

MINUTES OF THE REGULAR MEETING OF THE APALACHICOLA CITY COMMISSION HELD TUESDAY, MAY 7, 2019, 6:00 PM AT THE APALACHICOLA COMMUNITY CENTER.

PRESENT: Mayor Pro Tem Brenda Ash
Commissioner Jimmy Elliott
Commissioner Anita Grove
Commissioner Mitchell Bartley

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

ABSENT: Mayor Van W. Johnson, Sr.

CALL TO ORDER

Mayor Pro-Tem Ash 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 Pro-Tem Ash called for a motion to approve the agenda.

Commissioner Mitchell Bartley made a motion to approve the agenda as presented. Commissioner Anita Grove seconded and the motion carried 4-0.

MAYOR'S AND COMMISSIONERS REPORTS AND COMMUNICATIONS

The Mayor and Commissioners had no reports or communications at this time.

CITY MANAGER COMMUNICATIONS

- **Letter of Support** - The City of Apalachicola has been asked by the Apalachee Regional Planning Council to send a letter of support to FDOT District 3 Secretary Phillip Gainer regarding their request for an interchange at I-10 and SR 65. This new interchange would allow for a closer and more direct evacuation route going north from the coast and provide a direct transportation corridor with a significant impact on Franklin County's economic and tourist development. Unless the City Commission expressed any concerns, Mayor Johnson will be asked to sign the attached letter of support. There were no concerns.
- **Harbor Master House** - As mentioned in an email to the Commission on April 23rd, black mold was discovered in the Harbor Master House and the decision was made by FWCC to leave the building until the cause and extent of the problem was determined. Following review of the results of their testing and remediation cost estimates it was decided that FWCC will terminate their lease with the City. Staff has contacted our insurance agent as well as FEMA to determine how much of the cost for remediation might be covered under existing policies and through Hurricane Michael public assistance.

- **JBG Rockfest** - JBG Rockfest is an annual concert put together by the Justin B. Griffin Memorial Skate Park. It is a two day event to help raise funds to revamp the local skate park for the community's youth. Since 2012, this event has been held on St. George Island, but due to damages from Hurricane Michael, the show this year has been relocated to Halfshell Dockside on Market Street. The event will be held on Friday, May 17 and Saturday, May 18 and is an all-ages event with live music. They are expecting between 250 and 350 guests throughout the weekend. The City will be assisting by providing off-duty police officers for the event, who will be paid through concert proceeds.
- **Legislative Update** - Augusta West reported the 2019 legislative agenda was part of a multi-faceted approach to receive funding for the City's infrastructure needs. The City submitted several appropriations requests in addition to filing for the first time the Apalachicola Environmental Stewardship Bill. As of April 30th the City had over \$400,000 in the budget for water and sewer appropriations projects, due in large part to the efforts of our Lobbyist, Patrick Bell. Unfortunately, when the session ended the City had not received any funding in the legislature this year. Ms. West stated \$25 million dollars was diverted to the Department of Economic Opportunity for grants for water and waste water projects in hurricane affected areas, and stated that the City will be eligible to apply for these funds. The City has learned a lot through this session and will begin working on this again during the summer.

ATTORNEY PAT FLOYD COMMUNICATIONS

- Attorney Floyd stated there are three code violations issues that he is working on with the County Court.
- Attorney Floyd stated he has done some work on the Triumph Fund projects.
- Attorney Floyd stated that he is still working on the Duke Energy Franchise Agreement.

PRESENTATIONS

A. 2019-2024 Capital Improvements Plan Presentation - City Manager, Ron Nalley - The Capital Improvement Plan (CIP) is a financial planning tool that looks into the future to forecast the City's equipment, building and infrastructure needs. Generally speaking, an item is included in the City's CIP if it has a life expectancy of greater than one year and a value of greater than \$5,000. The CIP process began with the distribution of the worksheets to department heads and will end in July with the adoption of the final plan. Mr. Nalley invited the public to contact him with any input or to suggest projects.

PUBLIC HEARING

ORDINANCE NO. 2019-03- MOBILE FOOD TRUCKS ORDINANCE

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

AN ORDINANCE OF THE CITY OF APALACHICOLA, FLORIDA, AMENDING THE APALACHICOLA LAND DEVELOPMENT CODE OF ORDINANCES BY CREATING CHAPTER XI, MOBILE FOOD TRUCKS; PROVIDING REGULATIONS FOR MOBILE FOOD TRUCKS OPERATING WITHIN THE CITY; REQUIRING MOBILE FOOD

TRUCK VENDOR PERMITS FOR OPERATION OF MOBILE FOOD TRUCKS; ESTABLISHING A ZONE FOR OPERATION OF MOBILE FOOD TRUCK BUSINESSES; ESTABLISHING PROHIBITIONS; ESTABLISHING OPERATING REQUIREMENTS; ESTABLISHING PENALTIES FOR VIOLATIONS; AMENDING CHAPTER II OF THE LAND DEVELOPMENT CODE TO CREATE DEFINITIONS FOR MOBILE FOOD TRUCKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

Mayor Pro-Tem Ash opened the floor for public comment.

Mr. Nalley stated following April’s meeting, minor revisions were made in response to comments received and the proposed Ordinance is being submitted for a public hearing and adoption. In addition, a small group of concerned citizens representing the local restaurant and food truck industry met with staff and discussed additional revisions that are being presented to the Commission alongside other minor changes for their consideration. Mr. Nalley stated that in the Ordinance, the strike-through items were removed and the underlines are additions, based on the citizens group input. Mr. Nalley reviewed Ordinance 2019-03 briefly stating the changes made. Commissioner Grove expressed her concern of when does a food truck become a permanent established eatery and when is it a mobile food truck. Commissioner Ash stated she would like to see the definition of “permanent”, “temporary” or “mobile”. Commissioner Grove explained to the citizens, that it isn’t that the City doesn’t want to have mobile food trucks, but that the City doesn’t have a current Ordinance and that is where we are at this point.

In a response to a question from Commissioner Grove, Mr. Nalley stated the City has a Business Tax License Ordinance that was updated in 2011, but the Land Development Code was not updated to coincide with this. At this time the Land Development Code does not allow for mobile food trucks. If Ordinance 2019-03 is approved tonight it will have to also be approved by the Department of Economic Opportunity which takes approximately thirty to forty five days.

The public had numerous concerns with this Ordinance and requested that the City Commission reconsider not allowing mobile food trucks in the C2 District due to sanitation issues, not limit the days of operation, not being made to move the mobile food truck off private property when not in operation, not requiring the use of only single-service food utensils, and allow picnic tables and signage for business advertisement.

There being no further comments, Mayor Pro-Tem Ash closed the public hearing.

PUBLIC COMMENT

Mayor Pro-Tem Ash opened the floor for public comment.

- Bonnie Davis expressed her concern with public meeting notices of the proposed City Commission Rules of Procedure.
- Walter Robinson expressed his concern with the City’s right-of-way streets not being cut, and that grass cutting should be put back on the City’s schedule. Mr. Nalley stated that the City has cut this service as an alternative to help with the current budget deficit, but that we will look at reinstating this service once the City is in a better financial position. There are some areas the City still cuts, those being main roads, parks and cemeteries. Commissioner Ash requested staff consider alternatives for vacant properties.

- The public had numerous concerns about the 2019 election being extended and requested the City Commission not extend their terms for one year, have the 2019 election and allow the new commission in office to re-run in the November general 2020 election, to inform the public better of changes the City intends on making, to have a referendum on the September 2019 ballot for citizen input, to make sure all taxes are current with the County on citizens qualifying to vote, and to vote against this proposed Ordinance.
- Mary Lynn Rodgers requested the City come and look at a tree that is on the City right-of-way that has fallen and was leaning over on her shed after Hurricane Michael.
- Darren Guillotte, Manager of Leavin's Seafood, expressed his concern of the road closure of Water Street during special events. Mr. Guillotte requested that they be notified so he can re-route the seafood trucks coming into their businesses. In a response to a question from Commissioner Ash, Mr. Nalley stated that at this time the Chief of Police is updating the process of how we handle special event notification, so that proper notice can be given to those businesses affected by this decision.

CONSENT AGENDA

Mayor Pro-Tem Ash presented the Consent Agenda and asked if any items should be removed before consideration of a motion.

- Meeting Minutes Adoption - Adopt the April 2, 2019 Regular Meeting Minutes and April 16, 2019 Special Meeting Minutes.
- Planning & Zoning Minutes Confirmation - Confirm the March 2019 Planning and Zoning Minutes
- Grant Submittal Approval - Achieving Resilience through Hazard Mitigation - To approve submittal of a grant proposal to NOAA's Northern Gulf Of Mexico Sentinel Site Cooperative on behalf of the City of Apalachicola.
- Grant Submittal Approval - Apalachicola Area Historical Society - Florida Division of Historic Resources Grant to Adopt Resolution 2019-08 supporting the grant application not to exceed \$200,000 to the Florida Division of Historic Resources for the Renovation of the Raney House.

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

UNFINISHED BUSINESS

A. ORDINANCE 2019-03 MOBILE FOOD TRUCK REGULATION
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Attorney Floyd read Ordinance 2019-03 by title as follows:

AN ORDINANCE OF THE CITY OF APALACHICOLA, FLORIDA, AMENDING THE APALACHICOLA LAND DEVELOPMENT CODE OF ORDINANCES BY CREATING CHAPTER XI, MOBILE FOOD TRUCKS; PROVIDING REGULATIONS FOR MOBILE FOOD TRUCKS OPERATING WITHIN THE CITY; REQUIRING MOBILE FOOD TRUCK VENDOR PERMITS FOR OPERATION OF MOBILE FOOD TRUCKS; ESTABLISHING A ZONE FOR OPERATION OF MOBILE FOOD TRUCK BUSINESSES; ESTABLISHING PROHIBITIONS; ESTABLISHING OPERATING REQUIREMENTS; ESTABLISHING PENALTIES FOR VIOLATIONS; AMENDING CHAPTER II OF THE LAND DEVELOPMENT CODE TO CREATE DEFINITIONS FOR MOBILE FOOD TRUCKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

Ordinance 2019-03 – Mobile Food Truck Regulations to Adopt Ordinance 2019-03 Mobile Food Trucks Ordinance.

Commissioner Jimmy Elliott made a motion to amend Ordinance 2019-03 to allow operation for six days, for the food truck to remain stationary on private property and to keep tables on private property. Commissioner Bartley seconded the motion.

Commissioner Grove requested a provision showing a contract or agreement that takes care of grease and trash disposal. In a response to a question from Commissioner Grove, Mr. Nalley stated that the proposed Zoning districts allow for eating and drinking establishments. Commissioner Grove suggested that C2 be dropped from this Ordinance. Bonnie Davis suggested C2 is scattered, and that some areas may be more appropriate for food trucks than others. Numerous citizens requested that C2 not be restricted in the Community Redevelopment Agency area.

Attorney Floyd stated that the amendments that were suggested in the motion would have to be revised in another Ordinance and that the City would have to advertise and go through the ordinance adoption process with the changes. Attorney Floyd stated that the Commission could table the current Ordinance tonight, make the changes and start the adoption process over again with the required public hearing. Commissioner Grove suggested adopting the Ordinance as is and addressing the changes in the future.

Commissioner Elliott stated that he has already made a motion and received a second.

Commissioner Elliott then made a motion to amend the previous motion and to allow citizens at this time to operate their business under the current Ordinance for three to six days of operation with a special exception, for the food truck to remain stationary on private property and to have tables on private property until new Ordinance is completed. Commissioner Bartley seconded.

Mr. Nalley stated staff could not support this Amendment. Commissioner Grove clarified that if the City makes these changes that it will stop the process and start it all over again. Attorney Floyd clarified that the motion is to amend and make applicable at this time the provisions that were discussed up to this point moving forward and that the motion has been changed to amend the ordinance. In the meantime, the City would like the citizens to operate under the amended terms referenced in the amended motion. Commissioner Elliott suggested that maybe under special exception the citizens can operate under the amended provisions. Attorney Floyd stated in his opinion, this is not legal and would not be valid. Attorney Floyd stated if the Commission would like some kind of authorization for these citizens to operate at this time, they need to pass the Ordinance as is.

Mayor Pro-Tem Ash stated that there is a motion and a second on the table to amend the current Ordinance to six days of operation, to keep the food truck stationary on private property and to have tables on private property and also Commissioner Elliott’s Amendment to allow the citizens to operate on a temporary basis under these provisions until changes have been made.

Commissioner Elliott then restated his motion to amend the previous motion to allow citizens at this time to operate their business under the current Ordinance for three to six days of operation with a special exception, for the food truck to remain stationary on private property and to have tables on private property until the new Ordinance is completed. Commissioner Bartley seconded and the motion tied 2-2, with Commissioner Grove and Mayor Pro-Tem voting against the Motion.

Commissioner Grove then made a motion to adopt Ordinance 2019-03 Mobile Food Truck Ordinance as is and bring the necessary changes to be able to operate 6 days, to keep food truck stationary on private property and to have tables on private property to the June meeting in order to begin the adoption process with the changes. Commissioner Mitchell Bartley seconded and the motion carried 4-0.

Mr. Nalley requested clarification of the word “stationary,” and language concerning seating and parking requirements in the Land Development Code. Commissioner Elliott stated his intent to allow food trucks to stay stationary on private property and not have to be moved when not in operation.

UNFINISHED BUSINESS

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

Attorney Floyd read Ordinance 2019-04 by title as follows:

AN ORDINANCE OF THE CITY OF APALACHICOLA, FLORIDA PROVIDING FOR AN AMENDMENT TO ARTICLE 17 OF THE CHARTER OF THE CITY OF APALACHICOLA, FLORIDA; CHANGING THE YEAR AND MONTH OF ELECTION FOR THE MAYOR AND CITY COMMISSION FROM SEPTEMBER OF EACH ODD-NUMBERED YEAR TO NOVEMBER OF EACH EVEN-NUMBERED YEAR; PROVIDING FOR EXTENSION OF THE TERMS OF SITTING COMMISSIONERS IN ORDER TO MAKE AN ORDERLY TRANSITION; PROVIDING FOR THE REPEAL OF ANY ORDINANCE OR PARTS THEREFROM IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Elliott made a motion for staff to research the possibility of proceeding with the 2019 election as scheduled with the agreement that it will be a one year term and that the current commissioners would re-run in the 2020 County’s general election.

Attorney Floyd clarified that the City Commission is not adopting Ordinance 2019-04 since this is the first reading and that the above changes will need to be researched and brought back to the June meeting. Commissioner Elliott suggested the City Commission proposed this change originally due to cost savings. Commissioner Elliott stated that now this will cost the City for two years, 2019 and then in 2021, and the

elections will be scheduled with the County general elections after that time. Commissioner Elliott requested Mr. Nalley get with Supervisor Riley at the Board of Elections on this issue. Attorney Floyd reminded the

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Commission that this is the first reading. Commissioner Grove requested staff look into different options on this situation to bring back to the City Commission.

Commissioner Elliott restated his motion to proceed with the 2019 election as scheduled and amend to have a one year election for the upcoming City Commission seats and then re-run for those same seats in the 2020 election for a first reading at the June meeting. Commissioner Mitchell Bartley seconded and the motion carried 4-0.

UNFINISHED BUSINESS

C. RESOLUTION 2019-07 PROVIDING FOR THE ADOPTION OF THE RULES OF PROCEDURE FOR THE APALACHICOLA CITY COMMISSION

Commission Anita Grove made a motion that Resolution 2019-07 be tabled for further review of special meeting and workshop notification times. Commissioner Jimmy Elliott seconded and motion carried 4-0.

UNFINISHED BUSINESS

D. DISCUSSION CONCERNING THE CHRISTIANA MOORE CASE – 51 8TH STREET

Commissioner Mitchell Bartley recued himself and sat in the audience. Mayor Pro-Tem Ash stated there is no motion pending at this time pending further discussion by the City Commission. Commissioner Ash suggested Ms. Moore, her Attorney, City Attorney and Mr. Nalley set up a meeting on Wednesday, May 8th at 9:00 AM, to come up with a resolution to resolve this issue.

NEW BUSINESS

A. GRANT SUBMITTAL APPROVAL – PROJECT IMPACT – 21ST CENTURY COMMUNITY LEARNING CENTER GRANT

Commissioner Jimmy Elliott made a motion to approve submittal of a grant proposal to the Department of Education - 21st Century Community Learning Centers Program on behalf of the City of Apalachicola and Project Impact. Commissioner Anita Grove seconded and the motion carried 4-0.

UNFINISHED BUSINESS

B. PUBLIC ASSISTANCE FUNDING AGREEMENT

Commissioner Anita Grove made a motion to approve the Public Assistance Funding Agreement with the State of Florida and authorize the Mayor and City Manager to execute the necessary documents. Commissioner Jimmy Elliott seconded and the motion carried 4-0.

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UNFINISHED BUSINESS C. MAYOR'S ELECTION PROCLAMATION FOR 2019
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Commissioner Anita Grove made a motion to authorize Mayor Johnson to sign the 2019 Mayor's Election Proclamation. Commissioner Mitchell Bartley seconded and the motion carried 4-0.

ADJOURNMENT

With no further business, Commissioner Jimmy Elliott made a motion to adjourn the meeting at 9:00 pm. Commissioner Mitchell Bartley seconded and motion carried 4-0.

Van W. Johnson, Sr., Mayor

Deborah Guillotte, City Clerk