

A regular meeting of the City Commission of the City of Apalachicola was held on Tuesday, December 5, 2017 at 6:00 PM at the Apalachicola Community Center, 1 Bay Avenue, Apalachicola, Florida.

Present: Mayor Van Johnson, Commissioner Jimmy Elliott, Commissioner Brenda Ash, Commissioner Mitchell Bartley, Commissioner Anita Grove, City Administrator Lee Mathes, City Clerk Deborah Guillotte, City Attorney Pat Florida, Chief of Police Bobby Varnes

Visitors: John Solomon, David Meyer, Betty Webb, Krystal Hernandez, Jim Waddell, Dan Garlick, Chris Clark, Cindy Clark, Elinor Mount-Simmons, Mike Vroegop, Robin Vroegop, Augusta West, Bo Creel, Rich Hall, Sandra Thompson, Gerard Magloire, Val Webb, David Adlerstein, Joe Taylor, Helen Willis, Kevin Begos

Regular meeting opened by Mayor Johnson followed by prayer and pledge.

## **REGULAR MEETING**

### **RECOGNITION OF VISITORS**

#### 1. John Solomon – Chamber of Commerce – BBQ Event

John Solomon announced the Chamber of Commerce Butts N Clucks is now a sanctioned BBQ. Mr. Solomon is requesting road closure from corner of Bay Avenue at Community Center to 6<sup>th</sup> Street and use of Community Center on January 26<sup>th</sup> and 27<sup>th</sup> for the event.

Motion to authorize road closure and use of the Community Center as outlined by Mr. Solomon made by Commissioner Elliott, second by Commissioner Bartley.

Motion carried 5 to 0.

Voting Aye: Elliott, Ash, Bartley, Grove, Mayor Johnson

Voting Nay: None

#### 2. Elinor Mount-Simmons – Recreation Committee Update

Elinor Mount-Simmons updated Commission on Recreation Committee actions and announced that the Recreation Committee meets on the 3<sup>rd</sup> Thursday of each month at 6PM at Community Center.

#### 3. Kevin Begos – Solar Co-Op and TRIUMPH Funding Solar Update

Kevin Begos reviewed latest events and stressed the importance of building relationships with other cities and people involved already in solar energy.

Mayor Johnson instructed Cindy Clark to coordinate meeting with Kevin Begos and Gulf Energy.

#### 4. Krystal Hernandez – Committee Appointment Inquiry

Krystal Hernandez stated she had submitted an application for the Recreation Committee and was not appointed due to not living in the city limits. Ms. Hernandez asked that the Commission to look into this because she feels she is being treated unfair and would like the opportunity to serve on this committee.

Mayor Johnson commented the City Charter states individuals serving on boards or committees have to live within City limits.

Attorney Floyd recommends researching committee members and bringing matter back before the Commission.

**FAMU – MONTHLY REPORT**

Sandra Thompson stated Gerard Magloire is now the FAMU representative in Apalachicola. Ms. Thompson updated Commission on ongoing FAMU projects.

**TTHM CARBON FILTRATION INSTALLATION DISCUSSION**

Betty Webb presented history regarding the non-compliance TTHM issue and the initiatives taken to attempt to correct the problem.

Jim Waddell reviewed engineering aspect of how to improve the water quality.

Discussion held concerning implementation of carbon filtration system, financing options, and SRF loan status.

Ms. Mathes stated the DEP consent order for installation of the carbon filtration expires in June 2018 and because of the time constraints requests approval for Inovia Consulting task order in the amount of \$100,026 and BTW Services task order in the amount of \$24,000 and authorization to pursue lending options to incorporate both the SRF loan and installation of the carbon filtration system for an approximate total of \$5.6 million.

Discussion continued.

Commissioner Ash asked if the estimate for the carbon filtration installation is still accurate.

Mr. Waddell stated the estimate is still fairly accurate.

Motion to approve task orders for Inovia Consulting and BTW Services, Inc., and to authorize Commissioner Ash and Ms. Mathes to pursue a loan to incorporate both the SRF loan and installation of the carbon filtration system for an approximate total of \$5.6 million made by Commissioner Elliott, second by Commissioner Bartley.

Motion carried: 5 to 0

Voting Aye: Grove, Bartley, Ash, Elliott, Mayor Johnson

Voting Nay: None

**APPROVAL OF OCTOBER & NOVEMBER MINUTES**

Motion to approve all minutes for the months of October and November 2017 made by Commissioner Elliott, second by Commissioner Bartley.

Motion carried: 5 to 0

Voting Aye: Grove, Bartley, Ash, Elliott, Mayor Johnson

Voting Nay: None

**APPROVAL OF OCTOBER BILL LIST**

Motion to approve October bill list made by Commissioner Ash, second by Commissioner Elliott.

Motion carried: 5 to 0

Voting Aye: Grove, Bartley, Ash, Elliott, Mayor Johnson

Voting Nay: None

**FIRST READING – ORDINANCE 2017-12 – WATER & SEWER RATES**

Attorney Floyd read Ordinance 2017-12 by title as follows:

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF APALACHICOLA, FLORIDA, AMENDING SECTION 20-35 SUBSECTIONS (A) AND (C) AND DELETING SUBSECTIONS (B) AND (D) REGARDING WATER RATES; AMENDING SECTION 20-48 SUBSECTION (A) AND (C) AND DELETING SUBSECTIONS (B) AND (D) REGARDING SEWER RATES OF ORDINANCE 2008-02 OF THE CODE OF ORDINANCES, CITY OF APALACHICOLA, FLORIDA; AND ESTABLISHING AN EFFECTIVE DATE.

Ms. Mathes stated the rates presented in this proposed ordinance are the rates recommended as the result of the rate study.

Discussion held.

Commissioner Ash stated she is not in agreement with deleting the senior rate. Commissioner Ash stated she understands the need for increased rates, but is still not in favor of deleting the senior rate.

Motion to approve first reading of Ordinance 2017-12 and proceed with adoption process made by Commissioner Elliott, second by Commissioner Ash.

Motion carried: 5 to 0

Voting Aye: Grove, Bartley, Ash, Elliott, Mayor Johnson

Voting Nay: None

**FIRST READING – ORDINANCE 2017-13 – BUILDING PERMIT & DEVELOPMENT FEES**

Attorney Floyd read Ordinance 2017-13 by title as follows:

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF APALACHICOLA, FLORIDA REPLACING RESOLUTION 2004-05 ESTABLISHING A CONSTRUCTION AND DEVELOPMENTAL FEE SCHEDULE; AND ESTABLISHING AN EFFECTIVE DATE.

Motion to approve first reading of Ordinance 2017-13 and proceed with adoption process made by Commissioner Grove, second by Commissioner Bartley.

Motion carried: 5 to 0.

Voting Aye: Grove, Bartley, Ash, Elliott, Mayor Johnson

Voting Nay: None

**HCA DIRECTOR APPOINTMENT**

Val Webb, HCA Chair, recommends Merrill Livingston for HCA Director and request approval of this appointment.

Motion to appoint Merrill Livingston as HCA Director made by Commission Ash, second by Bartley.

Motion carried: 5 to 0

Voting Aye: Grove, Bartley, Ash, Elliott, Mayor Johnson  
Voting Nay: None

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### **HARBOR MASTER HOUSE RENTAL LEASE AGREEMENT**

Attorney Floyd stated a rental lease was prepared and presented to Robin Vroegop based on what Commission approved. Ms. Vroegop presented an entirely revised and new lease and requests Commission review it due to changes from previous original lease.

Discussion held.

Commissioner Ash stated she has concern about new lease not being same as what was approved at earlier meeting and changes being made without approval.

Discussion held continued.

Mayor Johnson instructed Attorney Floyd to present a proposed lease agreement outlining changes to Commission before special meeting.

Commission tentatively set special meeting for Thursday, December 14<sup>th</sup> 6:00 PM to finalize Harbor Master House Rental Lease Agreement.

### **PLANNING & ZONING**

a) Confirm October Minutes

Motion to confirm October Planning & Zoning Minutes made by Commissioner Ash, second by Commissioner Grove.

Motion carried: 5 to 0.

Voting Aye: Grove, Bartley, Ash, Elliott, Mayor Johnson  
Voting Nay: None

Attorney Floyd informed Commission that at the November Planning & Zoning meeting, two property locations, both located within a flood zone, were discussed where fill had been placed without a permit. Attorney Floyd reviewed circumstances at property locations – 45 8<sup>th</sup> Street and 51 8<sup>th</sup> Street.

Discussion held.

Attorney Floyd stated it was previously voted that anyone doing fill in a flood zone area has to submit a plan and have it approved by a certified engineer certifying it does not put any flooding on adjacent properties. Attorney Floyd stated the City needs certification with calculations shown that development will not displace any storm water onto any neighbor's property, not cause additional flooding and is engineered so the storm water peak discharge great volume and pollutant load not greater after proposed development than before. Attorney Floyd also recommends a hold harmless indemnity agreement from the property owner to hold the city harmless from any action later filed.

Attorney Floyd stated a response was received from Dan Garlick regarding the 51 8<sup>th</sup> Street property, a certification from Waste Water Technologies, Certified Engineer. Attorney Floyd reviewed said letter and recommends

accepting it at this time until we get the documentation from the city engineer. At this time, I think the best way to handle this is to, we have already voted on it according to what the minutes say to require these particular things and Ms. Mathes is working with others including Dan Garlick to develop a code for this and that is what the motion on this was before. Attorney Floyd suggests accepting this item as part of the minute confirmation.

Commissioner Ash stated these property addresses are not in the Planning & Zoning minutes being confirmed tonight. October Planning & Zoning minutes are being confirmed and the November minutes will be confirmed in January.

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Dan Garlick stated he is asking for clarification that the City will accept this certification on 51 8<sup>th</sup> Street property contingent upon the city engineer report. Mr. Garlick reviewed the 45 8<sup>th</sup> St. property issues.

Commissioner Grove stated she wanted to make it very clear about not adding fill to build up property, this can't happen due to flooding and drainage.

Discussion held.

Attorney Floyd asked Mr. Garlick in your email you said you requested a consideration of the land owner that a hold harmless be offered to the City. The landowner denies that request but will enjoin the city to reconfigure the drainage.

Mr. Garlick stated we will join with the City to fix that problem in that alley.

Mayor Johnson asked Mr. Garlick if city engineer approves the certification from the professional engineer and if any additional flooding occurs, what does the City do then?

Mr. Garlick stated as long as Ms. Moore's structure is maintained properly we shouldn't have any problems. The problems that are going to come up are if we go back into the alley again, which we can't be held responsible for whatever happens in the alley. Mr. Garlick stated the City should be responsible because there have been drainage problems there for 30 years and will be that way not matter what.

Mayor Johnson asked if this happens and we turn around and go with your comment recalling that additional water impacts the neighborhood, do you understand where the City will be heading in that direction.

Mr. Garlick stated I think all we can do is apply reasonable assurance and intuition to these things, that's why engineers do what they do. I didn't feel comfortable coming here and saying here is the calculation, that is why I wanted a certified engineer to sign off and that gives us the assurance we are not going to be the problem. That is where I am coming from with that.

Mayor Johnson asked Mr. Garlick if he is stating this for the record and instructs City Clerk to verbatim his comments.

Attorney Floyd stated he thinks what the Mayor is talking about is the hold harmless indemnity agreement and this needs to be done for the benefit of the City.

Mayor Johnson stated to Mr. Garlick if he feels that confident that the engineer certification is correct, then hold the City harmless.

Mr. Garlick stated as long as this is reciprocated by the City back to my client, and that means we have to do something to the alley as well. Mrs. Moore is doing her part and the City will have to do their part.

Attorney Floyd stated the City doesn't need any additional risk because someone wants to build on property or put a berm around it and get certification and it still not work and floods other properties.

Mr. Garlick asked if the city engineer looks at this and city agrees everything is good, what is the time line we are looking at to proceed.

Mayor Johnson asked that Dan Garlick (51 8<sup>th</sup> St) be added on agenda for December 14<sup>th</sup> Special Meeting.

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**b) Cindy Clark – City Planner – Monthly Report**

Ms. Clark presented verbal report. Ms. Clark stated the Denton Cove development is substantially compliant with the LDC, and the City is now in a position to issue a permit.

Attorney Floyd reviewed the court ruling regarding issuing the permit for the development.

**CITY ADMINISTRATOR**

1) Ms. Mathes stated the move to the Johnson Complex for the Building Department and Code Enforcement is moving along at a steady pace.

2) Ms. Mathes asked if Commission approved of March 1 to October 30 for the Splash Pad season. Hours have yet to be determined.

Commission agreed with Splash Pad season.

3) Ms. Mathes reported she will be out of office from Dec 12th to Dec 26th and will be back on the 27th. Ms. Mathes stated she will be available by phone or email if Commission needs to reach her.

4) Motion to approve payment for Attorney Floyd invoice made by Commissioner Bartley, Commissioner Elliott.

Motion carried: 5 to 0.

Voting Aye: Grove, Bartley, Ash, Elliott, Mayor Johnson

Voting Nay: None

**ATTORNEY FLOYD**

Mayor Johnson asked Attorney Floyd for update regarding Mr. Hall's issue.

Attorney Floyd gave update on this situation although they have been served and stated he is still waiting to hear back from the lawyer and will check on this tomorrow.

Commissioner Grove inquired if the concrete was removed and stated this should have been removed also.

Mr. Hall stated that the concrete fill is a FEMA violation and a building permit violation and should have to be removed and would like some clarification of this issue. Mr. Hall stated there should also be a flood plan permit that goes before P&Z.

Attorney Floyd stated we are in the process of correcting this issue on the City's behalf.

**OTHER VISITORS & COMMENTS**

None.

**MAYOR & COMMISSIONER'S COMMENTS**

1) Commissioner Grove inquired about Franklin Promise audit.

Mayor Johnson stated it has not been conducted at this time.

2) Commissioner Grove inquired if City Hall is open during lunch from 12 to 1, stating the phone message denotes that City Hall is closed during lunch hours.

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Ms. Mathes stated City Hall is never closed during lunch unless we are short staffed or have a special occasion. The Economic Development Office upstairs closes for lunch daily, but it has always closed.

3) Mayor Johnson stated he was approached by a resident that requests looking at Ave G & 7<sup>th</sup> St. and see if stop sign is needed.

Chief Varnes will look into this and let Ms. Mathes know if needed.

4) Commissioner Elliott inquired if the flag pole lying on ground at library is going to be erected and if not then Mark Willis would like to give a donation to the Library in exchange for the flag pole.

Val Webb stated Library Board voted not to have flag pole erected since there is one at the ABC School.

Mayor Johnson stated there is not a flag pole at the Johnson Complex and would like to have one erected there.

5) Commissioner Ash requests approval for a \$400 Christmas bonus to each employee with funds coming from Water & Sewer vacant position that is yet to be filled but was budgeted for. Bonus will not affect the budget.

Motion to approve \$400 Christmas bonus for employees made by Commissioner Ash, second by Commissioner Bartley.

Motion carried: 4 to 1

Voting Aye: Bartley, Ash, Elliott, Mayor Johnson

Voting Nay: Grove

There being no further business, meeting adjourned.

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Van W. Johnson, Sr., Mayor

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Deborah Guillotte, City Clerk

