

A Public Hearing and Regular Meeting of the Apalachicola City Commission was held on Tuesday, October 3, 2023, at 4PM at the Apalachicola Community Center, #1 Bay Avenue, Apalachicola, Florida.

Present: Mayor Brenda Ash, Commissioner Despina George, Commissioner Donna Duncan, Commissioner Anita Grove, Commissioner Adriane Elliott, City Manager Travis Wade, City Clerk Lee Mathes, City Attorney Dan Hartman, Planner Bree Robinson, Code Enforcement Officer PJ Erwin

Mayor Ash called meeting to order followed by Invocation and Pledge of Allegiance.

SWEARING IN OF MAYOR, CITY COMMISSIONER SEAT 1, & CITY COMMISSIONER SEAT 2

Jimmy Elliott sworn in Commissioner Adriane Elliott with the following oath:

I, ADRIANE ELLIOTT, DO SOLEMNLY SWEAR THAT I WILL SUPPORT, PROTECT, AND DEFEND THE CONSTITUTION AND GOVERNMENT OF THE UNITED STATES AND THE STATE OF FLORIDA; THAT I AM DULY QUALIFIED TO HOLD OFFICE UNDER THE CONSTITUTION OF THE STATE OF FLORIDA AND THE CHARTER OF THE CITY OF APALACHICOLA, AND THAT I WILL WELL AND FAITHFULLY PERFORM THE DUTIES OF COMMISSIONER SEAT 2, OF THE SAID CITY ON WHICH I AM ABOUT TO ENTER, SO HELP ME GOD.

Commissioner Despina George sworn herself in with the following oath:

I, DESPINA GEORGE, DO SOLEMNLY SWEAR THAT I WILL SUPPORT, PROTECT AND DEFEND THE CONSTITUTION AND GOVERNMENT OF THE UNITED STATES AND THE STATE OF FLORIDA; THAT I AM DULY QUALIFIED TO HOLD OFFICE UNDER THE CONSTITUTION OF THE STATE OF FLORIDA AND THE CHARTER OF THE CITY OF APALACHICOLA, AND THAT I WILL WELL AND FAITHFULLY PERFORM THE DUTIES OF COMMISSIONER SEAT 1, OF THE SAID CITY ON WHICH I AM ABOUT TO ENTER, SO HELP ME GOD.

Roderick Robinson sworn in Mayor Brenda Ash with the following oath:

I, BRENDA ASH, DO SOLEMNLY SWEAR THAT I WILL SUPPORT, PROTECT AND DEFEND THE CONSTITUTION AND GOVERNMENT OF THE UNITED STATES AND THE STATE OF FLORIDA; THAT I AM DULY QUALIFIED TO HOLD OFFICE UNDER THE CONSTITUTION OF THE STATE OF FLORIDA AND THE CHARTER OF THE CITY OF APALACHICOLA, AND THAT I WILL WELL AND FAITHFULLY PERFORM THE DUTIES OF MAYOR, OF THE SAID CITY ON WHICH I AM ABOUT TO ENTER, SO HELP ME GOD.

AGENDA ADOPTION

Motion to adopt agenda with the following amendments made by Commissioner Grove, seconded by Commissioner Elliott.

Adding under consent agenda: City Commission Minutes – September 25, 2023 Budget Public Hearing & Special Meeting; City Commission Minutes – September 27, 2023 Workshop

Motion carried 4 to 0.

PUBLIC HEARING – ORDINANCE 2023-03 – SIGN ORDINANCE

Attorney Hartman read Ordinance 2023-03 by title as follows:

AN ORDINANCE OF THE CITY OF APALACHICOLA, FLORIDA, PROVIDING FOR AMENDMENT OF PART II – CODE, SUBPART B – LAND DEVELOPMENT CODE, CHAPTER 113 – SIGN REGULATIONS; PROVIDING FOR ADDITIONAL DEFINITIONS, METHOD OF COMPUTATION, PROVIDING FOR A PURPOSE AND SCOPE OF SIGN REGULATIONS, PROVIDING FOR STANDARDS, PROVIDING FOR REGULATION OF MURALS ON PRIVATE PROPERTY, PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND ESTABLISHING AN EFFECTIVE DATE.

Commissioner Elliott commented that she opposes this ordinance as is because of language relating to sign size and murals.

No further comment. Public hearing closed and regular meeting opened.

Commissioner Duncan entered meeting at this time.

PRESENTATION – SOUTHERN GROUP/OVID SOLUTIONS

Julie Dennis and Rachel Cone gave presentation regarding the Area of Critical State Concern Workplan, updated Commission on requesting the full \$5 million ACSC Stewardship Act funds and recommended that appropriation requests for projects that don't qualify under the ACSC Stewardship Act funding be submitted by the end of October.

City Manager Wade stated a special meeting will have to be held to approve appropriation requests.

PUBLIC COMMENT

1. Tom Morgan – applauded Commission on \$5 million ACSC Stewardship Act funding and addressed downtown parking problem.
2. Faye Gibson – expressed concern regarding the Botanical Gardens bathroom construction and would like the Parks & Recreation Committee to work with Attorney Hartman on reviewing the State's management plan for Botanical Gardens.

REQUEST TO PURCHASE CITY PROPERTY – MARK GALBREATH

City Manager Wade stated that Mr. Galbreath is requesting to purchase the property at the corner of 10th Street and Avenue L. There are three structures on the property which consists of a brick house which faces Avene L and encroaches into the alley, old restaurant on the corner, and the shotgun house on 10th Street which encroaches onto the neighboring property.

Attorney Hartman stated the City could have the property appraised, advertise the sell, and accept sealed offers on the property.

Mr. Galbreath stated he would like to purchase the property, make improvements, and put the property back on the tax rolls.

Discussion held concerning how City acquired the property and property title.

Commission agreed to authorize Attorney Hartman and City Manager Wade to research this matter and provide an update at next regular meeting.

PARKING MITIGATION REQUEST

Bree Robinson stated that the Apalachicola Yacht Club has had to reduce their occupancy by removing two tables to meet the parking requirements to receive a Certificate of Occupancy and business license. If Mr. Mathis would like to return the two tables, then he would be required to pay the \$5,000 fee for one public owned parking spot which would be deposited into the Apalachicola Parking Mitigation Fund as mentioned in Ordinance 2018-02.

Commissioner Elliott stated that she will be abstaining from the vote and will file Form 8b with the City Clerk after the meeting.

Clayton Mathis, Apalachicola Yacht Club, stated that he does not agree with the parking mitigation fee, especially when building permits were issued and wasn't until he was ready for the Certificate of Occupancy and business license was he told that he didn't meet the parking requirements. Parking requirements are not mentioned in any of the processes to obtain a building permit. Mr. Mathis stated that no Apalachicola Parking Mitigation Fund has been created, and there are no records indicating what spaces have already been obligated with prior parking mitigation. Mr. Mathis further stated that the old business, Tin Shed, should have had 11 allocated parking spaces. Mr. Mathis has added 4 spaces which would make the total number of parking spaces 15 which should be enough to meet the parking requirements. Mr. Mathis is requesting to waive the parking mitigation fee and allow him to operate his business with the 4 new spaces that was created along with the 11 spaces that was allocated to the Tin Shed.

Bob Lautner stated that the Apalachicola Yacht Club should inherit Tin Shed's parking spaces and the building official should have addressed any parking issues before any building permits were issued.

Attorney Hartman stated Mr. Mathis met his parking requirements by removing 2 tables. There are several developments coming up that will need parking mitigation, so whatever the Commission decides will set a precedence.

Mayor Ash commented that the building official did not mention parking requirements during the permitting process.

Attorney Hartman stated that any parking mitigation should have been received and approved before a building permit was issued. If the original building plan showed the need for additional parking spaces, then the building permit was issued prematurely.

Mayor Ash stated that Mr. Mathis is now requesting to pay the \$5,000 for the additional parking space.

Mr. Mathis stated he did not request to pay the additional amount.

Bree Robinson stated she wrote the original board action request.

Discussion held regarding allowing the 15 parking spaces (11 Tin Shed, 4 new) and designating parking to businesses.

Attorney Hartman stated that Mr. Mathis is currently in compliance, but if he wants to add back the 2 tables, then he would have to mitigate the 1 parking space and the Commission can waive the fee if they choose to do so.

Commissioner George stated it is hard for someone to abide by the rules when the rules are not available for them to research.

Mayor Ash stated at this time there is not enough information to make a decision at this meeting. The Apalachicola Yacht Club is opened for business, and we need to make sure the Commission is doing right for everyone.

Commissioner George stated he can open, but he will be opening with less tables. Give him the opportunity now to mitigate one more space so he can put in 2 more tables.

Mayor Ash stated he did not provide any parking mitigation plan for this meeting and his request was to waive the fee and obtain the 11 parking spaces from the Tin Shed.

Mr. Mathis stated he is agreeable to operating with a reduced capacity until this matter can be resolved.

Commission tabled matter until November 7th workshop to be held after the regular meeting.

THE LODGE – FLOODPLAIN MANAGEMENT

Attorney Hartman stated the owners of 145 6th Street are seeking a floodplain variance related to their elevation requirements. The LDC allows for a variance for historic structures when recommended by a floodplain administrator and approved by the Commission.

Motion to approve floodplain administrator recommendation to grant floodplain variance for 145 6th Street with respect to historic structures made by Commissioner Grove, seconded by Commissioner Duncan. Motion carried 5 to 0.

AUDITOR SELECTION

Commissioner George stated that Moran & Smith has submitted a draft engagement letter to provide audit services for the fiscal year ending September 30, 2023. If accepted as presented, this would be a renewal of Moran & Smith's previous contract for services and the City would not be required to follow the auditor selection procedures specified in Florida Statutes. Moran & Smith have also offered to provide audit services for fiscal year ending September 30, 2024, for the same rate if the Commission chooses to approve that engagement letter as well.

Motion to authorize Mayor Ash to sign Moran & Smith engagement letters to provide audit services for fiscal years ending September 30, 2023, and September 30, 2024, made by Commissioner George, seconded by Commissioner Grove. Motion carried 5 to 0.

ENCROACHMENT AGREEMENT AMENDMENT REQUEST - ZESTER

William Zester stated he constructed a carport for a golf cart over an existing encroachment agreement for a concrete pad. Mr. Zester stated he is requesting the Commission to amend the existing encroachment agreement to include a wood and metal roof, open carport to shelter a golf cart.

Attorney Hartman stated he advised Mr. Zester that encroachment approval comes from the Commission and the existing encroachment agreement relates to the concrete pad only. The carport extends over the concrete pad which creates more of an encroachment.

Commissioner Elliott asked Mr. Zester if a building permit was obtained.

Mr. Zester stated he did not obtain a building permit because he thought the carport would be covered in the existing encroachment agreement. Mr. Zester suggested he move the poles back even to the edge of the concrete pad, so the carport just covers the existing encroachment which is the concrete pad and proceed with the correct process by applying to Planning & Zoning for an after the fact building permit to construct the carport.

Discussion held regarding failure to obtain building permit, increasing existing encroachment, setting a precedence by approving encroachment amendment, and options to relocate the carport to another part of the property.

Motion to deny encroachment agreement amendment request made by Commissioner Elliott, seconded by Commissioner George. Motion carried 5 to 0.

FLOODPLAIN ORDINANCE

Attorney Hartman outlined the current floodplain ordinance which states that a 50% valuation calculated for repairs of a structure in a flood zone is over a 10-year period. Franklin County and the City of Carrabelle have both adjusted their ordinances to a shorter period.

Bree Robinson stated the current ordinance prevents homeowners from doing full renovations.

Commissioner Grove stated the CRS is a point-based system that lowers flood insurance premiums for the community. If the look back period is lowered, it can reduce the CRS score. ISO had a problem with Franklin County when they lowered the time period. After discussing matter with FEMA experts, it is recommended to not go beyond 2 years, but we need to find out further information on how this is going to affect the community rating score.

Motion to table this matter pending further research and charge Commissioner Grove in gathering information that she discussed and bring back at November meeting made by Commissioner George, seconded by Commissioner Duncan.

Commissioner Elliott recommends having a report prepared in conjunction with Commissioner Grove's information that she gathers, have Commissioner Grove work with Attorney Hartman and Planner Bree Robinson so when this matter comes back before the Commission in November, we will have a clear report on what actions we can take and what the effect of those actions will be.

Mayor Ash stated that Commissioner Elliott would like to add that a complete report is added with motion for November meeting.

Commissioner Grove stated that the Commission will have a lot going on with the parking mitigation in November and suggests to table until the December or January meeting. This is something staff is recommending and is nothing we have to immediately respond to.

Commissioner Elliott suggested that since this matter is not of urgent importance, ask Commissioner George to amend motion to have Commissioner Grove provide a detailed report with information, have Attorney Hartman and Planner Bree Robinson provide options about how to proceed, and table until December meeting. This would leave it open enough to allow for a detailed report and options to present.

Commissioner George amended motion to ask for follow up at December meeting, but would like to keep motion general, so rest of motion remains unchanged.

Commissioner Duncan seconded amended motion to table matter until December meeting. Motion carried 5 to 0.

SECOND READING & ADOPTION DECISION – ORDINANCE 2023-03 – SIGN ORDINANCE

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Motion to adopt Ordinance 2023-03 made by Commissioner Grove, seconded by Commissioner George. Motion carried 4 to 1 with Commissioner Elliott opposing.

FIRST READING – ORDINANCE 2023-05 – PERVIOUS DECK ORDINANCE

Attorney Hartman read Ordinance 2023-05 by title as follows:

AN ORDINANCE OF THE CITY OF APALACHICOLA, FLORIDA, PROVIDING FOR AMENDMENT OF THE APALACHICOLA CODE OF ORDINANCES PART II – CODE; SUBPART B – LAND DEVELOPMENT CODE; CHAPTER 101 – GENERAL AND ADMINISTRATIVE PROVISIONS; ARTICLE I – IN GENERAL; SECTION 101-8 PROVIDING FOR AMENDMENTS TO THE DEFINITIONS DEALING WITH DECKS; PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND ESTABLISHING AN EFFECTIVE DATE.

Discussion held concerning deck definition and board spacing.

Motion to approve 1st reading and advertise for public hearing and 2nd reading made by Commissioner Elliott, seconded by Commissioner Duncan. Motion carried 5 to 0.

TRANSIENT LODGING DISCUSSION

Code Enforcement Officer PJ Erwin stated that since the City has started using the software for short term rental enforcement, several issues and concerns have arisen. Because the current ordinance states that short term rentals in the C-1 and C-4 area must have a minimum of 2 units with a maximum of 10 units and kitchen facilities are restricted to microwave use only, there are at least 30 short term rental units that are in noncompliance. Recommendation is made to remove or adjust the requirement regarding the microwave restriction and lower the minimum to 1 unit.

Attorney Hartman stated making these two changes would not make our current ordinance invalid as this doesn't affect the rental duration.

Discussion held and public comments received regarding the current restrictions.

Commission agreed for Attorney Hartman to proceed with procedure to amend the current restrictions and bring back at November meeting for further discussion.

ENCROACHMENT AGREEMENT – CSC REALTY

Attorney Hartman stated agreement is ready for approval contingent upon changing insurance requirement from \$500,000 to \$1 million.

Motion to approve encroachment agreement for CSC Realty contingent upon changing insurance requirement from \$500,000 to \$1 million made by Commissioner Grove, seconded by Commissioner Elliott. Motion carried 5 to 0.

ENCROACHMENT AGREEMENT O O’STEEN

Attorney Hartman stated agreement is ready for approval contingent upon changing insurance requirement from \$500,000 to \$1 million.

Motion to approve encroachment agreement for Jason O’Steen contingent upon changing insurance requirement from \$500,000 to \$1 million made by Commissioner Grove, seconded by Commissioner Elliott.

MAYOR & COMMISSIONER’S COMMENTS

1. Mayor Ash stated that Mayor Pro-Tem and other committee appointments need to be made.

Motion to reappoint Commissioner Grove as Mayor Pro-Tem made by Commissioner George, seconded by Commissioner Duncan. Motion carried 4 to 1 with Commissioner Elliott opposing.

Motion to reappoint Commissioner Grove as liaison to Volunteer Fire Department and Oyster Restoration Board made by Commissioner George, seconded by Commissioner Duncan. Motion carried 5 to 0.

Commissioner Elliott stated she is liaison on Battery Park Committee and Franklin County Local Technology Planning Team. The Battery Park Committee hasn’t met all year.

Mayor Ash if the Battery Park Committee needed to be dissolved.

Commissioner Elliott stated there are a number of committees and boards that no longer serve a purpose and could be dissolved.

City Manager Wade will supply a list of committees and boards that can possibly be dissolved at the November meeting for the Commission review.

Motion to reappoint Commissioner Elliott to Franklin County Local Technology Planning Team made by Commissioner Grove, seconded by Commissioner Duncan. Motion carried 5 to 0.

Commissioner George stated she has been the City's representative on the Apalachee Regional Planning Council for several years and feels this position should be rotated.

City Manager Wade will research Apalachee Regional Planning Council representative appointment requirements and report back to the Commission.

Motion to reappoint Commissioner George as liaison to Audit Committee, Library Board, and Parks & Recreation Committee made by Commissioner Grove, seconded by Commissioner Duncan. Motion carried 5 to 0.

Motion to appoint Commissioner Duncan as representative to Tourist Development Council Board made by Commissioner George, seconded by Commissioner Grove. Motion carried 5 to 0.

Mayor Ash stated the City is currently without a finance director and recommends appointing Lee Mathes as interim finance director while the City goes through the advertising and interviewing stage.

Motion to appoint Lee Mathes as interim finance director made by Commissioner George, seconded by Commissioner Grove. Motion carried 5 to 0.

Mayor Ash stated a special meeting will have to be set to discuss and approve the appropriations requests.

Motion to adopt the Area of Critical State Concern Workplan made by Commissioner Grove, seconded by Commissioner George. Motion carried 5 to 0.

Mayor Ash stated digitalizing documents needs to be made a priority.

Mayor Ash stated she has had citizens request the current lease for The Matchbox.

City Manager Wade stated that all he has is the unsigned copy but will contact Helen Escobar for a signed copy.

2. Commissioner Grove updated Commission on Apalachicola Bay Systems Initiative.

3. Commissioner Elliott expressed concern regarding codification of ordinances, and the unsurety of what rules and regulations the City is supposed to be operating and governing under.

4. Commissioner Duncan – No comments.

5. Commissioner George – No comments.

CITY MANAGER COMMUNICATIONS

City Manager Wade outlined his report, and he is working with lobbyist to alleviate the City of Apalachicola from issuing the Apalachicola Bay Oyster license as stated in the Florida Statutes.

GRANTS COORDINATOR COMMUNICATIONS

Report attached.

ATTORNEY COMMUNICATIONS

Attorney Hartman stated several questions, clerical errors, oversights, and gaps in the City's Land Development Code published by Municipal Code Corporation have been discussed. These include the effect of Ordinance 2020-04 which repealed the old Code and adopted the new code as published by the Municipal Code Corporation, the omission of Ordinance 2013-03 (Historic Guidelines) in the published Code; inclusion of language from ordinances (subject to a referendum) that failed (Ordinance 1985-01 referring to voting districts, inclusion by error); two sets of site plan procedures found in Section 111-3 (Ordinance 2018-07) and Section 109-48 (Ordinance 2020-03) and needed additional guidance related to parking mitigation specified in Section 111-288 – Supplemental Regulations of the Code. Certain issues will require additional research while some may be resolved as clerical errors directly with Muni Code. Other issues such as Historic Guidelines and parking mitigation will likely require Commission action in order to address.

Commissioner George explained that in January 2022 she discussed the topic of Muni Code errors, and it was agreed that we needed to know what our ordinances were, and that we needed to review Muni Code for additional errors. Since that time, additional errors have been found. There are concerns about what ordinances are repealed and what ordinances are not. We need to know what the City's laws are. Ordinance 2020-04 was not adopted properly as there was not a first reading. Muni Code needs to be properly adopted, but we need some type of provision that doesn't repeal any duly adopted ordinances.

Attorney Hartman stated the City can't have ordinances that are not in Muni Code and expect people to comply with them.

Commissioner George stated we know what errors have been identified, so can we communicate the errors to Muni Code and have the corrections incorporated and then adopt the adoption of Muni Code ordinance properly with the additions and then if there are ordinances we want to remove or amend we have a good starting point.

Discussion held concerning omission of ordinances, clerical errors, and a plan to move forward.

Attorney Hartman stated the Commission can (1) let Ordinance 2020-04 cure by Florida Statute which will occur 5 years from the date of adoption; (2) Commission can adopt code as currently shown on Muni Code and repeal anything not on Muni Code; and (3) Identify any ordinance that was adopted that is not in Muni Code, deciding if each of those ordinances is something the Commission want in Muni Code and also determine if those ordinances need any basic changes to their format to the content of those ordinances.

Commissioner Elliott recommends going with Muni Code repeal ordinance which would be adopting what is on Muni Code currently and repealing what is not there, and then Commission can make amendments for what we would like to add back into Muni Code.

Commissioner Grove stated she cannot make a good decision at this time.

Commissioner George stated she doesn't see how the Commission can knowingly repeal ordinances that were adopted by the Commission. If the Commission doesn't like certain ordinances, then we need to individually go through the proper amendment process. If we have a chance to fix all the problems, then why wouldn't we all the errors fixed. Muni Code needs to correct all the errors first, then pass a repealer ordinance.

Discussion continued.

Motion to proceed with adopting new repealer ordinance to begin process of correcting issues made by Commissioner Elliott. Motion died for lack of second.

Attorney Hartman will bring options with pros and cons at November meeting.

CONSENT AGENDA

Motion to approve consent agenda with the addition of September 25th and September 27th City Commission minutes made by Commissioner Grove, seconded by Commissioner George. Motion carried 5 to 0.

DEPARTMENT REPORTS

Included in agenda packet.

ADJOURNMENT

Motion to adjourn made by Commissioner Duncan, seconded by Commissioner George. Motion carried 5 to 0.

Brenda Ash, Mayor

Lee Mathes, City Clerk

