

MINUTES OF THE REGULAR MEETING OF THE APALACHICOLA CITY COMMISSION HELD
TUESDAY, APRIL 5, 2022, 4:00 PM AT THE APALACHICOLA COMMUNITY CENTER.

PRESENT: Mayor Brenda Ash
Commissioner Anita Grove
Commissioner Despina George
Commissioner Adriane Elliott
Commissioner Donna Duncan

Travis Wade, City Manager
Deborah Guillotte, City Clerk
Dan Hartman, Attorney

CALL TO ORDER

Mayor Brenda Ash called the meeting to order and gave the Invocation, followed by the Pledge of Allegiance.

AGENDA ADOPTION

Commissioner Adriane Elliott made a motion to adopt the Agenda. Commissioner Despina George seconded and the motion carried 5-0.

PUBLIC COMMENT

Public comments consisted of the following: 1) downtown public bathroom cleanliness – Mayor Ash suggests staff check bathrooms every two hours and have cleaned seven days a week .

Commissioner Grove made a motion for the Chamber to clean the downtown public bathrooms until the end of the fiscal year, the City publish an RFP, and that the Chamber of Commerce President, Finance Director, and City Manager discuss the financial aspects. Commissioner George seconded and the motion carried 5-0.

2) floating dock sale and replacement; 3) live music issue on city sidewalks and the legal actions; 4) noise ordinance – sound and enforcement – special event permit for music; 5) noise ordinance - proposed sound level changes.

UNFINISHED BUSINESS

1. TRIUMPH APPLICATION WITHDRAWAL

Commissioner Anita Grove made a motion to withdraw the current TRIUMPH Grant application for the Popham building and Scipio Creek Ice Machine. Commissioner Donna Duncan seconded and the motion carried 4-1. Opposed: Commissioner George

NEW BUSINESS

1. FINANCE DIRECTOR APPROVAL

Commissioner Elliott made a motion to hire Mark Gerspacher for the City Finance Director position. Commissioner George seconded with discussion and the motion carried 5-0.

NEW BUSINESS

2. RESOLUTION – BUILDING INSPECTOR RATES

Attorney Dan Hartman ready Resolution 2022-01 in its entirety.

A RESOLUTION OF THE CITY COMMISSIONER OF THE CITY OF APALACHICOLA ESTABLISHING A FEE AND FINE SCHEDULE ASSOCIATED WITH THE PROCESSING OF BUILDING PERMIT APPLICATIONS BY CITY PERSONNEL; PROVIDING FINDINGS; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Grove made a motion to adopt Resolution 2022-01 – Building Inspector Rates Fee Schedule. Commissioner George seconded with discussion.

Commissioner Grove rescinded her motion. Commissioner George rescinded her second. Attorney Hartman and staff will do further research.

NEW BUSINESS

3. ENCROACHMENT AGREEMENT

Attorney Hartman reviewed Kristen Smith’s encroachment issue at 397 24th Avenue.

Commissioner Elliott made a motion to table the request to grant an encroachment at the property at 397 24th Avenue, Apalachicola, FL 32320. Commissioner Grove seconded and the motion carried 5-0.

NEW BUSINESS

4. APPROVE STAFF TO APPLY FOR GRANTS IN CERTAIN CATEGORIES WITH NO MATCH

Mayor Ash stated that there will be many grant opportunities the City may apply for in the future, and stated that staff cannot timely submit these grant applications if a meeting is required prior to each submission deadline, and recommends the below motion.

Commissioner Grove made a motion to approve that staff be allowed to review and apply for grants under the following conditions: 1) there is not a regular scheduled meeting prior to the submission deadline; 2) there is not a required monetary match, and 3) a detailed summary of the grant will be provided to each commissioner prior to submission.

Commissioner Duncan seconded with discussion and the motion carried 4-1. Opposed Commissioner George

NEW BUSINESS

5. SPECIAL CATEGORIES GRANT FOR OLD CITY HALL

Commissioner Grove made a motion to approve the two applications for the Special Categories Grant up to \$500,000 for the structural work for Old City Hall, and a Small Matching Category Grant up to \$50,000 to fund a updated survey of Apalachicola's historic structures to update the State's Master Site File of Historic Resources. Commissioner Elliott seconded with discussion and the motion carried 4-1. Opposed: Commissioner George

NEW BUSINESS

6. BATTERY PARK PAYMENT KIOSK (VEN TEK) APPROVAL

Commissioner Elliott made a motion to approve the purchase of the Battery Park Payment Kiosk in the amount of \$14,803.00, with a continued annual fee of \$1,140.00.

Commissioner Duncan seconded and the motion carried 5-0.

NEW BUSINESS

8. NOISE ORDINANCE

Commissioner Elliott requested feedback from the Commission so that that the Noise Ordinance can be presented for first reading at the May 3rd Regular Meeting. Mayor Ash recommends that the Commission send their recommendations to Mr. Wade and Attorney

Hartman to be included in the draft Ordinance, and reviewed by the Commission, and scheduled for the upcoming workshop.

NEW BUSINESS
**SET WORKSHOP DATE TO DISCUSS: a) Downtown Tourism District &
b) American Rescue Plan Act**

Commissioner Duncan made a motion to schedule a workshop on Monday, April 25th at 4pm for the American Rescue Plan Act, and Noise Ordinance. Commissioner Elliott seconded and the motion carried 5-0.

MAYOR AND COMMISSIONER COMMENTS

Commission comments consisted of the following: 1) floating dock disposal and possibility of selling this item; 2) public bathroom issue; 3) Chamber Of Commerce - Tourist Development Council is trying to get monies for the repair of the Gazebo at the end of Lafayette Park Pier; 4) HCA Committee - getting new members; 5) CRA monies for current year TIFT of \$68,305 - refund to the County - Attorney Hartman recommends checking with auditor on these issues; 6) City Manager review coming up in May; 7) Recreation Committee - issues of duties asked to be performed by them and not the City.

CITY MANAGER COMMUNICATIONS

Travis Wade - See Attachment "A"

GRANTS COORDINATOR COMMUNICATIONS

Bree Robinson - See Attachment "B"

ATTORNEY COMMUNICATIONS

Dan Hartman - See Attachment "C"

1. Height Referendum - The Commission suggestion, is to strengthen the existing Ordinance 2017-04 to require a supermajority defined as (3+1) vote on any amendment that would increase the maximum building height.

3. Mayor Ash asked that Attorney Hartman get with the Finance Director on the litigation of Hall, Butler, and Cameron, and schedule an executive session.

CONSENT AGENDA

A. Meeting Minutes Adoption - January 11, 2022 Workshop/Special Meeting; January 26, 2022 Workshop; February 23, 2022 Workshop - 4pm, and March 8, 2022 Regular Meeting and March 22, 2022 Special Meeting Minutes.

B. Planning and Zoning Minutes - February 2022

Commissioner Grove made a motion to approve the Consent Agenda. Commissioner George seconded and the motion carried 5-0.

DEPARTMENT REPORTS

ADJOURNMENT

Commissioner Elliott made a motion to adjourn the meeting. Commissioner Duncan seconded and the motion carried 5-0.

Brenda Ash, Mayor

Deborah Guillotte, City Clerk

City Manager Updates – March 2022

Drinking Water Warning Letter Response: The Response to the Warning Letter was drafted and sent to the Florida Department of Environmental Protection on March 31, 2022 by Dewberry Engineering.

Wastewater Treatment Plant Warning Letter: The Response to the WWTP Warning Letter was drafted and sent to the Florida Department of Environmental Protection on March 31, 2022 by Dewberry Engineering.

Department of Economic Opportunity: I met with DEO Secretary Dane Eagle and five staff members on March 10. I was told that Governor DeSantis encouraged their Department to give the City of Apalachicola all the help we need. I have been in contact with several of the DEO staff since the meeting.

Franklin County School Career Day: Myself, Bree Robinson, and APD Sgt. Chase Richards attended Career Day at the FCS on March 25. The event was well attended and our booth received several student visitors.

Apalachee Regional Planning Council: I was invited to a meeting with Director Chris Rietow Friday afternoon to discuss what the ARPC can offer to the City.

City Job Openings: We have begun posting our jobs online on indeed.com and have received many more applicants than previously.

Grant Development and Implementation Coordinator – Bree Robinson

City Commission Meeting – Tuesday, April 5th, 2022

1. Florida Fish and Wildlife Conservation Commission – Florida Boating Improvement Program – Bay Avenue Seawall Construction

Full application submitted to FWC on 4/1/22 requesting \$257,267 with a \$28,000 (budgeted) City contribution to complete the Bay Avenue Seawall project. The Bay Avenue Seawall has large cracks and structural damage. The City of Apalachicola previously worked with Dewberry Engineers to create engineered construction plans for the project (2017) – with these plans in hand we applied for the construction phase of the Bay Avenue Seawall project.

2. Firehouse Subs Public Safety Foundation – Hurst Rescue Tools “Jaws of Life”

An application requesting \$34,065.00 for Jaws of Life rescue tools for the Apalachicola Volunteer Fire Department will be submitted online 4/7/22. These tools were a request from the VPD and will aid them in their efforts. If funded – the grant program will handle ordering, etc. No match required.

3. Department of Historical Resources African American Cultural and Historical Grants – Apalachicola African-American History Museum

While our application was denied due to funding, the board has come back and said there may be \$30 million in additional projects granted, which would include ours according to the ranking list. Recommended for funding – Governor has until July to approve the budget which could include us. (Application was for \$1,000,000 with a \$250,000 match from the City.)

4. Florida Department of Transportation – SCOP Grant Application – Leslie Street

City Commission passed Resolution 2022-01 on 2/23/22 for the City of Apalachicola to apply for funding for Leslie Street. Application was submitted electronically on 3/4/22. The City requested \$610,169.30 to remedy the underground issues, resurfacing the entire street length, and for new road signs based off of engineer's suggestions and recommendations. There are no dates available currently for awards, etc.

5. National Fish and Wildlife Foundation – Emergency Coastal Resilience Fund 2021 – City of Apalachicola Regional Park and Stormwater Facility Phase 1

Full application submitted on 2/16/2022 requesting \$712,314.58 for feasibility study and design for 3 locations: Sylvester Williams Park, the Botanical Gardens, and a large unused parcel of land that the City owns near the airport. Still in review.

6. HMGP – Backup Generator for Vacuum Station (108 Avenue F)

Grant application was submitted for \$170,000 for a new backup generator. (Current in use is too small for need.) Had to apply for a portable generator instead of stationary, as they will not fund for a stationary one in a flood zone. Still in review – Two RFIs (requests for information) were received and answered. Still waiting for updates.

7. Leslie Street - FEMA

WAITING FOR UPDATE ON APPEAL

Reached out to FEMA 3/4/22 – Project still in review; no timeline. Seeking out other grant opportunities.

8. National Park Service Hurricane Michael Repair/Mitigation - Grants for Repair and Restoration of the Montgomery Cotton Warehouse (Old City Hall) and the Harrison-Raney Cotton Warehouse (HCA)

Old City Hall - The City has received structural assessment report and as-built drawings from 4M Architect. Structural engineer has identified previously undiscovered structural deficiencies in the building that need to be addressed before mitigation work is completed. Staff is working on petition to DHR to modify scope to accommodate the work necessary to resolve deficiencies. Architect/engineer are working on schematic design options/cost for repair. Based on the unforeseen costs associated with structural steel reinforcements proposed for City Hall, architect has recommended applying for DHR Special Category grant to cover any anticipated shortfall. A cost estimate is forthcoming.

HCA – he City has received structural assessment report and as-built drawings from 4M Architect. Based on report, architect is working on schematic design for work as identified in scope.

9. Grants Update -

- a. **FDOT City Landscaping** – Landscaping has been completed – landscapers have entered into their maintenance period. (3 months) Landscapers paid after FDOT inspection and approval – in reimbursement process.
- b. **CDBG-DR Infrastructure** – Avenues Stormwater Repair Project is moving forward. Engineer Procurement and design will need to be secured and created along with environmental review and clearance, then we are scheduled to bid out and begin construction in October/November. Engineer to be procured once DEO approves solicitation documentation – this has been sent for DEO review. 3/22/22
 - i. City is missing 3 internal policies that were requested, (DEO is giving us more time on these as long as we are progressing):
 - 1. Fraud Waste and Abuse Policies
 - 2. Financial Management Policies
 - 3. Quality Assurance and Quality Control PoliciesCity staff is working on creating policies for review. Drafts of a Fraud Policy has been created – waiting for Dan and Travis to review before approval. Potential for SM during month of April to go over these policies. Procurement Policy also needs updating – Dan has DEO comments and it working on this currently.
- c. **CDBG-DR Hometown Revitalization** –Riverfront Revitalization and Hill Community Revitalization projects: Grant agreements being formulated at DEO, City to begin environmental exemption process on administrative and engineering services. Engineer to be procured once DEO approves solicitation documentation.
 - i. Grant agreement for Riverfront project received, to be signed 4/4/2022.
 - ii. Engineering procurement docs have been sent for DEO review in accordance with our own procurement policy.
- d. **HMGP Emergency Generators** – *Awaiting CDBG-DR Award for Matching Funds.* Received and signed Release of Funds forms for CDBG-DR match – still in contact with DEO weekly waiting for status updates and notice to proceed.
- e. **HMGP Market Street Vacuum Station** Documents received and executed. *Awaiting CDBG-DR Award for Matching Funds.* Received and signed Release of Funds forms for CDBG-DR match – in contact with DEO weekly waiting for status updates and notice to proceed.
- f. **Michael FEMA Projects Updates**

- i. **Bodiford** - Permits filed for within deadline to US Corps of Engineers –BODIFORD PLANS DRAFT COMPLETE! Waiting for full from Dewberry. Scipio plans to come within 2 weeks.
- ii. **Scipio** – Designs from Dewberry coming within next 2 weeks.
- iii. **Alleyway Repairs** – Alleyway: 3, 7, 9, 8, 10, 11, 6, 2, 5, 12, 4 Crushed Shells to be replaced. Extensions requested for all FEMA projects – in final review, but have been advised they will be granted.
- iv. **Old City Hall and HCA Contents loss** – Ordering replacement items from loss. (Funding already received – just needs to be ordered and receipts turned in.) Partially ordered – postponing ordering of remaining items until accounts are in financial order. (finance department is having accounts in Quickbooks ironed out.)
- v. **Lafayette Park** – Will change scope of this project once the lighting donation project is *complete*. Potential to change scope to include pavilion at end of boardwalk once scope change is official – will be up to FEMA.
- vi. **Hurricane Sally** – Waiver of match application documents submitted and sent in. Waiting for updates.
- g. **DEP – WWTP Tank Cleaning** – US Submergent mobilized and began work 12/1/21. First round completed on 12/9. Had leftover grant funds after service, so they are coming back in September to complete another round of sand and grit removal and grant will close out in October 2022.
- h. **Department of Historical Resources 2023 Small Matching Grant – Black History Trail**. Grant was recommended for funding. Waiting to receive final confirmation pending Governor's approval of Budget. We are 9th on 2023 Grant Ranking list – pending Governor's approval.

10. DEP Applications – Resilient Florida + Water Restoration Assistance - WWTP & Vulnerability Study

WWTP-

Grant #2 is an application for the WWTP totaling \$14 million - the City of Apalachicola was approved for the full \$14 million for new equipment and relocation. DEP contacted us and let us know we had 2 duplicated grant efforts both submitted to them. Both are for the WWTP – and combined could cover the entire WWTP Project costs, headworks and all. DEP has agreed, with some preliminary efforts to ensure the scope and pricing are as they should be.

- DEP requested to review RFP documents before solicitation. Waiting for updates and have been inquiring weekly on status. – Have sent our procurement policy and engineering solicitation documents for consideration upon request.

- Engineers have sent their revised opinion on costs to DEP using the 2 different funding sources. 3/31/22 DEP came back with a couple of questions to settle on the final and specifics – Dewberry is reviewing and responding.

Vulnerability Study-

Grant #1 Vulnerability Study

Second round application submitted on 2/14/2022. Still waiting for updates.

Cindy Update: List of approved projects was supposed to be released last month.

Any day now ... The person I spoke with at DEP was guardedly optimistic and said that they had recommended funding 80 new or updated Vulnerability Assessments and if our project was a Vulnerability Assessment we had a pretty good shot at being funded. We should know any day now.

11. USDA Water Street Permeable Parking Sidewalk and Lighting –

The one bid received was highly over budget - cost of materials has risen above our awarded amount for this project. USDA recommended a change of scope to include the sidewalk, but to omit the permeable pavers in the parking area. Dewberry is updating plans for USDA approval to reject all bids and re-bid out the project or to negotiate with the bid we received. (We previously bid this project out 2 separate times and received only one bid.)

3/31/22 - Updated plans from Dewberry received and USDA has approved. City Attorney advises we formally reject all bids and re-bid this project out with the altered scope and plans. New RFP will be out by end of second week in April.

12. Coronavirus State and Local Fiscal Recovery Funds (SLFRF) – American Rescue Plan

The City formerly made application to the SLFRF program and received an award of \$1,179,010.00. The City has received half of this allocated amount and will receive the second half after spending the first deposit. City staff believes that the former finance director earmarked this money for engineering expenses for the new WWTP design. If the engineering is indeed going to be covered by the dual grants from DEP as noted above, then this money is left on the table for the City. (Pending waiting for DEP full scope approval.)

There were original stipulations on how to spend this money with there being 4 categories noted:

1. Public health & economic impacts
2. Premium pay

3. Revenue loss
4. Investments in water, sewer, or broadband infrastructure

There is a FINAL RULE going into effect on April 1st and the City has been advised to not spend any of this money until after 4/1/2022 – the FINAL RULE offers more uses for this funding and could potentially fund several city projects.

Dates:

- » First Report due April 30, 2022
- » Funds must be obligated by December 31, 2024
- » All expenditures must be complete by December 31, 2026

Please see extra info below:

American Rescue Plan Info:

- Final Rule takes place starting on April 1, 2022, until then, the Interim Rule remains in effect. (4 categories)
- Electing the “standard allowance” to spend on government services
 - Government Services generally include any service traditionally provided by government unless Treasury has stated otherwise. Here are some examples:
 - Construction of schools and hospitals
 - Road building and maintenance and other infrastructure
 - Health Services
 - General Government administration, staff, and admin facilities
 - Environmental remediation
 - Provision of police, fire, and other public safety services, including purchase of vehicles
 - **However, these funds may not be used for a project that conflicts with or contravenes the purpose of the American Rescue Plan Act statute (uses of funds that undermine COVID-19 mitigation practices in line with CDC guidance and recommendations)**
 - All projects MUST follow 2CFR procurement
 - No construction of the following:
 - New correctional facilities as a response to an increase in rate of crime
 - New congregate facilities to decrease the spread of COVID 19 in the facility
 - Convention centers, stadiums or other large capital projects intended for general economic development or to aid impacted industries

- Funds cannot be used for payments for debt services or replenishing rainy day funds.
- Reporting – first report will be due on April 30, 2022

WAITING FOR COMMISSION SM or WORKSHOP TO DEVELOP PRIORITIES LIST

Potentials:

- Scipio Creek Electrical
- Leslie Street (if not funded by FDOT SCOP)
- Battery Park Seawall (if not funded by FWC FBIP)

All information included in this report is accurate as of March 31, 2022 at 12:00pm. After that time, information is subject to change.

ATTORNEY REPORT

TO: City Commission, City of Apalachicola
FROM: Daniel W. Hartman, Esq.
DATE: April 2022
SUBJ: City Attorney Report for Commission Meeting

1. Height Referendum

The options discussed at our last meeting were:

1. A ballot referendum establishing a 35 foot maximum height limit in the city charter;
2. A ballot referendum to increase the voting requirement for any ordinance affecting the maximum building height or to be 3+1 votes.
3. To strengthen the existing ordinance 2017-04 to require a supermajority defined as (3+1) vote on any amendment that would increase the maximum building height.

I have received input from various citizens and staff. At this point the consensus appears to be option three, to strengthen the current ordinance to require a super majority vote as to any ordinance amendment increasing building height.

2. Solid Waste ITN

Solid waste RFP should be ready for final approval and advertising next week. We received back comments from Kessler Consulting and we are integrating them into the invitation to negotiate. A draft will be circulated shortly for final comment.

3. **Litigation – Hall, Butler, Cameron**

The City has been sued in three related cases - two wrongful death and one personal injury cases. Case No.(s): 2014 CA 298 – Estate of Cameron; 2015 CA 15 - Estate of Hall and 2016 CA 246 - Butler. We are currently scheduled for a pre-trial conference on June 23, 2022 trial dates will be set for these cases if they are not resolved. We need to review our financial situation and approve an initial offer of contribution toward settlement by the City. This amount would be combined with the offer by the insurance carrier in an attempt to settle the cases. Any final settlement will be contingent upon and come before the Commission for final approval.