

**MINUTES OF THE REGULAR MEETING OF THE APALACHICOLA CITY COMMISSION HELD TUESDAY,
APRIL 2, 2019, 6:00 PM AT THE APALACHICOLA COMMUNITY CENTER.**

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

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

ABSENT: Commissioner Mitchell Bartley

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 motion to approve agenda.

City Manager Ron Nalley requested Unfinished Business- Item C be removed from agenda due to item is under further review.

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

MAYOR'S/COMMISSIONER'S COMMUNICATIONS
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- Commissioner Ash wanted to commend the Library for the marketing and publicity changes they are making and wanted to make citizens aware of these changes, stating it is good for the City.
- **Resolution 2019-03 – Proclaiming April 7th-13th, 2019 As National Volunteer Week**

Attorney Floyd read Resolution 2019-03 in its entirety.

Commissioner Jimmy Elliott made a motion to adopt Resolution 2019-03. Commissioner Anita Grove seconded and the motion carried 4-0.

- **Resolution 2019-05 – Honoring Dorothy “Lee” Mathes on Her Retirement**

Attorney Floyd read Resolution 2019-05 in its entirety.

Commissioner Jimmy Elliott made a motion to adopt Resolution 2019-05. Commissioner Anita Grove seconded and the motion carried 4-0.

CITY MANAGER COMMUNICATIONS

- **Commission Retreat** – The Commission Retreat on March 23, 2019, was a success and the City Manager thanks the City Commission and staff for the great job. The 2019-2020 Goals and Objectives will be submitted to the City Commission at an upcoming meeting.
- **Scipio Creek Marina** – The City Commission asked staff to look at the water, sewer and electric issues at the marina. Following review, it is estimated that it will cost approximately \$65,000 for electric and approximately \$60,000 for water, with a total cost of approximately \$125,000 worth of repairs. The City has received \$430,000 from insurance money, with \$200,000 being allocated for the Popham Building. In a response to a question from Commissioner Ash, Mr. Graham stated he has checked with several contractors and staff is also assisting with repair of the damage.
- **Legislative Update** – Augusta West gave a brief update on the need for funding for infrastructure needs which includes drinking water, sewer upgrades, and hurricane-related projects. The City has submitted five appropriation requests in addition to the Apalachicola Environmental Stewardship Bill. It is hoped that one or more of these projects will be funded this year.

ATTORNEY PAT FLOYD COMMUNICATIONS

- Attorney Floyd gave an update on the Duke Energy Franchise Agreement progress and stated we are still in negotiation with language which they have sent for further review.
- Attorney Floyd gave an update on the amending of Article 17 – Elections of the City of Apalachicola, stating this is still under review.
- Attorney Floyd stated the houseboat has been moved outside the City limits after the adoption of the Floating Structure Ordinance.
- Attorney Floyd gave an update on the Christiana Moore Appeal, stating the City Commission will need to set a date for the hearing. In a response to a question by Mayor Johnson, Chris Moore gave several dates she would be available for the hearing.
- Attorney Floyd gave an update on the Rich Hall floodplain case, stating that the earliest trial date for Franklin County Court is September 11, 2019.

PUBLIC HEARING

**ORDINANCE NO: 2019-01 HISTORIC AND CULTURAL PRESERVATION – PUBLIC HEARING
AND SECOND READING**

Attorney Floyd read Ordinance 2019-01 by title as follows:

AN ORDINANCE REPEALING CHAPTER VI IN ITS ENTIRETY AND CREATING THE PURPOSE AND INTENT OF PROTECTING HISTORIC ASSETS, REQUIREMENTS FOR OBTAINING A CERTIFICATE OF APPROPRIATENESS

WITHIN THE HISTORIC DISTRICT; PROVIDING FOR PROTECTIVE MAINTENANCE OF HISTORIC STRUCTURES, PROVIDING REQUIRED MATERIAL DESCRIPTIONS; AMENDING CHAPTER II, DEFINITIONS; AMENDING CHAPTER VII, PART C, 2B AND PROVIDING FOR SEVERANCE.

Mayor Johnson opened the floor for public comment.

The public had numerous concerns with this Ordinance and requests the City Commission to not adopt this until further review by staff and citizens. In a response to a question by Commissioner Elliott, Cindy Clark stated every section has provisions for mediation and moderation at request of the applicant. Mayor Johnson stated staff has been working on this since 2006, and is now putting it in an Ordinance where numerous meetings on this issue have been held.

There being no further comments, Mayor Johnson closed the public hearing.

PUBLIC COMMENT

Mayor Johnson opened the floor for public comment.

- Carol Rudo stated that the 27th Annual Historic Apalachicola Home and Garden Tour will be held on May 4, 2019.
- Kevin Martina stated his concerns with Scipio Creek Marina and would like the City Commission to consider allowing a Scipio Creek Committee to provide a proposal to the City to be a contractor for collecting and taking care of the marina. Commissioner Ash suggested Chief Varnes, Commissioner Elliott, Mr. Nalley and Mr. Martina get together to discuss the matter further. Mr. Nalley reminded the City Commission that at the Commission Retreat, the City Commission had instructed staff to go through the process of developing a Request for Proposals and that the Scipio Creek Committee could go through the process of putting a proposal together like other perspective bidders.
- Mike Vroegop expressed his concern with the USDA sewer system upgrades requested by the Community Redevelopment Agency.
- Rich Hall stated his concerns and disappointment with the suggested court trial date of September 11, 2019, in Franklin County and requested that the City Commission consider having the venue in Tallahassee, Florida, Leon County Circuit Court. In a response to a question by Mr. Hall, Attorney Floyd reviewed the process of getting a court hearing. In a response to a question by Commissioner Grove, Attorney Floyd reviewed the process of how to get a court hearing date.
- Charles Sawyer expressed his concern with storm debris and normal yard debris that is on right-of-ways and would like to know who is responsible for picking up the debris. Mr. Nalley stated that Waste Pro still picks up yard debris if it meets the size requirements and if not, it will be tagged with further instructions for disposal.
- Despina George expressed her concern with the proposed Ordinance on changing the election date.

- Uta Hardy stated her concern on the lack of sidewalks and lighting on Commerce Street, as it related to the USDA Grant.
- Donna Ingall thanked the City for working on the Myrtle Avenue ditches and stated her concern of the neighbors having things that need to be removed from the right of way on the West side before any further work can be done.
- John Alber complimented the development of Ordinance 2019-01 Historic and Cultural Preservation and thanked everyone involved.
- Tom Daly expressed his concern in allowing mobile food vendors in the historic downtown and with the proposed Ordinance 2019-03 Mobile Food Truck Regulations.
- Robin Vroegop distributed to the City Commission information on the Election Ordinance Change and stated her concerns with this proposal.

CONSENT AGENDA

Mayor Johnson presented the Consent Agenda and asked if any items should be removed before consideration of a motion.

- Meeting Minutes Adoption - Adopt the March 5, 2019 Regular Meeting.
- Planning & Zoning Minutes Confirmation - Confirm the February 2019 Planning and Zoning Minutes.
- Release of Flowage Easement - Box R Wildlife Management Area - To Approve the Release of Easement Document and Authorize the Mayor to Execute the Release.

Commissioner Anita Grove made a motion to approve the Consent Agenda. Commissioner Jimmy Elliott seconded and the motion carried 4-0.

UNFINISHED BUSINESS

A. ORDINANCE NO. 2019-01 - HISTORIC AND CULTURAL PRESERVATION - PUBLIC HEARING AND SECOND READING
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Attorney Floyd read Ordinance No. 2019-01 in its entirety:

AN ORDINANCE REPEALING CHAPTER VI IN ITS ENTIRETY AND CREATING THE PURPOSE AND INTENT OF PROTECTING HISTORIC ASSETS, REQUIREMENTS FOR OBTAINING A CERTIFICATE OF APPROPRIATENESS WITHIN THE HISTORIC DISTRICT; PROVIDING FOR PROTECTIVE MAINTENANCE OF HISTORIC STRUCTURES, PROVIDING REQUIRED MATERIAL DESCRIPTIONS; AMENDING CHAPTER II, DEFINITIONS; AMENDING CHAPTER VII, PART C, 2B AND PROVIDING FOR SEVERANCE.

Commissioner Anita Grove made a motion to adopt Ordinance 2019-01 Historic and Cultural Preservation.

Motion died for lack of a second.

Commissioner Elliott expressed his concerns with pre-existing structures and suggestions of parking in alleyways. Ms. Clark stated this was not a hard rule, just encouraged. Commissioner Elliott went on to say that the public expressed their concerns and asked that Ordinance 2019-01 Historic and Cultural Preservation be reviewed further.

UNFINISHED BUSINESS

B. ORDINANCE 2019-03 – MOBILE FOOD TRUCK REGULATIONS – FIRST READING

Attorney Floyd read Ordinance 2019-03 by title as follows:

AN ORDINANCE OF THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA REGULATING THE OPERATION OF MOBILE FOOD VENDORS WITHIN THE CITY OF APALACHICOLA, FLORIDA, REQUIRING A PERMIT, REQUIRING COMPLIANCE WITH FLORIDA STATUTES AND REGULATIONS REGARDING THE SALE, PREPARATION, STORAGE AND DISPLAYING OF FOOD INCOMMERCIAL OPERATIONS, PROVIDING OPERATION REQUIREMENTS AND CONDITIONS, PROVIDING FOR PROCEDURES AND PENALTIES FOR VIOLATION AND PROVIDING AN EFFECTIVE DATE.

Mr. Nalley stated historically, the City has informally allowed, on a temporary basis, mobile food vendors in conjunction with events and festivals and a provision in the Business License Ordinance allows for this. Recently, the City has received requests from businesses interested in either locating a Mobile Food Truck on their property or operating a Mobile Food Truck within the City. At that time, the initial proposed Ordinance appeared to assign a principal use designation to the food trucks which would require them to meet commercial development standards including lot coverage, storm water and parking normally associated with allowable principal uses. Additionally, staff was concerned that allowing permanent food vendor placement may create a conflict with historic regulations that govern the compatibility of development in the City's historic district. Staff therefore recommended tabling the Ordinance until such time that additional review could be conducted and revisions made that better identify compatible use standards. Based on public comment at the meeting, comments from the Commissioners, and a further review of other municipal mobile food truck regulations, the revised Ordinance would allow permitted food trucks on qualifying properties temporarily (three times per week), without having to meet principal use commercial development standards. There is also a provision that if a person wanted a more permanent location for a mobile food truck, they would have to meet the Land Development Code Regulations.

John Lee stated his concerns with enforcement of the Mobile Food Truck Regulations Ordinance. Uta Hardy suggested limiting mobile food trucks to areas adjacent to existing bars only. In response to a concern by Commissioner Ash, Mr. Nalley stated code enforcement is an issue that he is working on, and will bring a proposal before the City Commission. In a response to a question by Commissioner Ash, Mr. Nalley stated the three (3) days seemed to be common when reviewing requirements from other cities, but can be adjusted by the commission at their request.

Commissioner Jimmy Elliott made a motion to approve First Reading of Ordinance 2019-03 Mobile Food Truck Regulations. Commissioner Anita Grove seconded and the motion carried 3-1. Mayor Johnson opposed.
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In a related matter, Mr. Nalley requested the City Commission authorize the City Attorney to proceed with Declaratory and Injunctive Relief against the property owner at 252 Water Street, and the owner of the mobile food truck “Bacon Me Crazy”. In addition to Declaratory Injunctive Relief, staff would like to pursue fines for each day of operation since issuance of the code enforcement violation.

Commissioner Brenda Ash made a motion to authorize the City Attorney to proceed with Declaratory Injunctive Relief against the property owner at 252 Water Street, and the owner of the mobile food truck “Bacon Me Crazy” and pursue fines for each day of operation since issuance of the code enforcement violation. Commissioner Anita Grove seconded and the motion carried 3-1. Commissioner Elliott opposed.

UNFINISHED BUSINESS

C. ORDINANCE 2019-04 AMENDING ARTICLE 17 – ELECTIONS OF THE CITY OF APALACHICOLA CHARTER

Item removed from agenda.

NEW BUSINESS

A. CDBG ENGINEERING AGREEMENT – BASKERVILLE-DONOVAN, INC.

Commissioner Anita Grove made a motion to award the Contract for CDBG Grant Engineering Services to Baskerville-Donovan, Inc. in the amount of \$39,400 and authorize the City Manager to execute the Agreement. Commissioner Brenda Ash seconded and the motion carried 4-1.

NEW BUSINESS

B. REQUEST FOR SALE OF CITY OWNED PROPERTY – JOHNNIE LEE BYRD

Johnnie Byrd requested to purchase a small piece of property owned by the City near the corner of Avenue I and Sixth Street for \$2,500. The property is referred to as BL 64 NE 15 ft x 60 ft of SW (Parcel ID 01-09S-08W-8330-0064-0051). Mr. Byrd owns the surrounding property and according to the County tax record, is unbuildable under separate ownership. The City and County have agreed that they have no use for this piece of property and are willing to allow Mr. Byrd to purchase the property from the City for \$2,500, with the City transferring the property back to the County for their release.

Commissioner Elliott made a motion for Johnny Lee Byrd to purchase BL 64 NE 15 ft x 60 ft of SW (Parcel ID 01-09S-08W-8330-0064-0051) from the City of Apalachicola for \$2,500, and to transfer it back to the County. Commissioner Anita Grove seconded and the motion carried 4-0.

In a response to a question by Commissioner Brenda Ash, Attorney Floyd stated he will review to make sure there are no forthcoming issues with the sale of the above property to Mr. Byrd.

NEW BUSINESS

C. PERMITTING SOFTWARE AGREEMENT - INTACT

Commissioner Anita Grove made a motion to approve the Agreement Proposal from Intact for a three year term in the amount of \$8,160 and authorize the City Manager to execute the Agreement. Commissioner Brenda Ash seconded and the motion carried 4-0.

In response to a question by Commissioner Ash, Ms. Clark stated the Permitting Software Agreement consists of setting up an online permitting system, similar to the County, and will enable the City to keep up with electronic process of building permits and better track elevation certificates and inspections necessary as part of the building permit process. The purchase will be made in three payments of \$2,720 annually for a total of \$8,160.

NEW BUSINESS

D. PLANNING AND ZONING BOARD MEMBER APPOINTMENT

Commissioner Anita Grove made a motion to fill the vacant position on the Planning and Zoning Board and appoint Constance Peck to serve a four year term, which ends on December 31, 2023. Commissioner Brenda Ash seconded and the motion carried 4-0.

NEW BUSINESS

E. USDA GRANT APPLICATIONS – SPECIAL MEETING REQUEST AND RESOLUTION 2019-04

Mayor Johnson announced that the City Commission has set a Special Meeting for Tuesday, April 16, 2019 at 6:00 PM, to discuss the Drinking Water System Improvement Project and the USDA Funding Application Process.

Attorney Floyd read Resolution 2019-04 in its entirety:

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF APALACHICOLA, FLORIDA AUTHORIZING THE CITY OF APALACHICOLA COMMUNITY REDEVELOPMENT AGENCY DIRECTOR TO APPLY FOR A USDA RURAL BUSINESS DEVELOPMENT GRANT WHICH WILL PROVIDE FOR SIDEWALKS, PARKING, AND LIGHTING ALONG WATER STREET AND AVENUE G AND SIDEWALK REPAIR ON COMMERCE STREET

Utah Hardy and others expressed their concerns regarding sidewalks and lighting on Commerce Street and requested that this please be reviewed and considered as a future project.

Commissioner Jimmy Elliott made a motion to adopt Resolution 2019-04. Commissioner Brenda Ash seconded and the motion carried 4-0.

NEW BUSINESS

F. REQUEST TO SUSPEND POLICY 20 - VACATION LEAVE, SECTION 12 - SEPARATION, OF THE PERSONNEL POLICIES AND PROCEDURES MANUAL - LEE MATHES

Commissioner Brenda Ash made a motion to suspend Policy 20 - Section 12 of the Personnel Policies and Procedures Manual in order to pay Ms. Mathes for 43.63 days of vacation leave and authorize the City Clerk to make full payment of \$9,898.77 to Ms. Mathes for 43.63 days of vacation leave. Commissioner Jimmy Elliott seconded motion and it carried 4-0.

Commissioner Anita Grove stated that she would like to make sure this doesn't happen in the future and requested Mr. Nalley to follow the current policy.

NEW BUSINESS

G. APPEAL REQUEST - CHRIS MOORE, 51 8TH STREET

Commissioner Brenda Ash made a motion to schedule a Special Meeting on Tuesday, April 30, 2019, at 6:00 PM, to consider the Appeal for Mrs. Chris Moore located at 51 8th Street. Commissioner Anita Grove seconded and the motion carried 4-0.

ADJOURNMENT

With no further business, Commissioner Brenda Ash made a motion to adjourn the meeting at 8:15 pm. Commissioner Jimmy Elliott seconded and motion carried 5-0.

Van W. Johnson, Sr., Mayor

Deborah Guillotte, City Clerk