 25-year agreement with Turning Point Energy to receive electric generation from the five megawatt Irish Road solar farm and the five megawatt Whitmell solar farm this summer. These generation resources will provide local energy and save on rising transmission and capacity charges.

RECOMMENDATION

Staff recommends that City Council authorize the City Manager to enter into American Municipal Power's (AMP) Agency Designation Agreement, which will allow AMP to manage the revenue meters associated with the Danville Farm, Irish Road, and Whitmell solar farms. AMP will bill the City for any electric generation produced at the facility.

Attachments

Resolution

AMP Agency Agreement

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2020-____.____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGENCY DESIGNATION SCHEDULE WITH AMERICAN MUNICIPAL POWER FOR THE DANVILLE FARM, IRISH ROAD, AND WHITMELL SOLAR FARM'S METERING AND BILLING.

WHEREAS, the City of Danville, Virginia (herein "Municipality") owns and operates an electric system for the benefit of its residents and customers; and

WHEREAS, by working jointly with American Municipal Power, Inc. (hereinafter "AMP") and the other municipalities which are members of AMP, the Municipality can supply its electric utility consumers with reliable service at reasonable rates; and

WHEREAS, Municipality has entered into a Power Purchase Agreement ("PPA") for solar power with TPE Irish Road Solar, LLC ("TPE"), Whitmell Solar, LLC ("Whitmell"), and Strata Solar Danville Farm, LLC ("Farm"), each a "Seller" and collectively the "Sellers"; and

WHEREAS, Municipality desires to enter into an agreement that, among other things, grants AMP authority to act as Municipality's authorized agent with such authority as is necessary for invoicing and payment collection of the amounts owed by Municipality for power from the Sellers' solar facilities; and

WHEREAS, AMP is willing to accept appointment as Municipality's agent for purposes of invoicing and payment collection for and, to the extent possible, necessary for collection of the amounts owed by Municipality for power from the Sellers' solar facilities; and

WHEREAS, after due consideration, Municipality has determined that it is reasonable and in its best interest to proceed as authorized herein below and requests and authorizes AMP to serve as the metering and billing agent upon the terms and conditions set forth in the Agency Designation Agreement.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DANVILLE, VIRGINIA that:

SECTION 1: That the form of the Agency Agreement attached hereto/on file with the Clerk is hereby approved, subject to and with any and all changes therein or hereinafter provided.

SECTION 2: That the City Manager is hereby authorized to execute the Agency Agreement substantially in the form of Exhibit 1, along with such modifications to the same that are deemed by the City Manager as not adverse to the interests of the Municipality, provided that neither this ordinance or the Agency Agreement authorize or obligate the Municipality to undertake the construction and operation of any hydroelectric facility.

SECTION 3: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution, to the extent required to be, were taken in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in those formal actions were in compliance with the Law.

SECTION 4: For the reasons set forth in the preamble hereto, this Resolution is

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

**AGENCY DESIGNATION AGREEMENT
BETWEEN THE CITY OF DANVILLE, VIRGINIA
AND AMERICAN MUNICIPAL POWER, INC.
FOR THE DESIGNATION OF AMP AS BILLING AGENT**

This Agency Designation Agreement to designate American Municipal Power, Inc., (“AMP”) as Agent is made by the City of Danville, Virginia (“Municipality”) as Principal.

RECITALS:

WHEREAS, Municipality and AMP have entered into a Master Service Agreement (“MSA”, AMP Contract No. C-2-2006-4975) under which certain services may be provided under schedules thereto;

WHEREAS, Municipality has entered into a Power Purchase Agreement (“PPA”) for solar power with TPE Irish Road Solar, LLC (“TPE”), Whitmell Solar, LLC (“Whitmell”), and Danville Farm, LLC (“Farm”), each a “Seller” and collectively the “Sellers”;

WHEREAS, each Seller independently invoices and seeks payment collection of the amounts owed by Municipality for power from their respective solar facility;

WHEREAS, Municipality desires to designate AMP as its agent for the purpose of metering the power produced by the each Seller, billing Municipality and remitting payment to the appropriate Seller on behalf of Municipality.

1. DESIGNATION OF AMP AS BILLING AGENT

Municipality hereby designates and authorizes AMP, and AMP hereby accepts and agrees, to be Municipality’s exclusive billing agent for deliveries of electric power and energy to Municipality pursuant to the TPE PPA, Whitmell PPA, and Farm PPA (collectively the “PPAs”), during the term of each such agreement.

2. RATE

Municipality shall pay AMP's power sales service fee B (\$0.00058/kWh as of January 1, 2017) for all power purchased by Municipality pursuant to the PPAs for the services provided by AMP to Municipality pursuant to this Agreement.

3. COORDINATION AND METERING TO FACILITATE INVOICING

To facilitate the timely and accurate invoicing by AMP to Municipality for the power purchased from the Sellers’ solar facilities, the Parties agree as follows:

- a. For the purpose of obtaining from each solar facility the information necessary to determine Municipality’s cost responsibilities, AMP has installed a meter at each solar facility that can be remotely read by AMP. Each month, AMP shall remotely

read the meter and include a line item on the AMP invoice for the power purchased at the rates set forth in the corresponding PPA plus the AMP service fee B in accordance with AMP's normal billing practice.

- b. Municipality shall remit payment to AMP pursuant to the terms and conditions set forth in the MSA.
- c. AMP shall remit payment to each Seller pursuant to the terms and conditions set forth in the Seller's PPA.
- d. The Parties will cooperate in good faith in the further sharing of information as may be appropriate to support the efficient and cost-effective implementation of billing services.

4. TERM AND TERMINATION.

Either Party may terminate this Declaration by providing at least thirty (30) days prior written notification to the other Party. Upon such termination, Municipality shall take full rights, responsibilities, obligations, ownership and operation of all accounts described herein.

5. LIMITATION OF LIABILITY

Municipality shall, at all times, remain obligated to pay for the solar power received pursuant to the terms and conditions of the PPAs. Under the terms and conditions of this Agreement, AMP agrees to serve as the billing agent for Municipality but AMP shall not take ownership at any time of any power produced by any Seller's solar facility and is not liable for any costs associated with any power produced by any Seller's solar facility. The total aggregate of liability of AMP to Municipality for any and all claims, whether caused by negligence, error, omissions, strict liability, breach of contract or contribution or indemnity claims based on third party claims, shall not exceed the total compensation received by AMP under this Schedule.

6. MISCELLANEOUS.

a. **INDEPENDENT CONTRACTOR.** AMP is an independent contractor providing services to Municipality. This Schedule shall not be construed or interpreted as creating any employment, partnerships, or joint venture relationship between AMP and Municipality. The Sellers shall not exercise any control over AMP's employees or agents and Municipality shall not exercise any control over AMP's employees or agents.

b. **CONTROLLING LAW.** This Schedule shall be controlled by the laws of the State of Ohio. The Parties agree that the courts of Franklin County, Ohio shall have exclusive jurisdiction over any litigation arising out of this Schedule.

c. **ASSIGNMENT.** Neither Municipality nor AMP may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that may become due or moneys that are due) in this Schedule without the written consent of the other, such consent not to be unreasonably withheld. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Schedule.

d. **THIRD PARTY RELIANCE.** Except as noted, nothing in this Schedule shall be construed to give any rights or benefits in this Schedule to anyone other than Municipality or AMP and all duties and responsibilities undertaken pursuant to this Schedule will be for the sole and exclusive benefit of Municipality and AMP and not for the benefit of any other party.

e. **MODIFICATION.** Modifications to this Schedule may, from time to time, be necessary. All modifications to this Schedule shall be through a written amendment, executed by the duly authorized representatives of both Parties.

f. **NOTICES.** Any notice required pursuant to this Schedule must be in writing and addressed to the other Party as listed below:

Member: City of Danville
Attn: Jason Grey
Utilities Director
1040 Monument Street
Danville, VA24541
Phone: 434-799-5270
Fax: 434-799-6549
greyjc@danvilleva.gov

AMP: American Municipal Power, Inc.
1111 Schrock Road, Suite 100
Columbus, Ohio 43229
Attn: General Counsel for Regulatory Affairs
lmcaster@amppartners.org

Notices shall be deemed to have been given by a Party to the other Party upon the date of receipt thereof by the other Party.

g. **SURVIVAL.** All express representations, indemnifications, or limitations of liability made or given in this Schedule will survive the completion of all Services and the termination of this Schedule for any reason.

h. SEVERABILITY. Any provision or part of this Schedule held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Municipality and AMP.

i. TERMS OF MSA. This Schedule is entered into as a supplement to the MSA. All terms and conditions of the MSA not in direct conflict with the terms and conditions of this Schedule shall apply to this Schedule as if fully set forth herein.

j. EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Municipality and AMP execute this Declaration to be effective as of the date written above.

MUNICIPALITY AS PRINCIPAL

**AMERICAN MUNICIPAL POWER, INC.
AS AGENT:**

Signature: _____

Signature: _____

Name: _____

Name: Pamala M. Sullivan

Title: _____

Title: EVP Power Supply and Generation

Approved as to Form:

Approved as to Form:

Signature: _____

Signature: _____

Name: _____

Name: Lisa G. McAlister

Title: _____

Title: General Counsel for Regulatory Affairs