

REGULAR MEETING  
APALACHICOLA CITY COMMISSION  
TUESDAY, SEPTEMBER 6, 2022 – 4:00PM  
BATTERY PARK COMMUNITY CENTER  
1 BAY AVE., APALACHICOLA, FLORIDA 32320

**Agenda**

You are welcome to comment on any matter under consideration by the Apalachicola City Commission when recognized to do so by the Mayor. Once recognized please rise to the podium, state your name for the record and adhere to the three minute time limit for public comment. Comments may also be sent by email to the City Manager or to Commissioners.

- I. Call to Order**
  - Invocation
  - Pledge of Allegiance
  
- II. Agenda Adoption**
  
- III. Public Comment**
  
- IV. Presentation: Ashley Teat Memorial Plaque – Commissioner Grove**
  
- V. Unfinished Business**
  1. Noise Ordinance First Reading – Attorney Hartman
  2. Well #5 Expenditure Approval – Manager Wade
  3. Request for Approval of (3) Water Settlement Case Agreements – Attorney Hartman
  
- V. New Business**
  1. Resilient Florida Planning Grant – Commissioner Grove
  
- VI. Mayor and Commissioner Comments**
  
- VII. City Manager Communications – Report Attached**
  
- VIII. Grants Coordinator Communications – Report Attached**
  
- IX. Finance Director Communications – Report Attached**
  
- X. Attorney Communications – Report Attached**

**X. Consent Agenda**

**A. Meeting Minutes Adoption – July 26, 2022, Workshop; August 2, 2022, Special Meeting; August 2, 2022, Workshop; and August 2, 2022, Regular Meeting Minutes**

**B. Planning & Zoning Minutes Confirmation – August 8, 2022**

**XI. Department Reports**

**XII. Adjournment**

Any person who desires to appeal any decision at this meeting will need a record of the proceeding and for this purpose, may need to ensure that a verbatim record of the proceeding is made which includes testimony and evidence upon which the appeal is based. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office 48 hours in advance of the meeting

ORDINANCE NO. 2022-

AN ORDINANCE OF THE CITY OF APALACHICOLA, FLORIDA AMENDING ORDINANCE NO. 2015-01 REGULATING AND PROHIBITING THE EMISSION OF HARMFUL NOISE; DECLARING SAID NOISES TO BE DETRIMENTAL TO THE PUBLIC HEALTH, COMFORT, CONVENIENCE, SAFETY, WELFARE AND PROSPERITY OF THE RESIDENTS OF SAID CITY; ESTABLISHING AND DEFINING CERTAIN TERMS; ESTABLISHING AND PROVIDING FOR CERTAIN EXCEPTIONS; PROHIBITING THE MAKING, CAUSING OR ALLOWING OF SAID NOISES WHICH CAUSE A NOISE DISTURBANCE OR EXCEED CERTAIN SOUND LEVELS; PROVIDING FOR TECHNIQUES TO BE USED IN MEASURING LEVELS OF SAID NOISE AND THE ESTABLISHMENT OF SAID LIMITS; PROVIDING FOR PENALTIES; PROVIDING FOR ADDITIONAL CIVIL REMEDIES AND CITATIONS; PROVIDING FOR THE REPEAL OF ANY ORDINANCE OR PARTS THEREFROM IN CONFLICT HEREWITH; PROVIDING FOR SPECIAL PERMITS; PROVIDING FOR APPEALS OF SPECIAL PERMITS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the making and creation of excessive and unusually loud noises within the City of Apalachicola, Florida, is a condition which has existed for some time; and

WHEREAS, said noises and the amount, intensity, duration and vibration of said noises are increasing within the area of said City as population, industry and tourism grows; and

WHEREAS, the making and creation of said noises are prolonged, unusual and unnatural in their time, place and use and effect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of said City; and

**NOTE: ~~Struck through~~ language is language proposed to be deleted, Underlined language is amended language, and \*\*\* represents sections that have been skipped and that remain unchanged.**

**WHEREAS**, as a matter of legislative determination and public policy, the City Commission of the City of Apalachicola finds it in the public interest for the provisions and prohibitions hereinafter contained to be enacted; and

**WHEREAS**, it is further declared that the provisions and prohibitions hereinafter contained and enacted are in the pursuance of and for the purpose of securing and promoting the public health, comfort, safety, welfare and prosperity of the inhabitants of said City of Apalachicola; and

**WHEREAS**, it is the intent of this Ordinance to prohibit the use or operation of any radio receiving set, "boom box," musical instrument, television, phonograph, tape or compact disc player, loudspeaker or any other device for the production or reproduction of sound in such manner as to cause a noise disturbance; and

**WHEREAS**, it is the intent of this Ordinance that it shall work harmoniously with existing ordinances and valid state statutes regulating noise emissions and shall be an additional regulation to any such pre-existing ordinances and statutes; and

**WHEREAS**, ~~it is the intent of this ordinance to repeal all ordinances or parts thereof in conflict with this ordinance and provide a valid procedure for enforcement; it is the intent of this ordinance to amend Ordinance No.: 2015-01; and~~

**WHEREAS**, it is not the intent of this Ordinance to interfere with the individual rights to freedom of speech or religion.

**NOW THEREFORE, BE IT ~~INACTED~~ ENACTED BY THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA:**

### **ARTICLE I. NOISE**

**Section 1. Terminology; Definitions.** All terminology used in this article not defined below shall be defined according to applicable publications of the American National Standards Institute (ANSI) or the American Society for Testing and Materials (ASTM) or their successor bodies.

*A-weighted sound level (dBA):* The sound pressure level in decibels as measured on a sound level meter

using the A-weighted network. The level so read is designated, 'dBA."

C-weighted sound level (dBC): The sound pressure in decibels as measured on a level meter using the C-weighted network. The level so read is designated as, "dBC"

*Ambient Noise:* The surrounding or steady background noise in a particular location as distinct from the specific noise being measured.

*Commercial Area:* Land used primarily for the sale of merchandise or goods, or for the performances of a service, or for office or clerical work.

*Construction activity:* Any site preparation, assembly, erection, substantial repair, alteration, or improvement of realty, whether publicly or privately owned, and whether above ground or below ground.

*Decibel (dB):* The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (twenty (20) micropascals; abbreviated "dB."

*Emergency:* Any occurrence or set of circumstances involving actual or imminent physical trauma to human beings or living creatures or property damage which necessitates immediate action.

*Emergency Work:* Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by fire, emergency, including work necessary to restate property to a safe condition following an emergency.

*Industrial Area and Commercial Seafood Area:* Land use which is primarily for manufacturing, processing (including commercial seafood operations), or an airport.

*Multifamily Dwellings:* a building designed or used exclusively for residential occupancy by two (2) or more families.

*Noise:* Any sound which annoys or disturbs humans or causes or tends to cause an adverse psychological effect on humans. "Noise" includes low frequency vibrations, such as caused by amplifications of bass instrumental sounds.

*Noise Disturbance:* Sound which (a) is or may be harmful or injurious to the health or welfare of a person with normal sensitivities, or (b) significantly interferes with the enjoyment or normal conduct of life, property or outdoor recreation, or (c) causes noise pollution.

*Noise Pollution:* shall mean the presence of noise in an excessive or disturbing amount or of such duration, wave frequency or intensity as to be injurious to human or animal life or property.

*Park Land:* Land that is used primarily for public recreational activities.

*Person:* Any individual, natural person, public or private corporation, firm, association, joint venture, partnership, or any other entity whatsoever or any combination of such, jointly and severally.

*Public Right-of Way:* Any street, avenue, boulevard, highway, sidewalk or alley or similar place normally accessible to the public which is owned or controlled by a governmental entity.

*Public Space:* Any real property or structure thereon normally accessible to the public which is owned or controlled by a governmental entity.

*Pure Tone:* Any sound which can be distinctly heard as single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall exist *if* the one-third octave band sound pressure level in the band with the tones exceeds arithmetic value the sound pressure levels of the two (2) contiguous one-third octave bands by five (5) dB.

*Real Property Line:*

- (a) The imaginary line including its vertical extension that separates one parcel of real property from another; or
- (b) The vertical and horizontal boundaries of a dwelling unit that is one unit in a multi-dwelling-unit building.

*Receiving Land:* Land area neighboring or in the vicinity of a sound source and on or at which the sound emanating from the sound source is audible to the normal human ear.

*Residential:* Land use that is primarily for living and sleeping or park land or hospitals or schools or nursing homes or the individual plots within a mobile home park assigned by the owner of the park or any land use that is not commercial or industrial.

*Short Durations:* Any sound with a duration of less than one minute.

*Sound:* An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

*Sound Analyzer:* A device for measuring the octave band level of a sound as a function of frequency.

*Sound Level:* The weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B, or and C as specified in the American National Standards Institute specifications for sound level meters ANSI S1.4-1971, or in successor publications. If the weighting employed is not indicated, the CA-weighting shall apply.

*Sound Level Meter:* An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter, and weighting networks used to measure sound pressure levels. The output meter reads sound pressure level when ~~property~~ properly calibrated, and the instrument is of type 2 or better, as specified in the American National Standards Institute, publication S1.4-1972 or its successor publication.

*Sound Pressure:* The instantaneous difference between the actual pressure and the average or barometric

pressure at a given point in space, as produced by the presence of energy.

*Sound Pressure Level:* Twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micronewtons per square meter (~~20 x 10<sup>-6</sup>N/m<sup>2</sup>~~ (20 x 10<sup>-6</sup> (N/m<sup>2</sup>)). The sound pressure level is expressed in decibels.

**Section 2. Area of applicability.** This article shall be applicable to and embrace all areas within the City limits of the City of Apalachicola.

**Section 3. Exceptions.** The following activities or sources are exempt from the requirements of this article:

- (1) The emission of sound for the purpose of ~~altering~~ alerting persons to the existence of an emergency, or in the performance of emergency work.
- (2) Between the hours of 7:00 a.m. and 11:00 p.m., ceremonial or traditional activities or events, including the sounding of church bells and the normal sounds of organized sporting and cultural events, but specifically not including music or other amplified sounds performed or played at volumes or vibrations that violate standards of this article.
- (3) Operation of equipment or conduct of activities normal to residential or agricultural communities as set forth herein:

	<i>Description</i>	<i>Hours of Operations</i>
(a)	lawn care, soil cultivation, domestic power tools, lawn mowers, maintenance of trees, hedges, gardens, saws and tractors, street sweepers, mosquito fogging, tree trimming and limb chipping and other normal community operations	7:00 a.m. to 10:00 p.m.
(b)	operation of equipment for solid waste and recycling collection in or adjacent to residential uses	6:00 a.m. to 6:00 p.m.
(c)	operation of equipment for solid waste collection in nonresidential locations	4:00 a.m. to 10:00 p.m.

- (4) Operation of manufacturing in areas zoned for such activities and which do not create a noise disturbance on any properties not designated for such activities.
- (5) Usual noises of construction and operation of construction equipment between the hours of 7:00 a.m. to 8:00 p.m.
- (6) Usual engine noises of traffic and motor vehicles on the public right-of-way.
- (7) Single family residential air-conditioning units when in reasonable mechanical condition operating with the standard noise and vibration control systems typically provided by the manufacturer. A unit is presumed to be in reasonable mechanical condition if it meets the noise specifications contained in the Air Conditioning and Refrigeration Institute's ("ARI") Applied Directory of Certified Produce Performance Variable Air Volume terminals. See <http://www.aridirectory.org/ari/vav.php>.
- ~~(8) Properly licensed and zoned commercial establishments serving food and/or beverages within a building as their main operational business purpose that have entertainment located within the confines of their occupied building walls and ceilings with the doors and windows not left open.~~

**Section 4. Prohibited Acts.** The occurrence of the conditions, acts or omissions as described in subsections (1) or (2) of this section shall constitute a violation of this article. The requirements in any one of said subsections stand alone. Measurements described in subsection (2) shall constitute *prima facie* evidence of a violation of this article. However, such measurements are not necessary for enforcement of this article, *i.e.* neither sound measurements as provided in subsection (2) nor any other type of sound measurements are necessary to prove a violation of subsection (1) of this section.



(1) *Noise Disturbance.* Notwithstanding any other provision of this article, and in addition thereto, it shall be unlawful for any person to make or continue, or cause to permit to be made or continued, any noise disturbance, as defined in Section 1.

(a) *Standards.* The standards to be considered in determining whether a violation of subsection (1) of this section exists may include but shall not be limited to the following:

1. The volume of noise.
2. The intensity of the noise.
3. Whether the nature of the noise is usual or unusual.
4. The volume and intensity of the ambient noise, if any.
5. The proximity of the noise to residential sleeping facilities.
6. The nature and zoning of the area from which the noise emanates.
7. The nature and zoning of the receiving land.
8. The time of the day or night the noise occurs.
9. The duration of the noise.
10. Whether the noise is produced by a commercial or noncommercial activity.

(b) *Enforcement.* Enforcement does not depend on any minimum number of standards being met. This Ordinance shall be enforced by the Apalachicola Police Department and/or City Code Enforcement Official.

(c) *Persons Affected.* Persons affected may include residents, passersby, property owners, law enforcement or code enforcement officials.

(2) *Maximum Permissible Sound Levels.*

(a) *Sound* No person shall operate or cause to be operated, from any source, sound which, when measured ~~at the property line of the property~~ across the street adjacent to where the sound is being generated, exceeds:

1. Sixty (60) dBA or Seventy (70) dBC during the hours between 7:00 a.m. and 10:00 p.m. ~~at the property line of the noise source.~~
2. Fifty-five (55) dBA or Sixty Five (65) dBC during the hours between 10:00 p.m. and 7:00 a.m. ~~at the property line of the noise source.~~
3. Sixty-five (65) dBA or Seventy five (75) dBC ~~if the receiving land is a~~ in a commercial area.
4. ~~Eighty (80) dBA if the receiving land is industrial.~~ Seventy (70) dBA or Eighty (80) dBC in industrial and commercial seafood areas.

(b) *Correction for Character of Sound* For any source of sound which emits a pure tone, the maximum sound level limits set forth in subsection (2)(a) shall be reduced by five (5) dBA or dBC if heavy bass content is present. For any source of sound which is of short duration and is non-repetitive, the maximum sound level limits set forth in subsection (2)(a) shall be increased by ten (10) dBA or dBC if heavy bass content is present from 7:00 a.m. to 10:00 p.m.

(c) *Correction for Ambient Noise*. Corrections for ambient noise should be made in accordance with applicable ASTM standards.

(d) *Methods of Measurements*.

1. The measurement of sound shall be made with a decibel or a sound level meter operating on the A- or C-weighted scale, as applicable, of any standard design and quality meeting the standards prescribed by the American National Standards Association. The instruments shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the sound source. The microphone used during measurement shall be positioned so as to not to create any unnatural enhancement or diminution of the measured sound. A wind screen for the microphone shall be used when required. Traffic, aircraft, and other background ambient sounds shall not be considered in taking measurements except where such ambient sound interferes with the primary noise being measured.
2. If heavy rhythmic bass tones are present, the dBC scale and limits will be applicable. Otherwise, the dBA scale and limits will be applicable.
3. The measurement shall be made at or beyond the real property line of the property on which such sound is generated or on the receiving land, across the street adjacent to the property where the sound is generated, as appropriate, approximately five (5) feet above ground.

**Section 5. Enforcement and Penalties.** Any person or entity violating any of the provisions of this article shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the State of Florida in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and, upon conviction for the first offense shall be punished by a fine not

to exceed Two Hundred and fifty dollars (\$250.00) (~~\$50.00~~); and up to Five Hundred dollars (\$500.00) for any repeat offense. ~~for the second offense, shall be punished by a fine not to exceed one hundred fifty dollars (\$150.00); and for the third offense and thereafter, shall be punished by a fine not to exceed two hundred fifty dollars (\$250.00)~~ or by imprisonment in the county jail not to exceed sixty (60) days or by both such fine and imprisonment. Each incident or separate occurrence of an act that violates this article shall be deemed a separate offense.

**Section 6. Civil Remedies. and Citations.** In addition to the criminal penalties provided in Section 5 above, the City Commission of the City of Apalachicola is authorized to institute any appropriate action or proceeding, including suit for injunctive relief, as may be necessary, in order to prevent or abate violations of this article. Citations may also be issued to enforce this article as provided by other Ordinances authorized by the City of Apalachicola.

**Section 7. Special Permits.** Special permits for prospective activities that will exceed the maximum permissible noise levels permitted by this section may be obtained by completed application to the City ~~Manager Administrator~~ or her/his designee. The special permit shall specify the permissible sound levels measured by dBA or dBC as applicable, the time permitted and location where the prospective activity will occur. Such special permit shall not be unreasonably withheld so long as the prospective activity will not adversely affect the health, safety and welfare of nearby residents. The administrative determination shall be made within ten (10) business days of application, or the subject activity shall be deemed permitted.

**Section 8. Appeals.** ~~Any~~ All appeals of the decision made by the City Manager as to issuance or denial of a Special Permit person denied a Special Permit must be filed within 20 days of such decision in the form of ~~may file~~ an administrative appeal to the City Commission.

**Section 9. Severability.** . If any section, sentence, clause, phrase or provision of this Ordinance

is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

**Section 10.** **Effective Date.** This Ordinance shall take effect immediately upon adoption by the City of Apalachicola, Florida.

First Reading on \_\_\_\_\_ :  
Second Reading and Adoption on \_\_\_\_\_ :

ATTEST: \_\_\_\_\_ City Commission of the  
City of Apalachicola, Florida

By: \_\_\_\_\_  
Deborah Guillotte, City Clerk

By: \_\_\_\_\_  
Brenda Ash, Mayor

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Daniel W. Hartman, City Attorney

**APALACHICOLA CITY COMMISSION  
REQUEST FOR BOARD ACTION  
Meeting Date: September 6, 2022**

**SUBJECT:** Well #5 Repairs

**AGENDA INFORMATION:**

**Agenda Location:** Unfinished Business  
**Item Number:** 2  
**Department:** Drinking Water  
**Contact:** Travis Wade  
**Presenter:** Travis Wade

**BRIEF SUMMARY:** During a previous meeting it was discussed that well #6 was being repaired and well # 5 would be repaired next. However, the motion was to authorize the expenditure for only well #6. The repairs for well # 5 are \$28,336.00.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:** Approve the expenditure

**FUNDING SOURCE:** Drinking Water

**ATTACHMENTS:**

**STAFF'S COMMENTS AND RECOMMENDATIONS:**

**APALACHICOLA CITY COMMISSION  
REQUEST FOR BOARD ACTION  
September 6, 2022**

**SUBJECT:** Request for Approval of Settlement Agreements in Case(s) No.: 2018 CA 233, 2014 CA 00298; 2015 CA 00015 and 2016 CA 00246

**AGENDA INFORMATION:**

**Agenda Location:** Unfinished Business  
**Item Number:** 3  
**Department:** City Attorney  
**Contact:** Dan Hartman  
**Presenter:** Dan Hartman

**BRIEF SUMMARY:**

We have reached conceptual Settlement in the cases above. The proposed settlement agreements are attached for consideration.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

**Motion to approve Settlement Agreement in Case(s) No.: 2018 CA 233**

**Motion to approve Settlement Agreement in Case(s) No.: 2014 CA 00298; 2015 CA 00015 and 2016 CA 00246**

**FUNDING SOURCE:**

N/A

**ATTACHMENTS:** (see attached)

**STAFF'S COMMENTS AND RECOMMENDATIONS:**

Approve

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
IN AND FOR FRANKLIN COUNTY, FLORIDA**

**CITY OF APALACHICOLA,**

**Plaintiff,**

**vs.**

**Consolidated Case No. 2018-CA-000233**

**MICHAEL HALE SMITH, et al.,**

**Defendants.**

\_\_\_\_\_ /

**RICHARD HALL,**

**Plaintiff,**

**vs.**

**CITY OF APALACHICOLA, et al.**

**Defendants.**

\_\_\_\_\_ /

**MEDIATION AGREEMENT**

The parties to the above referenced cause submitted their issues to mediation and agree as follows:

1. Defendants Smith and Nall shall apply for an after-the-fact, single family residence, flood plain management permit from the City of Apalachicola (“the City”), which application shall include all fill material placed on the property. The parties acknowledge that the application will be conceptually based upon “Recommendation #1” of the Kimley-Horn and Associates, Inc.’s consulting memorandum dated January 24, 2022, minus the gutters which were referenced in the “Preferred Design Alternative” portion of the memorandum. The parties further acknowledge that the permit application, which is the operative document, will require more detail than the

conceptual recommendation made in the Kimley-Horn memorandum. The permit application will be required to fully comply with all applicable application requirements set forth in City Ordinance 2013-02.

2. The application will be prepared and submitted to the City by August 22, 2022. Accompanying the application will be a statement from Kimley-Horn, obtained at the cost of Defendants Smith and Nall, to the effect that the terms of the application meet the storm water discharge requirements of City Ordinance 2013-02. If the cost to obtain the required statement from Kimley-Horn exceeds \$1,000.00, then Defendants Smith and Nall will split the additional costs evenly with Hall up to an additional \$5,000.00. If the total cost of obtaining the required statement exceeds \$6,000.00 and the parties cannot reach a cost-sharing agreement, Defendants Smith and Nall have the right to withdraw the application and this Agreement is of no further force or effect.

3. Upon receipt of the application, the City will forward a copy of the application to counsel for Plaintiff Hall. Hall may review the application and provide the City with any comments he wishes to make, and the City will receive and consider any such comments in good faith as part of the application review process. Nonetheless, the parties acknowledge that the City is the sole authority that will determine whether, and on what conditions, to grant or deny the application. If Smith and Nall do not agree to the permit conditions proposed by the City they may withdraw the application and this Agreement shall be of no further force or effect.

4. City staff will recommend approval of this Agreement and the matter shall be scheduled for consideration by the Commission at its next regular meeting on September 6, 2022. This Agreement shall not be deemed final as to any party unless and until Commission approval is granted.



5. Assuming approval of this Agreement by the Commission and issuance of the flood plain management permit by the City, construction shall begin no later than 90 days following permit issuance and be completed no later than 45 days thereafter.

6. Prior to the pre-trial conference scheduled for August 10, 2022, the parties will jointly request a continuance of all proceedings in this matter pending the performance of the terms of this Agreement. Within ten (10) days following issuance by the City of an as-built certificate of completion, the parties shall dismiss their respective lawsuits with prejudice and execute a mutual release of all claims.

7. The parties shall equally divide the mediator's fees (1/3 of the total fee to be paid by each of the 3 parties).

8. The parties shall be responsible for their own costs and attorney's fees.

9. The parties fully understand the terms of this Agreement, and they are freely and voluntarily entering into it with the full participation of their counsel.

DATED this 3<sup>rd</sup> day of August, 2022.

CITY OF APALACHICOLA, Plaintiff

By: Travis Wade

DocuSigned by:

Travis Wade

3D38A5E04E87C4A8  
As its City Manager

DocuSigned by:

Daniel Hartman

0330A026E1B1E7  
DANIEL HARTMAN, Esquire  
Attorney for City of Apalachicola

DocuSigned by:

Richard Hall

EB87C01A4E  
RICHARD HALL, Plaintiff

DocuSigned by:

Erin J. Tilton

97ED11430BCE407F  
ERIN J. TILTON, Esquire  
Attorney for Richard Hall

DocuSigned by:

Hale Smith

524873B1F1D2A1E  
MICHAEL HALE SMITH,  
Defendant

DocuSigned by:

Michael S. Burke

524873B1F1D2A1E  
MICHAEL S. BURKE, Esquire  
Attorney for Michael Smith

**From:** [Dan Hartman](#)  
**To:** [Dan Hartman](#)  
**Subject:** FW: Cameron v. City of Apalachicola - CL# 501-066717-0001 - 1724\*0080847  
**Date:** Thursday, September 1, 2022 11:47:56 AM  
**Attachments:** [release \(all cases\) v.1.docx](#)

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**From:** Stephen M. Cozart <smc@kubickidraper.com>  
**Sent:** Thursday, August 25, 2022 3:50 PM  
**To:** Dan Hartman <dan@fllegalteam.com>  
**Cc:** Paula Dunne <Paula.Dunne@kubickidraper.com>  
**Subject:** FW: Cameron v. City of Apalachicola - CL# 501-066717-0001 - 1724\*0080847

Attached is a draft settlement agreement that John Booth has approved for these cases. Per our previous discussions, AIG would pay \$125,000 and the City would pay \$75,000. Please look over this agreement and let me know if you have any suggested changes. I know that you will have to run this through a City Council meeting. But, I'd like to get an agreement in principle as soon as possible.

Steve

**CONFIDENTIAL RELEASE AND SETTLEMENT AGREEMENT**

JAMES F. CAMERON, as Personal Representative of the Estate of BLANCE L. CAMERON, deceased, HARRY J. HALL, JR., as Personal Representative for the Estate of SHARON J. HALL, deceased, and CAROLYN BUTLER (hereinafter collectively referred to as "PLAINTIFFS"), in equal interests, for themselves and any and all survivors, beneficiaries, administrators, representatives, successors, affiliates, and/or assigns (any and all such persons and entities being collectively referred to as "RELEASORS"), for and in consideration of the total sum of TWO HUNDRED THOUSAND and 00/100 Dollars (\$200,000.00), received from and/or on behalf of the City of Apalachicola (hereinafter referred to as "RELEASEES"), the receipt and sufficiency of which is hereby acknowledged,

HEREBY release acquits and forever discharges RELEASEES, their parents, subsidiaries, affiliates, administrators, successors, assigns, insurers, reinsurers, agents, attorneys, employees, officers, directors, and representatives from any and all manner of claims, actions, causes of action, suits, damages and demands, whether compensatory or punitive, of whatever nature or form, in tort, contract, or by statutes, that the RELEASORS ever had or now have against RELEASEES, that are or could be brought against the RELEASEES in the Lawsuits filed by Plaintiffs in the Circuit Court in and for Franklin County, Florida.

PLAINTIFFS agree to satisfy or otherwise resolve any lien or subrogated interest as a consequence of the occurrence settled pursuant to this agreement, including but not limited to liens for workers compensation, disability and health care benefits.

PLAINTIFFS affirmatively warrant and represent that there are no assignees or any others who have rights to proceeds arising out of the claims set forth in the Lawsuits or the settlement consideration. Moreover RELEASORS warrant and represent that they have not assigned, sold,

transferred, or otherwise conveyed any right, titled, or interest in the Settlement Consideration to anyone. RELEASORS further warrant and represent that no third party has put them on notice, or in any way communicated to them, that said third party may assert any right, title, or interest in the Settlement Consideration.

It is understood and agreed that the consideration provided herein is not to be construed as an admission of any liability by or on behalf of any of the RELEASEES; but instead, the consideration made hereunder is being given in order to avoid further litigation.

To secure this Agreement and the aforesaid consideration, the undersigned RELEASORS hereby declare that they are of legal age and that they have relied wholly upon their own judgment, belief and knowledge of the nature, extent, and duration of any damages and that no representations or statements about any such claims, past, present or future, made by any agent, adjuster, attorney, or employee of the parties, or their insurers, have influenced the undersigned in making or inducing the undersigned to enter into this Agreement.

It is further acknowledged that there is no agreement or compromise on the part of the parties to do or omit to do any act or thing not herein mentioned and that the within consideration is in full and complete satisfaction of any and all claims brought by the undersigned RELEASORS against RELEASEES, as referenced in this Agreement.

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and may not be modified or amended except in a writing signed by all parties hereto which writing shall specifically reference this Agreement. This Agreement is severable and, if any part hereof is determined by a court of law to be illegal, void or against public policy, all other provisions herein shall remain in full force and effect.

The Circuit Court for the 1st Judicial Circuit in and for Franklin County, Florida, shall retain jurisdiction over this matter for the purposes of enforcement of the terms of this Agreement, and this Agreement shall be governed by the laws of the state of Florida and it is agreed that the proper venue to enforce its terms is exclusively in Franklin County, Florida.

**I HAVE READ THIS RELEASE AND HEREBY ACKNOWLEDGE THAT I UNDERSTAND AND ACCEPT ALL OF THE TERMS AND CONDITIONS THEREIN.**

{signatures on following pages}

{REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK}

Signed, sealed and delivered on this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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James F. Cameron, as Personal  
Representative of the Estate of  
Blanche L. Cameron

Signed, sealed and delivered on this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Harry J. Hall, Jr., as Personal  
Representative of the Estate of  
Sharon J. Hall

Signed, sealed and delivered on this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Carolyn Butler



**APALACHICOLA CITY COMMISSION  
REQUEST FOR BOARD ACTION  
Meeting Date: September 6, 2022**

**SUBJECT:** Resilient Florida Planning Grant and Resilient Florida Implementation Grant

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** 1  
**Department:** Administration  
**Contact:** Commissioner Grove  
**Presenter:** Commissioner Grove

**BRIEF SUMMARY:** Commissioner Grove will discuss the two grant applications.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:** Recommend approval of two grant applications

**FUNDING SOURCE:** N/A

**ATTACHMENTS:** Included

**STAFF'S COMMENTS AND RECOMMENDATIONS:**

**Project Summary**

This is a planning and design project that would analyze existing vulnerable critical asset infrastructure in the City's commercial district and design a plan to mitigate street flooding through the retrofit of existing impervious parking and the design of a pervious parking pocket on City-owned property.

**Project Description**

Apalachicola's Vulnerability Analysis predicts total inundation of many of the City's downtown critical assets, including roadways and parking facilities. The City's commercial area currently experiences nuisance flooding due, in part, to excessive impervious coverage that reduces stormwater treatment capacity. Existing stormwater conveyances provide little or no water quality treatment or attenuation and do little to enhance the attractiveness of the riverfront and are, in some cases, inadequate to provide drainage which results in runoff backup into the downtown streets during high rain events. This project would analyze existing infrastructure and need and would engage an engineering firm to design green alternative infrastructure to better treat stormwater and reduce flooding. The parking/stormwater/mitigation plan would involve the coordination of two separate infrastructure activities –green initiative parking design and engineering and stormwater retrofit design. Additionally, a water quality monitoring effort within the drainage basin will be initiated to establish base-line data and quantify success once the project is constructed.

**Explain how the proposed project fits into one or more of the Project types**

This project represents an adaptation to critical facilities for the purpose of minimizing flooding.

**If the project is a Vulnerability Assessment for Peril of Flood compliance or other, please describe how the project will meet the outlined requirements for a Vulnerability Assessment under s. 380.093, F.S.**

This project adapts critical assets to the risk of flooding and sea level rise by reducing risk from flooding.

**If applicable, explain how the proposed project adapts critical assets to the effects of flooding and sea level rise as defined in s. 380.093, F.S.**

This proposed project adapts the critical asset of vulnerable roadways to reduce the effects of flooding and sea level rise.

**Discuss how the project is feasible and can be completed by the grant period deadline.**

The City has engineering and planning staff capable and available to complete the project. The City is familiar with pervious parking design as it constructed a similar pilot project on a segment of the downtown in 2021.

**Has the applicant entity(ies) performed a prior vulnerability assessment, separate from what is being proposed in this application?**

yes

**Please list which entities have a prior vulnerability assessment**

The City of Apalachicola completed an initial Vulnerability analysis in 2017. The City has applied and received funding to update its original Vulnerable study with DEP funding for the fiscal year 2022-23.

**Would you be willing to share this previous work/data with DEP?**

Yes

### **Tasks**

1. Data Collection or study – \$50,000
2. Design and Permitting - \$150,000
3. Water Quality Monitoring - \$100,000

### **Uploads**

Boundary map

Basin map

GIS map

Letter of Support

2017 Vulnerability Analysis

## City Manager Updates

September 6, 2022

**Florida League of Cities Annual Conference:** I attended the 2022 Annual Conference August 11 – 13. In addition to sitting through many informative sessions during the conference, I was honored to be a speaker during the “Doing More With Less: Solutions For Small Cities” session. We had an attendance of 166 people and I received some great feedback and made several connections with staff from other cities that I have already reached out to for assistance. Also I was asked to be a speaker at next year’s conference, and was contacted on August 29 and asked to speak at the Florida City and County Manager’s Association’s Winter Institute in February, 2023.

**Lafayette Park:** The lighting has been completed and the repairs to the pier and the pavilion at the end of the pier have been completed as well. A special THANK YOU should go out to Mrs. Marie Marshall and her organization for funding the repairs and replacement of the lights in the park, as well as the Franklin County Tourist Development Council, who funded the repairs to the pavilion. The lights are scheduled to turn on at dark and turn off at 11pm. They are also scheduled to turn on again at 5:30am.

**Magnolia Cemetery:** A light pole and meter were installed at the pavilion to power a receptacle for use during funerals (pa systems). Cates Electric volunteered their labor for the project. Special THANK YOU to Elinor Mount-Simmons, who spearheaded this project.

**Battery Park:** The kiosk for the boat ramp has been delivered and will be installed very soon. Port St. Joe and Mexico Beach have the same kiosk and reported an increase in their revenues from its use. Enforcement of the requirements in the Battery Park Marina Ordinance related to boat ramp fees will begin at the beginning of the 2022-2023 fiscal year. Notifications will be published soon to notify the public of the effective date.

**Water/Sewer Field Crew Positions:** We have filled the three vacant field crew positions recently.

# Grant Updates – Bree Robinson

City Commission Meeting – Tuesday, September 6, 2022

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**1. 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 engineer’s estimate and recommendations.

**AWARDED! – City was awarded the full amount for Leslie Street! This funding window begins July 1, 2023, and ends June 30, 2024. We will take steps to make sure this work can be completed ASAP.**

**2. DEO Rural Infrastructure Fund – Drainage Basin Analysis Phase II + Camera Work of Stormwater Lines**

An application requesting \$300,000 with no local match from the DEO Rural Infrastructure Fund was submitted on 8/31/22. The application was for the Phase II of a Drainage Basin Analysis that began in 2018. This \$300,000 grant proposal would fund an analysis of the drainage basins that border Apalachicola River and Bay. The proposal also includes funding to begin camera-work of the stormwater lines in the phase I, as recommended in that report. (We have to survey the damage before we can move forward on repairs.) The grant asks for \$110,000 for the analysis and mapping (per engineer estimate), \$5,000 for public education (grantors like to see we are promoting our message/work), \$24,000 in admin, and \$161,000 in camera-work for the phase I drainage basin area. This is a total of \$300,000 and there is no required local match.

Basins 11 and 3 were covered by the 2018 grant. This grant application would address the following basins: 1, 2, 4, 5, 6, 7, 8, 9, 10, 12-19. (MAP ATTACHED!) - **APPLIED**

**3. 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 was 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. **DENIED & REAPPLIED 7/7** in the amount of \$36,795.00, as cost of materials went up. - Waiting for updates, have been advised that most projects are funded by Firehouse Subs after 3 complete applications. Will keep submitting.

**4. *Water Treatment Plant Improvements - Rural Infrastructure Fund – DEO FY 21/22***

**FUNDED!** Application submitted electronically on 5/26/22 to the RIF program through DEO for fiscal year 21/22. City applied for \$150,000 for engineering services that are going to be needed as we navigate the Potable Water Consent Order and will set us up to apply for more funding down the line. City was FUNDED for \$147k.

Funded:

- Evaluation of Existing Conditions
- Enhanced Sampling Plan, Hydraulic Modeling, and Treatability Studies
- Alternatives Analysis
- Facilities Plan Report

Continuing Services Agreements with Engineers are in the works and advertised. Will award project after this process.

**5. *Library Improvements – Signs/Little Libraries - Florida League of Mayors 2022 City Catalyst Grants***

Application submitted electronically 6/2/22 on behalf of the Apalachicola Margaret Key Public library. Requested the max ask of \$2,500 to purchase two lockable display billboards and two “Free Little Library” setups. The lockable displays are to be placed on the façade of the library. These displays will be used to post public events, library programs, etc. The little library setups will be used for the library to join the Free Little Library program, as the goal is to place these the greenspaces/parks around Apalachicola. – **FUNDED!** Waiting to receive funds.

**6. *City of Apalachicola Old City Hall Structural Repair – Special Categories DOS***

Application submitted electronically 5/31/22 for structural repairs for the Old City Hall building. (Middlebrook Building) Amount requested was \$395,000 with an in-kind match of \$98,750 for a total project budget of \$493,750. The goal of this application is to secure funding to complete the Old City Hall Renovation and support the ongoing repairs funded through the NPS grant. The purpose is to stabilize the building, by proposing to install an interior rigid steel frame to provide the structural integrity of the building exterior masonry and support the historic second floor wood frame. – **Applied - Waiting for updates.**

**7. *CPTA Community Planning Technical Assistance Grant Program – DEO***

Application submitted 4/1/22 for updates to our local comprehensive plan as well as complete Phase 2 of the Apalachicola Areas of Critical State Concern Work Plan. If granted, grantee shall analyze the City of Apalachicola’s current local comprehensive

plan and present required and recommended update to the City Commission considering resiliency. These ideas will be vetted through community engagement and based on feedback received from the community and City Commission, final amendments to the local comprehensive plan will be prepared for public hearing and subsequent transmission to DEO. The City will also undertake Phase 2 of the Areas of Critical State Concern Work Plan by updating the infrastructure project list and conducting project scoping and economic analysis for priority projects in preparation for the funding available through the Bipartisan Infrastructure Act as well as other state and federal grant opportunities. - **AWARDED!!!** Waiting for agreement. Have been answering questions on scope for agreement.

**8. 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.

- Attended a panel on 6/28 to go over any final questions with the FWC panelist. We are in the running to be funded, but there are several other large projects also in the running. Past year awards seem to award one large project and then a number of smaller projects.
- **NOT FUNDED! I spoke with the FWC FBIP Program Manager and while we were a contender, we did not make the cut off for funding. There was a large project that swallowed up the majority of the FBIP funding. We were advised to re-submit next year for the same project and that is the City's intent, unless another funding source for repairs comes available.**

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

Awarded \$1million with a \$250k match from the City for a new construction museum next to Holy Family.

- Due to rising construction costs, the project scope has been changed from a 2-level, 2,500SQF footprint building to a 1-level 2,000SQF building with elevated ceilings. Priorities include:
  - High Security
  - Storage Room
  - Office Space
  - Breezeway to Holy Family
  - Greeting Station/Small Gift Shop Area

- ADA Accessible Bathrooms
- Controlled Lighting for Exhibits
- Building with Room for Add-On at later date
- **FUNDED!** Have submitted the project work plan and budget for the agreement draft from DOS. 8/25

**10. 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. Multiple RFIs (requests for information) were received and answered. **Still waiting for updates.**

**11. Leslie Street - FEMA**

**APPEAL DENIED!**

**Will be covered by FDOT SCOP project.**

**12. 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** – RFP’s for contract work being drafted and will be issued soon.

**HCA** –RFP’s for contract work being drafted and will be issued soon.

**\$ First deliverables have been met and are in the process of being reimbursed! \$**

**13. Grants Update -**

- a. **FDOT City Landscaping** – City was reimbursed for \$193k landscaping costs after FDOT inspection and reimbursement package sent in. Landscaping and maintenance have been “completed.”
  - i. There were issues with the grass drying out during the maintenance period, Gaskin to extend maintenance and re-plant as necessary per our contract and their warranty. **Re-plant happening soon – Dan is in contact.**
- 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 November. ALL policies needed have been completed!

- c. **CDBG-DR Hometown Revitalization** –Riverfront Revitalization and Hill Community Revitalization projects: City in environmental exemption process on administrative and engineering services. ALL policies needed have been completed!
- Hill Community (M0033): CENST approval memo was issued by DEO on July 14, 2022. The city is currently working on the RFQ for engineering procurement. Once an engineer is on board, we'll be able to confirm scope of work and begin environmental review.
  - Riverfront (M0034): CENST approval memo was issued by DEO on July 14, 2022. The city is currently working on the RFQ for engineering procurement. Once an engineer is on board, we'll be able to confirm scope of work and begin environmental review.
- d. **HMGP Emergency Generators** – Received and signed Release of Funds forms for CDBG-DR DEO match – HMGP has funded the generators and agreement signed. HMGP admin bidding was advertised and has closed. Advertised in The Democrat per MSA paper standards from DEO.
- e. **HMGP Market Street Vacuum Station** - Received and signed Release of Funds forms for CDBG-DR match – HMGP has funded the generators and agreement signed. HMGP admin was advertised and has closed. Advertised in The Democrat per MSA paper standards from DEO.
- f. **Michael FEMA Projects Updates**
- i. **Bodiford** - BODIFORD PLANS COMPLETE! Waiting for exemption for permits from FEMA to be reviewed.
  - ii. **Scipio** – Designs from Dewberry draft complete – waiting for full. Waiting for scope verification from FEMA to bid out.
  - 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 – extension 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 back room flooring of City Hall complete to place items in.
  - v. **Lafayette Park** – Boardwalk work and lighting donation have been COMPLETED! It appears that we were supposed to be exempt from permits for this work per engineer opinion, since there was no in-water repairs, but we are waiting for USACE and DEP to confirm this with FEMA before this project can close out and Bodiford and Scipio can begin.

- vi. **Hurricane Sally** – Almost all Sally projects are completed and finalized. Uploading receipts to finish.
- g. **DEP – WWTP Tank Cleaning** –WORK COMPLETED! Filed for reimbursement of funds, \$116k, on 7/24/22.
- h. **Department of Historical Resources 2023 Small Matching Grant – Black History Trail. FUNDED!** Docs for agreement in progress.

**14. 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.

- Scope of works for both efforts are in progress! Cost breakdown below:
- DEP requested several documents to send out agreements – documents supplied. Still ongoing.
- Have been notified that Continuing Services Agreements can be use for both efforts if correct for CFR Compliance – Waiting for bids to close for Engineering. **(Due 8/5, Finance Director is handling this procurement.)**

**COST:** The Total Estimated Cost of this Project is \$18,927,391. The anticipated funding breakdown is for **FDEP** to fund approximately **\$5,551,875**, and **FDEP-SRF** to fund **\$13,375,516**.

**Vulnerability Study-**

Grant #1 Vulnerability Study – FUNDED! Documents requested for agreement to be drafted – in progress.

**15. USDA Water Street Sidewalk and Lighting –**

**Staff review from USDA is complete! Pre-construction meeting took place 8/16 and all requested documents were provided. Construction by CWR Contracting, Inc. is in progress!**

**16. 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 has elected to receive "standard allowance" for government services.

Dates:

- » Funds must be obligated by December 31, 2024
- » All expenditures must be complete by December 31, 2026

American Rescue Plan Info:

- 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.

All information included in this report is accurate as of August 31, 2022 at 3:00pm. After that time, information is subject to change. If you have any questions, please send them to [brobinson@cityofapalachicola.com](mailto:brobinson@cityofapalachicola.com)!

Finance Director – Mark Gerspacher

City Commission Meeting –September 6, 2022 –  
4:00pm

**1. *Budget Hearings***

The budget hearings have been rescheduled for the 2022-2023 Budget. We will have a final workshop September 7 at 4:00 PM. The first hearing will now be September 14 at 5:01. We will schedule the second hearing at the budget workshop.

# **ATTORNEY REPORT**

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

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1. **Litigation – Hall/Smith/Nall – 7<sup>th</sup> Street (Case No.: 2018 CA 233)**

Both pending cases have been consolidated into 2018 CA 233, the original City case. We attended mediation on August 3, 2022. Resulting from the mediation was the conceptual settlement agreement attached to the related agenda request item. The agreement is consistent with settlement discussions over the past months. The settlement agreement is contingent upon review and approval by the Commission.

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

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. Along with the City’s insurance defense counsel (Steven Cozart, Esq.) we have reached the conceptual settlement agreement attached to the related agenda request item. The settlement agreement is contingent upon review and approval by the Commission.

3. **City Leases – City Hall Space and History Museum**

The parties have received and are reviewing their respective lease agreements. I expect comments and questions from the parties which will be addressed. The final version of the History Museum lease will come before the Commission for approval.

4. **Supplement to Procurement Policy**

We have a working draft finalized for consideration at the October 2022 regular Commission meeting.

**5. Encroachment Policy/Grace Period**

We continue to receive input on this potential policy and will have an Agenda item prepared on it for the October 2022 regular Commission meeting.

MINUTES OF THE WORKSHOP MEETING OF THE APALACHICOLA CITY COMMISSION  
HELD TUESDAY, JULY 26, 2022, 5:00 PM AT THE APALACHICOLA COMMUNITY CENTER.

PRESENT: Mayor Brenda Ash Deborah Guillotte, City Clerk  
Commissioner Anita Grove Dan Hartman, Attorney  
Commissioner Despina George  
Commissioner Adriane Elliott  
ABSENT: Commissioner Donna Duncan

**CALL TO ORDER**

Mayor Brenda Ash called the workshop meeting to order.

**PUBLIC COMMENT**

Public comments consisted of the following: 1) Apalachicola Historical Society (AHS) requested \$10,000 for maintenance of Chesnut cemetery be put in 2022-23 budget and requested that rules and regulations agreement be drawn up between City of Apalachicola and (AHS); 2) Tree Committee - re-forestation monies and application fee – Finance Director will research.

Commissioner Anita Grove reviewed her budget line requests for the 2022-23 FY. See Attachment "A".

Commission comments consisted of the following: 1) vehicle mileage tracking and cutting costs; 2) utility tax percentage a little low; 3) grant writer staff position; 4) millage rate being lowered; 5) accounting software; 6) Leslie Street repairs from the American Rescue Act Plan funds at next budget workshop; 7) inflation for material, supplies, etc., the department head recommendations were followed; 8); WWTP and DW emergency maintenance reserve in budget line item; 9) projected carry over from FY 2021/22 to this 2022/23 FY i.e., ARPA funds; 10) fee schedules; 11) maintenance plan for city assets and quarterly reports; 12) suggested five percent increase for employees; 13) stormwater issues maintenance line item; 14) American Rescue Plan Act; and 15) all cemeteries add a maintenance line item to budget.

Tentative budget workshop scheduled for Tuesday, August 16<sup>th</sup> at 4pm.

Mr. Gerspacher outlined the first proposed budget.

Revenues and expenses were outlined and discussed.

In a response to a question by Mayor Ash, Finance Director Mark Gerspacher stated he recommends the entire package. If the city can't do that, he recommends the hybrid option. The cost-of-living increase would not be given to employees receiving increase due to salary survey.

The Commission requested that Mr. Gerspacher proceed with the following for the next budget workshop: 1) salary study cost; 2) draft budget with millage rate options at current, roll back, and maximum figures; 3) figures for the public works position and grant writer position; and 4) to set a special meeting to adopt tentative millage rate on Tuesday, August 2<sup>nd</sup>.

<b>ADJOURNMENT</b>
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There being no further business Commissioner Adriane Elliott made a motion to adjourn. Commissioner Despina George seconded, and the motion carried 4-0.

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Brenda Ash, Mayor

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Deborah Guillotte, City Clerk



MINUTES OF THE SPECIAL MEETING APALACHICOLA CITY COMMISSION  
TUESDAY, AUGUST 2, 2022, 3:00 PM BATTERY PARK COMMUNITY CENTER.

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

Janelle C. Paul, Deputy Clerk  
Dan Hartman, Attorney  
Travis Wade, City Manager

**CALL TO ORDER**

Mayor Brenda Ash called the meeting to order.

**SET TENTATIVE MILLAGE RATE FOR FY 2022-23 AND  
ADOPTION OF RESOLUTION 2022-04**

Finance Director Mark Gerspacher set millage rate at 10% stating we can decrease the rate but cannot go above the 10% during the budget process.

Attorney Dan Hartman read Resolution 2022-04 in its entirety.

Commissioner Adriane Elliott made a motion to adopt Resolution 2022-04 setting tentative millage rate for FY 2022-23. Commissioner Despina George seconded, and the motion carried 4-0.

**ADJOURNMENT**

Commissioner George made a motion to adjourn the meeting. Commissioner Grove seconded and the motion carried 4-0.

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Brenda Ash, Mayor

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Janelle C. Paul, Deputy Clerk

MINUTES OF THE WORKSHOP FOR THE APALACHICOLA CITY COMMISSION  
TUESDAY, AUGUST 2, 2022, 3:15 PM AT THE APALACHICOLA COMMUNITY  
CENTER.

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

Janelle C. Paul, Deputy Clerk  
Dan Hartman, Attorney  
Travis Wade, City Manager

**I. CALL TO ORDER**

Mayor Brenda Ash called the meeting to order.

**II. PUBLIC COMMENT**

Public comment consisting of the following: 1) Construction sign removed from jobsite.

**III. SIGN WORKSHOP**

Attorney Dan Hartman discussed the workshops conducted by P & Z regarding size (D) and illumination (I-6), and as a result, P & Z was unable to make any progress. The ordinance was kicked back to the Commission with three options:

- 1) Defer to future
- 2) Commission to workshop with specific issues and for the City to take on and handle
- 3) Send back to P & Z with direction to get recommendations on this.

After Commission and City Attorney's discussion, Attorney Hartman will coordinate with Glen Jenkins on data gatherings and will report back at next regular meeting.

**IV. ADJOURNMENT**

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

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Brenda Ash, Mayor

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Janelle C. Paul, Deputy Clerk

MINUTES OF THE REGULAR MEETING FOR THE APALACHICOLA CITY COMMISSION TUESDAY, AUGUST 2, 2022, 4:00 PM APALACHICOLA COMMUNITY CENTER.

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

Janelle C. Paul, Deputy Clerk  
Dan Hartman, Attorney  
Travis Wade, City Manager

**CALL TO ORDER**

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

**AGENDA ADOPTION**

Commissioner Anita Grove made a motion to adopt agenda with amendments to the New Business section, adding Item 4 - Workforce Housing and City Manager section – adding Professional Services to Leslie Street. Commissioner Adriane Elliott seconded, and the motion carried 5-0.

**PUBLIC COMMENT**

Public comments consisted of the following: 1) Grace Periods of Encroachments; 2) Cleanup of alley ways; 3) Keep America beautiful; 4) Fill dirt fines/fees; 5) Palmer Townhome Plat Approval, the swells flowing into the Bay Colony Property and the possibility that D. R. Horton will be the contractor; 6) Space at the Van Johnson Complex - Attorney Hartman and Manager Wade will contact Mr. Haynes to resolve; 7) Agreement issue, which Attorney Hartman will contact Mr. Tolliver to resolve; 8) Air B & B on 18<sup>th</sup> Street; 9) Fee Schedule.

**PRESENTATION**

**THE SOUTHERN GROUP – LOBBYIST – AREA OF CRITICAL STATE CONCERN**

A presentation was given by The Southern Group and discussion with the Commission was held.

Commissioner Grove made a motion to hire Southern Group to help us with legislative needs. Commissioner Elliott seconded with discussion. Motion carried 4-1. Opposed: Commissioner Despina George.

**UNFINISHED BUSINESS**  
**1. HOLIDAY SCHEDULE**

Commissioner Grove made a motion to remove Good Friday from the Holiday Schedule to be replaced by Juneteenth Holiday. Commissioner George seconded the motion with discussion. Motion died 0-5.

Commissioner Grove made a motion to remove Christmas Eve from the Holiday Schedule to be replaced by Juneteenth Holiday. Motion died for lack of second.

**NEW BUSINESS**  
**1. PALMER POINT TOWNHOMES PRELIMINARY PLAT APPROVAL**

Attorney Hartman recommended approval of the preliminary plat.

Commissioner Donna Duncan made motion to approve preliminary plat. Commissioner Elliott seconded and the motion carried 5-0.

**NEW BUSINESS**  
**2. BENCH DONATION – RIVERFRONT PARK – DONNA INGLE**

Commissioner Grove made a motion to approve the purchase of a bench and plaque by Lynn Wilder. Commissioner George seconded and motion carried 5-0.

**NEW BUSINESS**  
**3. CHESNUT CEMETERY MAINTENANCE – CATY GREENE**

After discussion, Mayor Ash asked to move this item to the Budget workshop on August 16<sup>th</sup> with the other ARPA request. Attorney Hartman will meet with staff and report back at next meeting.

**NEW BUSINESS**  
**4. WORKFORCE HOUSING**

Commissioner Grove made a motion to appoint Commissioner Donna Duncan and Commissioner Adriane Elliott as City representatives to the County Housing Task Force. Commissioner Elliott seconded and the motion carried 5-0.

**MAYOR AND COMMISSIONER COMMENTS**

Commission comments consisted of the following: 1) Library Renovations; 2) Battery Park Kiosk – Commissioner Grover will volunteer to take the lead here; 3) Building Height; 4) Stormwater Maintenance; 5) Mayor Ash thanked Manager Travis Wade for reaching out to Fonda Davis with the County to pick up debris; 6) Commissioner George suggested that Committee’s report to City Commission quarterly, and she volunteered to meet with committee chairman to facilitate; 7) Update on water system; 8) Shade for the Splashpad was purchased and will be installed.

**CITY MANAGER COMMUNICATIONS**

Travis Wade

Congratulations to William Cox for passing his WWTP Operator “B” license test.

The work on the drinking water system has shown improvement in our TTHM results. June and July totals have dropped to our lowest results ever. We are happy to report that the city is complying.

Leslie Street project discussion.

Commissioner Grove made motion to approve \$16,467.50 for engineering expenditures to be reimbursed by the County for the purpose of repairs to Leslie Street. Commissioner Elliott seconded and motion carried 5-0.

**GRANTS COORDINATOR COMMUNICATIONS**

Bree Robinson - See Attachment “A”

**FINANCE DIRECTOR COMMUNICATIONS**

Mark Gerspacher – See Attachment “B”

**ATTORNEY COMMUNICATIONS**

Dan Hartman – See Attachment “C”

Attorney Hartman led discussion on encroachments. Mayor Ash said we need to move forward and create policy for staff to have the tools to succeed. Mayor Ash asked Attorney Hartman to meet with staff and draft a policy for next meeting.

**CONSENT AGENDA**

**A. Meeting Minutes Adoption** - May 31, 2022, Special Meeting, July 12, 2022, Special Meeting and July 12, 2022, Regular Meeting Minutes.

**B. P & Z Minutes** - July 11, 2022

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

**DEPARTMENT REPORTS**

**ADJOURNMENT**

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

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Brenda Ash, Mayor

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Janelle C. Paul, Deputy Clerk

## Finance Director – Mark Gerspacher

### City Commission Meeting –August 2, 2022 – 4:00pm

**1. *Budget Meetings for 2022-2023***

Travis Wade and I met with each department head the week of 7/11 – 7/22 to hear their needs for the coming years budget. The requests were summarized as part of the budget workshop on 7/26.

**2. *Annual Revenue Reports for FCT Project Sites***

Revenue reports for our FCT Project Sites were submitted. The projects are the Apalachicola Riverwalk, the Apalachicola Holy Family School, Waste Treatment and Municipal Park and the Apalachicola Boat Works

**3. *Continuing Services RFQ***

The RFQ for continuing services went out and we have received and answered several questions from potential vendors. Responses will be received and opened on Friday, August 5.

**4. *FY2022-2023 Budget***

The first draft of the 2022 – 2023 budget will be distributed this week to commissioners to review before the next budget workshop

# Grant Updates – Bree Robinson

## City Commission Meeting – Tuesday, August 2nd, 2022

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### **Applications in Works:**

- **DEO Rural Infrastructure Fund** – Max \$300k ask with no match. Working on pricing/scope for complete basin analysis of whole city + cameraing of lines + identifying problem lots to remedy stormwater issues. (Following up on partial Basin Analysis completed in 2019.) Looking into a phased approach for moving forward.

### **1. 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 was 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. **DENIED & REAPPLIED 7/7** in the amount of \$36,795.00, as cost of materials went up. - Waiting for updates, have been advised that most projects are funded by Firehouse Subs after 3 complete applications. Will keep submitting.

### **2. Water Treatment Plant Improvements - Rural Infrastructure Fund – DEO FY 21/22**

**FUNDED!** Application submitted electronically on 5/26/22 to the RIF program through DEO for fiscal year 21/22. City applied for \$150,000 for engineering services that are going to be needed as we navigate the Potable Water Consent Order and will set us up to apply for more funding down the line. City was FUNDED for \$147k.

Funded:

- Evaluation of Existing Conditions
- Enhanced Sampling Plan, Hydraulic Modeling, and Treatability Studies
- Alternatives Analysis
- Facilities Plan Report

Continuing Services Agreements with Engineers are in the works and advertised. Will award project after this process.

### **3. Library Improvements – Signs/Little Libraries - Florida League of Mayors 2022 City Catalyst Grants**

Application submitted electronically 6/2/22 on behalf of the Apalachicola Margaret Key Public library. Requested the max ask of \$2,500 to purchase two lockable display billboards and two “Free Little Library” setups. The lockable displays are to be placed on the façade of the library. These displays will be used to post public events, library programs, etc. The little library setups will be used for the library to join the Free Little



Library program, as the goal is to place these the greenspaces/parks around Apalachicola. – **FUNDED!**

**4. City of Apalachicola Old City Hall Structural Repair – Special Categories DOS**

Application submitted electronically 5/31/22 for structural repairs for the Old City Hall building. (Middlebrook Building) Amount requested was \$395,000 with an in-kind match of \$98,750 for a total project budget of \$493,750. The goal of this application is to secure funding to complete the Old City Hall Renovation and support the ongoing repairs funded through the NPS grant. The purpose is to stabilize the building, by proposing to install an interior rigid steel frame to provide the structural integrity of the building exterior masonry and support the historic second floor wood frame. – **Waiting for updates.**

**5. CPTA Community Planning Technical Assistance Grant Program – DEO**

Application submitted 4/1/22 for updates to our local comprehensive plan as well as complete Phase 2 of the Apalachicola Areas of Critical State Concern Work Plan. If granted, grantee shall analyze the City of Apalachicola's current local comprehensive plan and present required and recommended update to the City Commission considering resiliency. These ideas will be vetted through community engagement and based on feedback received from the community and City Commission, final amendments to the local comprehensive plan will be prepared for public hearing and subsequent transmission to DEO. The City will also undertake Phase 2 of the Areas of Critical State Concern Work Plan by updating the infrastructure project list and conducting project scoping and economic analysis for priority projects in preparation for the funding available through the Bipartisan Infrastructure Act as well as other state and federal grant opportunities. - **AWARDED!!!** Waiting for agreement.

**6. 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.

- Attended a panel on 6/28 to go over any final questions with the FWC panelist. We are in the running to be funded, but there are several other large projects also in the running.

Past year awards seem to award one large project and then a number of smaller projects.

**Waiting for updates!**

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

**FUNDED!** Working on grant work plan and budgeting for agreement to be drafted. Awarded \$1million with a \$250k match from the City for a new construction museum next to Holy Family.

- Due to rising construction costs, the project scope has been changed from a 2-level, 2,500SQF footprint building to a 1-level 2,000SQF building with elevated ceilings. Priorities include:
  - High Security
  - Storage Room
  - Office Space
  - Breezeway to Holy Family
  - Greeting Station/Small Gift Shop Area
  - ADA Accessible Bathrooms
  - Controlled Lighting for Exhibits
  - Building with Room for Add-On at later date

**8. 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. Multiple RFIs (requests for information) were received and answered. **Still waiting for updates.**

**9. Leslie Street - FEMA**

**\*WAITING FOR UPDATE ON APPEAL\***

Project still in review; no timeline. Seeking out other grant opportunities.

**10. 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** – RFP's for contract work being drafted and will be issued soon.

**HCA** –RFP's for contract work being drafted and will be issued soon.

**11. Grants Update -**

- a. **FDOT City Landscaping** – City was reimbursed for \$193k landscaping costs after FDOT inspection and reimbursement package sent in. Landscaping and maintenance have been “completed.”
  - i. There were issues with the grass drying out during the maintenance period, Gaskin to extend maintenance and re-plant as necessary per our contract and their warranty. Re-plant happening soon – Dan is in contact.
- 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. ALL policies needed have been completed!
- c. **CDBG-DR Hometown Revitalization** –Riverfront Revitalization and Hill Community Revitalization projects: City in environmental exemption process on administrative and engineering services. ALL policies needed have been completed! RFP’s for engineering work being drafted.
  - i. Grant agreement for Riverfront project executed! 4/13/2022
  - ii. Grant agreement for Hill projects executed! 5/3/22
- d. **HMGP Emergency Generators** – Received and signed Release of Funds forms for CDBG-DR DEO match – HMGP has funded the generators and agreement signed. HMGP admin is being procured currently! Advertised in The Democrat per MSA paper standards from DEO.
- e. **HMGP Market Street Vacuum Station** - Received and signed Release of Funds forms for CDBG-DR match – HMGP has funded the generators and agreement signed. HMGP admin is being procured currently! Advertised in The Democrat per MSA paper standards from DEO.
- f. **Michael FEMA Projects Updates**
  - i. **Bodiford** - BODIFORD PLANS COMPLETE! Waiting for scope verification with FEMA to bid out.
  - ii. **Scipio** – Designs from Dewberry draft complete – waiting for full. Waiting for scope verification from FEMA to bid out.
  - 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 – extension 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 back room flooring of City Hall complete to place items in.

- v. **Lafayette Park** – TDC funds going towards pavilion at end of boardwalk. Awaiting donated electrical services project to be complete – IN PROGRESS and looking great!
- vi. **Hurricane Sally** – Almost all Sally projects are completed and finalized. Uploading receipts to finish.
- g. **DEP – WWTP Tank Cleaning** –WORK COMPLETED! Filed for reimbursement of funds, \$116k, on 7/24/22.
- h. **Department of Historical Resources 2023 Small Matching Grant – Black History Trail. FUNDED!** Docs for agreement in progress.

**12. 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.

- Scope of works for both efforts are in progress! Cost breakdown below:
- DEP requested several documents to send out agreements – documents supplied.
- Have been notified that Continuing Services Agreements can be use for both efforts if correct for CFR Compliance – Waiting for bids to close for Engineering. **(Due 8/5)**

**COST:** The Total Estimated Cost of this Project is \$18,927,391. The anticipated funding breakdown is for **FDEP** to fund approximately **\$5,551,875**, and **FDEP-SRF** to fund **\$13,375,516**.

**Vulnerability Study-**

Grant #1 Vulnerability Study – FUNDED! Documents requested for agreement to be drafted – in progress.

**13. USDA Water Street Permeable Parking Sidewalk and Lighting –**

City Commission made a motion, after an award recommendation, to award the project to CWR Contracting, Inc. They have met with Dewberry engineers on site to begin working soon! Final documents mailed to USDA office on 7/26/22 for closeout before construction can begin. **Awaiting USDA staff review.**

#### ***14. 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 has elected to receive "standard allowance" for government services.

##### Dates:

- » Funds must be obligated by December 31, 2024
- » All expenditures must be complete by December 31, 2026

##### American Rescue Plan Info:

- 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.

All information included in this report is accurate as of July 26, 2022 at 3:00pm. After that time, information is subject to change. If you have any questions, please send them to [brobinson@cityofapalachicola.com](mailto:brobinson@cityofapalachicola.com)!

# **ATTORNEY REPORT**

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

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**1. Noise Ordinance**

Please review the Noise Ordinance as revised and provide any additional comments or revisions, we can finalize for first reading at the September 2022 City Commission meeting.

**2. Procurement Policy - Supplement**

Please review the Supplement to the CDBG Procurement Policy (2022) previously adopted by the City. The purpose of the Supplement is to address non-CDBG type procurements of goods and services. Also to clearly delineate the spending authorization of City Manager and incorporate the Statutory Category II CCNA threshold amount into the City's Procurement Policy.

**3. Grace Period on ROW Encroachment Agreements (Fences and Auxiliary Structures)**

During a discussion following the PZ meeting regarding the need to deal with Fence and Auxiliary building encroachments in City Alleys (ROWS) it was suggested that the City adopt a uniform policy on the same. The suggestion for consideration by the City was to formally announce a Policy to deal with such ROW encroachments in a uniform manner. Specifically to publicly announce a grace period for property owners in violation to come into compliance. The example discussed was a 2 or 3 year grace period during which persons in violation would either move their encroaching structure out of the ROW or apply for and receive an encroachment agreement from the City Commissions.

The benefits of this approach include a certain percentage of owners coming into compliance without the need for City intervention and it would mitigate against any allegations of selective enforcement.

4.

**CITY OF APALACHICOLA**  
PLANNING & ZONING BOARD  
WORKSHOP & REGULAR MEETING  
MONDAY, August 8th, 2022  
Community Center/ City Hall -1 Bay Avenue  
Minutes

**Approved: Regular Meeting: 6:00 pm**

**Attendance: Jim Bachrach, Al Ingle, Justin McMillan, Lee McLemore, Joe Taylor, Bobby Miller, Chase Galloway**

1. Approval of July 11th, 2022 regular meeting minutes.
  - **Motion to approve by Bobby Miller; 2<sup>nd</sup> by Chase Galloway. All in favor – motion carries.**
  
2. Review, Discussion and Decision for Review for Garage, Pool, & Decking. **(Historic District) (R-1) @ 121 14<sup>th</sup> Street**, Block 89, Lots 9 & 10. For J. Stephens -Owner; Contractor: 1<sup>st</sup> Choice
  - **Motion to approve contingent on applicant parceling properties together with Franklin County Property Appraiser by Jim Bachrach; 2<sup>nd</sup> by Bobby Miller. All in favor – motion carries.**
  
3. Review, Discussion and Decision for Deck Addition. **(Historic District) (R-1) @ 146 Bay Avenue**, Block 197, Lots 1-5. For L. Batzloff -Owner; Contractor: self
  - **Motion to approve by Bobby Miller; 2<sup>nd</sup> by Jim Bachrach. All in favor – motion carries.**
  
4. Review, Discussion and Decision for Pool, Pavers, & Deck. **(Historic District) (R-1) @ 40 5<sup>th</sup> Street**, Block 14, Lots 3-5. For S. Berkheiser Jr. -Owner; Contractor: Cox Pools/TBD
  - **Motion to approve contingent on removing the extra square footage to reach 40% lot coverage by Jim Bachrach; 2<sup>nd</sup> by Justin McMillan. All in favor – motion carries.**
  
5. Review, Discussion and Decision for Addition, Renovation, & Deck. **(Historic District) (R-1) @ 204 10<sup>th</sup> Street**, Block 156, Lot 2. For C. Presnell–Owner; Contractor: Self
  - **Motion to approve by Jim Bachrach; 2<sup>nd</sup> by Chase Galloway. All in favor – motion carries.**



**CITY OF APALACHICOLA**  
PLANNING & ZONING BOARD  
WORKSHOP & REGULAR MEETING  
MONDAY, August 8th, 2022  
Community Center/ City Hall -1 Bay Avenue  
Minutes

6. Review, Discussion and Decision for Deck Addition. **(Historic District) (C-1) @ 29 Ave. E,** Block F, Lots 18-20. For White Sands Investment Partners-Owner; Contractor: Coastal ICF Construction
  - **Motion to approve by Jim Bachrach; 2<sup>nd</sup> by Bobby Miller. All in favor – motion carries.**
  
7. Review, Discussion and Decision for New Construction/Relocation of Pool and Gym Building **(Historic District) (R-1) @ 67 Avenue D.** Block 16, Lots 1-2. For S. Etchen–Owner; Contractor: TBD
  - **Motion to approve by Jim Bachrach; 2<sup>nd</sup> by Justin McMillan. Discussion on if the engineered pool meets Stormwater Best Management Practices definition and can be included as pervious. All in favor – motion carries.**
  
8. Review, Discussion and Decision for New Construction Home. **(Historic District) (R-1) @ 94 Bay Avenue.** Block 193 Lots 1-5. For S. Polow – Owner; Contractor: TBD
  - **Take no action – would need a variance for setbacks. Deferred to Board of Adjustments.**
  
9. Review, Discussion and Decision for Demolition, Renovation, & New Construction. (Marina & Restaurant) **(Historic District) (R/F) @ 119 Water Street** (TBD). Wharf lots 11,13,14,15, 16. For Apalach Trading Company LLC. – Owner; Contractor: TBD; Agent: Dan Garlick
  - **Motion to approve concept with listed contingencies dependent on staff review by Jim Bachrach; 2<sup>nd</sup> by Justin McMillan. Discussion on listed items and parking. All in favor – motion carries.**
  - **Contingencies:**
    - **Permits/Approvals from outside agencies for stormwater management, flood and storm, boat slips and the docks. (NFWMD, FEMA, FDEP, & USACE.)**
    - **Sewage Pump Out facilities planned for/provided**
    - **Fuel Spill Prevention Plan/Equipment on and off water planned for/provided**
    - **Parking – Mitigate or delete 24 slips**
    - **Special Exception for Fuel Dispersing Devices in R/F Zone (Riverfront)**

**CITY OF APALACHICOLA**  
PLANNING & ZONING BOARD  
WORKSHOP & REGULAR MEETING  
MONDAY, August 8th, 2022  
Community Center/ City Hall -1 Bay Avenue  
Minutes

- **City Commission agreeance on Right of Way improvements and use**
- **Hurricane Plan approved by Emergency Management + City of Apalachicola Building Inspector**
- **Roof Materials are non-contaminating to Runoff Stormwater**
- **All parcels owned by the applicant must be parceled together with Franklin County on Property Appraiser.”**

Other/New Business:

**N/A**

Outstanding/Unresolved Issues:

**N/A**

**Motion to adjourn by Jim Bachrach; 2<sup>nd</sup> by Chase Galloway.**

**Approved: Al Ingle**





# CITY OF APALACHICOLA CODE ENFORCEMENT

192 Coach Wagoner Blvd \* Apalachicola, Florida 32320 \* 850-653-8222

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August 31, 2022

## CODE ENFORCEMENT OFFICE

August 31, 2022

- 15 Tree Permits (meetings with property owners, photos, and site visits).
- 5 Fence Permits (meetings with property owners and site visits)
- 1 Fill Permit (with site visits)
- 3 Dumping sites visited (Neighborhood canvas for violator information)
- 6 Meetings regarding debris/blight on personal property
- 1 Grease Trap/Sewer issue in commercial district (Health Department Violation)
- 2 Stop Work Orders
- 2 Sign Permit meetings
- 1 Citations issued
- 7 Trees that were on City right - of - way that need to be removed (permits issued)
- 3 site visit reference condemned houses
- Daily Office Meetings
- Daily patrol
- 1 House visit reference illegal bus living
- 1 house visit reference illegal camper living
- Daily phone inquiries & emails answered
- Set up files for each new permit client

**Set up excel record of fill permits and quantity by address**

**Numerous meetings reference code violations at 249 and 251 The Prado**

**Numerous phone and email communications with violator's counsel reference 245 12<sup>th</sup> Street (Allen residence)**

**Meeting with City Commissioners and Mayor reference fill ordinance.**

**Attend budget workshop**

**Meeting with Stephnia Turrell of Apalachicola Housing Authority reference illegal dumping on 16<sup>th</sup> Street**

**Review proposals for potential City Engineer contractors**

**Fees Collected**

<b>Tree Permits</b>	<b>\$2840 (\$650 City/ \$2190 Tree Restoration)</b>
<b>Fence Permits</b>	<b>\$300</b>
<b>Fill Permit</b>	<b>\$100</b>
<b>Additional Fill</b>	<b>\$3250</b>

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CITY OF APALACHICOLA  
ADMINISTRATION DEPARTMENT  
August 2022

- Updated meeting calendar on website
- Payroll
- Finance Clerk posted revenues, expenses, pay accounts receivables, balance check accounts, purchase orders and tracking, research on all vendor accounts, and order city employee cell phones
- Assist staff with tree applications, utility bill issues
- Staff assisted with Cemetery, utility bills, garbage, permitting issues, city property rentals and other miscellaneous duties
- Completed tasks as assigned by the City Manager/Commission
- Public Records Request
- Annual golf cart sticker renewals
- Business License Renewal Notices and processing by City staff

Monthly Report for the  
Apalachicola Margaret Key Library  
July 2021

Statistics:

- 771 patron assists
- 431 circulated items
- 21 new accounts
- 154 computer uses
- \$464.09 in library revenue
- 6 boxes donated books
- 90 volunteer hours
- 50 items added to the collection
- 466 listings deleted
- 16 Facebook posts accessed 1,231 times
- 4 accounts reached with 12 Instagram posts

The library is open from 10:00 a.m. to 5:00 p.m., Monday - Friday and Sundays from noon to 5:00 p.m. A wide array of services continue to be offered. Patrons use our services for printing, writing, notarizing, and learning. Books, audiobooks, movies, puzzles, and items from our Library of Things are circulated.

This month we celebrated freedom with a "Let Freedom Ring" board. A collection of related books is located near the entrance of the library. Along with a picture of Mayor Kevin Begos, we have on display two of his books and a biographical pamphlet.

The month of July is the last month of our children's summer reading programs: Tales and Tails and Reading and Recycling. On Tuesdays, Bring Me a Book Franklin offers Books for Babies and Sunset Stories. On Wednesdays, Reading and Recycling, a joint program with BABF and the AMKL underwritten by Dollar General was offered. On Thursdays, Tails and Tales sponsored by PALS was offered to children 6-12. 128 individuals took advantage of the fun, educational activities provided by the library staff this month. Attendees were able to make tie-dye shirts, bird feeders, Japanese wind socks, and many more fun items. Many children filled out

their Summer Reading Bingo Card and several received prizes. Patrons that completely filled out their bingo cards were entered into a drawing for a summer bucket.

We continue to ask unvaccinated patrons, ages 12 and over, to wear a mask. Hand sanitizer is located at the entrance of the library.

Six volunteers have sorted and processed book, audiobook, and puzzle donations as well as shelving materials and straightening collections.

Patrons are still able to pick up free seeds at the library; our Seed Library has been provided by The Reserve, the Friends of the Reserve, and the Franklin County Master Gardener volunteers, to help the pollinators in our area.

Isel Sánchez-Whiteley  
Library Assistant

**BUILDING DEPARTMENT**

**August 2022**

- 27 Building Permits Issued
- 5 Building Permits in Process
- 65 Building Inspections
- 30 Certificates of Completion Issued
- 6 Certificates of Occupancy
- Daily Phone Inquiries & Emails Answered
- Several On-Site Meetings
- Daily Office Meetings
- Records Requests
- 8 Planning & Zoning Applications -Support
- Floodplain Management Training
- August Building Dept. Fees brought in: \$8,024
- Building Dept. Fees ytd: \$98,831



## City of Apalachicola public works monthly report

August 2022

The public works department, services all city vehicles and replaces all the tires on city vehicles, services all the mowers and weed eaters, cuts all city parks, cut all city properties, clean all city buildings, empty all garbage cans down town and city parks, clean city right of ways, cut city right of ways, and patch holes on city roads as needed.

- collected trash from down town and public parks receptacles three times a week.
- cut our routine main roads parks and cemeteries.
- completed 18 work orders.
- trimmed palm trees at laffette park.
- repaired several pot holes in city.
- meet with contractor for repairs on battery park pier.
- fixed and replaced several stop signs.
- Serviced 1 vehicle.
- replaced locks on public restrooms on market st. twice,
- put new sign on battery park lane and bay ave.
- removed several debri piles.
- cut and cleaned most of our main storm drainage ditches.
- repaired roof at city hall.
- cut dog park.
- completed routine maintenance on mowers and equipment at public works.

Signed. Robert Osburn

# APALACHICOLA POLICE DEPARTMENT

AUGUST 2022

No events to report for August however, we are currently investigating several vehicle break ins in the South side area of Apalachicola. We have increased patrol in residential areas. The Gun Range gained 3 new members this month.

## August 2022 Totals

Traffic Stops/Warnings/ citations	35	
Arrests/Warrant Requests	4	
Traffic Accidents	5	
Burglary/Theft calls	17	
Assist Citizens/ Complaints/investigations		1003
Trespass Warnings/agreements	6	
Business alarm calls/building checks/welfare checks		956
assist county call/other agencies	30	
Assist Animal control	0	
Domestic cases involving violence/disturbance calls		0
Drugs	0	
Total calls from dispatch	2436	

## Utility Billing Clerk – August 2022

### Payment Reconciliation 08/01/2022 through 08/31/2022

Category	Type	Payment Method	Count	Amount
Deposit Payments	Manual	NOT SPECIFIED	6	-850.00
	Total - Manual		6	-850.00
Total - Deposit Payments			6	-850.00
Payments		CASH	311	-24322.27
		CHECK	1110	-154689.04
		CREDIT CARD	437	-30768.56
	Total - Manual		1858	-209779.87
	Payment Redistribution		154	0.00
	Total - Payment Redistribution		154	0.00
	Recurring	Bank Draft	551	-85189.19
	Total - Recurring		551	-85189.19
	Returned Check	CHECK	1	163.00
	Total - Returned Check		1	163.00
Total - Payments			2564	-294806.06
GRAND TOTAL			2570	-295656.06

Billing Dept - Payments processed in August -2,564

Work Orders Issued - 65      Work Orders Completed - 64

Customers on Shut Off List - 118

Bills mailed out - 2,107 (less City accounts 61)

Post Office - Customers did not receive their bills for the month - many were ugly to us in the office blaming and saying it is not their job to call for their bill amounts. We explained the bills were mailed July 27, 2022, and that water bills are due the 15<sup>th</sup> of each month. Our due dates were previously changed from the 10<sup>th</sup> to the 15<sup>th</sup> for delays with the mail. We called the post office and were told the bills had to be hand fed in Tallahassee as their machine was broken, and it took time.

Waste One -Continue daily communications with Waste One to ensure correct billing  
Finance Director - Completed Billing portion of the Fee Schedule and given to Mark. Included the new rates with 3% increase to be effective 10/1/22

Water Dept - New employees being trained for meter reading / work orders / etc.

Filled in for City Clerk at 8/2/22 meetings / prepared minutes for these meetings and given to City Clerk for approval at the September meeting. I have attended Budget Workshops to help with the public comment portion of the meetings.

Continue to place Quill orders for all departments

Issue reports as requested by City Clerk and Finance Director-other departments

Load documents for Website / update calendar

Janelle C. Paul 9/1/22