

MINUTES OF THE SPECIAL MEETING OF THE APALACHICOLA CITY COMMISSION HELD TUESDAY, APRIL 30, 2019, 6:00 PM AT THE APALACHICOLA COMMUNITY CENTER.

PRESENT: Mayor Van W. Johnson, Sr.
Commissioner Jimmy Elliott
Mayor Pro Tem Brenda Ash
Commissioner Mitchell Bartley

Ron Nalley, City Manager
Deborah Guillotte, City Clerk
Pat Floyd, City Attorney

ABSENT: Commissioner Anita Grove

CALL TO ORDER

Mayor Johnson called the meeting to order at 6:00 PM and Attorney Floyd gave the invocation. Council members led the pledge of allegiance.

AGENDA ADOPTION

Mayor Johnson called for a motion to approve the agenda.

Commissioner Brenda Ash made a motion to approve the agenda as presented. Commissioner Jimmy Elliott seconded and the motion carried 4-0.

APPEAL HEARING – CHRIS MOORE – 51 8TH STREET

Attorney Pat Floyd gave a brief review of the Appeal case of Christiana Moore at 51 8th Street. Attorney Floyd introduced Dan Hartman as Attorney who will be representing the City Commission and stated that he will be representing City staff.

Attorney Dan Hartman reviewed the Appeal Hearing Process. Attorney Hartman stated that the last procedural issue is notice and that the interested party being the City and the Appellant made notice in writing and additional notice was provided on the City of Apalachicola website as well as posting and parties stipulate that notice is sufficient for today's hearing. Attorney Stephen Turner agreed and stated that the Appellant received notice. Attorney Floyd stated he has no objections.

Attorney Floyd stated there is a matter concerning Commissioner Mitchell Bartley. City Clerk Deborah Guillotte stated Commissioner Bartley has recused himself from the Christiana Moore Appeal Hearing because of a conflict of interest and submitted the proper paperwork, which will be included as part of the minutes. Attorney Hartman stated Commissioner Mitchell Bartley cannot participate in the hearing, but is welcome to stay at the meeting.

Attorney Turner made a request that Commissioner Bartley not be among the seated City Commissioners as a part of this Appeal Hearing. Mayor Johnson stated he agreed with this request and ask that Commissioner

Bartley be seated in the audience. Attorney Turner added that he hopes the City Commission can come to a decision on this Appeal so no other litigation will be necessary.

Attorney Turner stated he has two objections in this case: 1) That a Quasi Judicial Hearing was not held and; 2) Attorney Floyd being said Attorney also had a conflict of interest, and that this has influenced staff.

Attorney Stephen Turner distributed a packet of material he put together to support the argument for the Appellant; these exhibits being said to be from records from City and Appellant and some additional documents he made himself. Attorney Turner reviewed the case stating there has been an objection that there is no floodplain application and he reviewed the requirements of the Ordinance. Attorney Turner stated the City Floodplain Administrator did not allow for fill for the trees that had been removed from the property, and the City Floodplain Administrator does not have any evidence backing her decision. Attorney Turner requests that relief be granted, that the Notice of Violation be rescinded, the Stop Work Order be rescinded, and the Lawsuit dismissed. Attorney Turner requests the City allow the Appellant to submit to the City, assisted by the Engineer a post construction topographical elevation survey in addition to the one that was already submitted just prior to the Flood Plain Administrator's decision and order.

Attorney Floyd reviewed and addressed the City Commission for City Staff in reference to the Floodplain Violation. Attorney Floyd read Code 104.1 of the Flood Plain Management Ordinance, stating no such permit or approval shall be issued until compliance requirements, codes and regulations have been met, and that the evidence is that Mrs. Moore did not do this. Attorney Floyd stated that the pre and post topographical survey document that the levels were raised by three dump truck loads or fifty four yards of fill dirt and were not permitted. Lee Mathes, the Flood Plain Administrator, had the discretion to determine if there was a violation based on principles of the Code. The Appellant was asked and given the opportunity to remove the three dump truck loads of fill dirt, but refused. Attorney Floyd requested that the City Commission deny the Appeal based on the supported evidence of record and the decision made by the Flood Plain Administrator, and that Ms. Mathes has not shown error or lack of evidence in the record.

The City Commission discussed and questioned both Attorney Pat Floyd and Attorney Stephen Turner with resolving the appeal decision of the unpermitted, disallowed, and ordered to be removed forty five yards of fill dirt.

Attorney Hartman stated the scope of this proceeding is narrow and the issue to be decided is to confirm the decision of the Floodplain Administrator and deny the appeal or determine the decision of staff is erroneous and grant the appeal. If desired the Commission may also direct staff to further work on resolving the issue.

Commissioner Elliott recommended talking and reviewing the matter with Dewberry and Associates to consider different options.

Attorney Tuner stated he has no problem further discussing this issue by professionals, so a practical solution can be made.

Attorney Floyd stated that the City Commission has the right, after this proceeding, whether in Circuit Court or not, to meet with anyone to discuss the resolution of this particular issue. Attorney Turner is requesting

the City Commission to come up with a solution, which is for Ms. Moore to submit another topographical survey to further demonstrate if there is a change in the elevation level.

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Mayor Johnson stated that based on the evidence presented and lack of error, that he requests a motion to affirm the staff recommendation and order of the Flood Plain Administrator.

Commissioner Brenda Ash made a motion to affirm the Floodplain Administrator’s decision and order as originally submitted. Commissioner Jimmy Elliott second and the motion carried 4-0.

Mayor Johnson then requested that the matter of Mrs. Moore be placed on the May agenda City Commission Agenda.

ADJOURNMENT

With no further business, Commissioner Jimmy Elliott made a motion to adjourn the meeting at 8:15 pm. Commissioner Brenda Ash seconded and motion carried 4-0.

Van W. Johnson, Sr., Mayor

Deborah Guillotte, City Clerk