

A Regular Meeting of the Apalachicola City Commission was held on Tuesday, March 5, 2024, at 4:00 PM at the Former Apalachicola Municipal Library, 74 6th Street, Apalachicola, Florida.

Present: Mayor Brenda Ash, Commissioner Adriane Elliott, Commissioner Despina George, Commissioner Donna Duncan, Commissioner Anita Grove, City Manager Travis Wade, City Attorney Dan Hartman, City Clerk Sheneidra Cummings, Financial Director Lee Mathes, Code Enforcement Officer PJ Erwin, and Chief of Police Bobby Varnes

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

### **AGENDA ADOPTION**

Mayor Ash amended the agenda to move Agenda Adoption to Item #2

Motion to adopt revised agenda made by Commissioner Grove, seconded by Commissioner Elliott. Motion carried 5 to 0.

### **PRESENTATION: The Southern Group- Kate Deloach**

Kate Deloach presented and provided the commission with a budget update. The Commission was informed that the Stewardship Act funding was not approved for this fiscal year and that The Southern Group would like to work more on this throughout the summer. Ms. Deloach also stated that the Commission would be receiving a final report and will be contacted individually to set up a legislative visit with the sponsors to further strategize their approach regarding Stewardship Funding opportunities. There were two projects included in the budget and will be partially funded which are: 1) The parking lot expansion (Downtown); and 2) The final phase of the Fire Hydrant Replacement.

Mayor Ash inquired about the appropriation amounts for the two projects as well the process of extending the timeline for the Stewardship Act funding.

Ms. Deloach stated that the appropriation for project #1, the downtown parking lot expansion is \$135,013.00. She included that the project could start as soon as this year with the possibility of applying for additional funding next year and that there may be an opportunity to roll the funding over to next year given that funding is approved. She went on to disclose the appropriation for project #2, The Fire Hydrant Replacement being \$ 275,000.00. She also stated that the process of extending the Stewardship Act funding timeline would probably require their sponsors to submit a Bill, stating that the Bill process provides additional opportunities to move through a more formal process of getting the Bill passed.

Mayor Ash also thanked Senator Simon and Representative Shoaff for their continued support throughout this legislative process.

Commissioner Grove asked if the limited appropriations would limit the City from any of the stormwater projects.

Ms. Deloach stated that it would limit stormwater projects in this year's appropriation. However, some of the stormwater projects may qualify for some of the other traditional grant programs such as Resilient Florida. The Southern Group will work with City Manager Wade to prioritize projects and identify funding opportunities to be able to fulfill said needs.

Commissioner Grove suggests that The Southern Group also consult with the Commission before they meet with City Manager Wade and prioritize any list(s).

Commissioner George inquired about the ability to combine appropriated funds to be used towards either the parking lot expansion or fire hydrant project.

Ms. Deloach could not confirm if combining funds would be acceptable and would need to consult with the Agency for confirmation. She will provide the Commission with the Agency's feedback on that matter.

Commissioner George confirmed that the City is in year two of five for applying for funding via the Stewardship Act and whereas, the City may request up to five million per year as part of the DEP budget. George also stated that there is a possibility for the City to request up to fifteen million over the next three years.

Commissioner Elliott thanked The Southern Group for their efforts and had no further comments.

Commissioner Duncan thanked The Southern Group and had no further comments.

Ms. Deloach thanked the Commission and expressed gratitude for being able to represent Apalachicola at the legislative session this year.

**PRESENTATION: DEP/Park Service: Chapman Botanical Gardens Pavilion**

Mayor Ash noted revisions to the park pavilion proposal. The modifications included a reduced pavilion to increase green space, changes to the exterior finish and column trim, and the shifting of restrooms to avoid removing the two native live oak trees.

DEP Staff presented the revisions and explained the proposed modifications. Michael Foster, Bureau Chief of the Bureau of Design and Construction with the Florida State Parks followed up with support of the revisions.

Commissioner Elliott thanked DEP staff for their willingness to work with the Commission and fulfill the demands made by the Commission. Elliott was in support of the revisions and modifications.

Commissioner Duncan expressed appreciation for the revisions and effort put forth by DEP staff and inquired of any updates regarding the Orman House.

Michael Foster stated that construction started on March 4<sup>th</sup>, and that the project has roughly a 6-to-9-month timeline.

Commissioner Grove thanked DEP staff and inquired about parking availability. Grove reinforced her dissatisfaction with the size and placement of the pavilion and presented questions to DEP staff regarding park reservations. Grove also expressed concerns regarding compatibility of DEP proposal and the City's intended use of the park.

DEP staff explained that they will not be adding parking spaces, that parking would be shifted away from residential streets and City parking places would be used. Park rangers would also be present during events to direct traffic and ensure parking is shifted away from the residential area and ushered towards the commercial side i.e. Market Street. Staff also addressed Commissioner Grove's concerns regarding park reservation stating that the public would be able to reserve the pavilion and not the entire park.

Commissioner George thanked DEP staff and agreed with Commissioner Grove in regard to the size of the pavilion. George stated that the DEP proposal is not consistent with the management plan and would like to see funds reallocated to other projects within the park. George also referenced the date of expiration for their management plan and suggest that plans be halted until their management plan is updated.

DEP Staff addressed some of Commissioner George's concerns regarding reallocating funds towards other potential projects within the park and stated that the funding has been appropriated specifically for new development and not for repair and maintenance projects.

Public comments received and consisted of pavilion size, location, maintenance, tree removal, pavilion rental, and parking.

Commissioner Duncan expressed concerns regarding the amending of an agenda item that is referenced as a presentation, yet action was being requested.

Attorney Hartman commented on the legality of Commissioner Duncan's concern(s) and advised the Commission that it is left to Board's discretion whether they would like to proceed given that it is a contractual matter between the City and DEP and that their management plan and proposal require action by the City. Attorney Hartman further stated that he does not believe that the City is legally prevented from taking action.

Commissioner Elliott made a motion to approve the revised DEP proposal as presented. Motion died for lack of second.

Mayor Ash asked Attorney Hartman to advise the Commission on options regarding the decision to reject the revised proposal presented by DEP, and how does the rejection affect the project moving forward.

Attorney Hartman commented that the Commission is within its right to discuss and approve the design and encouraged the Commission to get feedback from DEP on the next course of action, if any. Hartman informed the Commission that they could make a motion to continue negotiations with DEP however, DEP is also able to refuse or continue to work with the City.

DEP staff reiterated to the Commission that they are in compliance with their lease agreement as well as with their management plan. Staff believe that they made concessions that were discussed and requested by the Commission and are making great effort to remain partners with the City and requested that the Commission approve its revised proposal.

Commissioner Grove did not agree with last statement made by DEP Staff and do not think it's in good faith for DEP to impose a "take it or leave it" position when it comes to their latest revisions. Furthermore, stating that she believes that there may be some alternatives to satisfy the public, DEP, and the Commission. Grove suggested having four smaller pavilions to accommodate individual families versus a single large pavilion positioned in the middle of the park.

Motion made by Commissioner Grove to table the DEP: Chapman Botanical Garden discussion until April regular meeting, seconded by Commissioner George, with discussion.

Commissioner George discussed compliance and commented on DEP's position and their presumed authority to proceed based on their management plan. Commissioner George referenced Attorney Hartman from a previous meeting regarding the three elements that the Commission had some authority over i.e., purpose, location, and design. It was noted that the purpose and location was specified in the DEP's management plan leaving only the design to be discussed and approved by the Commission. Furthermore, clarifying that the size, scale, and visual compatibility falls under the design element and that the Commission is within its contractual right to debate each of those issues. George also stated that it appears that most of the Commission believe that the proposal fails to meet the Commission's standard of design. Concluding that, she would prefer this to be a condition of tabling the motion in an effort for DEP to consider the Commission's design standard.

Mayor Ash asked the Commission if they submitted any comments, suggestions, or recommendations to City Manager Wade or Staff prior to this meeting regarding the revised DEP proposal.

Commissioner Duncan referenced an email correspondence between City Manager Wade where she provided her insight and opinion regarding DEP's proposal. Commissioner Duncan reiterated

her previous concern regarding the proposed size of the pavilion and did not feel the need to resubmit that specific concern as it was presumed that it was set to be addressed at this meeting. Duncan also expressed that she does not believe that the revised design looks historical, and the size of the pavilion remains too big.

Commissioner Elliott had no further comments.

Mayor Ash asked DEP if they would be willing to come back to the table, given the Commission's motion to table the discussion and approval.

DEP staff stated they would have to consult with DEP leadership and would inform the Commission of their decision. DEP staff went on to reference their management plan and stated that the requirement to come before the Commission regarding purpose, location, and design is when those elements are not specifically stated within their management plan.

Mayor Ash restated motion to table DEP discussion made by Commissioner Grove, seconded by Commissioner George. Motion carried 3-2 with Commissioner Elliott and Mayor Ash opposing.

#### **PUBLIC COMMENTS**

Public comments received consisted of inquiries about the sewer usage fee, and Inflation Reduction Act Grant opportunity.

Commissioner George explained the Sewer Usage Fee.

#### **PROBLEM GAMBLING AWARENESS MONTH PROCLAMATION**

Problem Gambling Awareness Month Proclamation read by Attorney Hartman.

Motion made to approve Problem Gambling Awareness Month Proclamation made by Commissioner Elliott, seconded by Commissioner Grove. Motion carried 5-0.

#### **RULES OF PROCEDURE**

Public comment(s) received regarding Rules of Procedure.

Manager Wade presented revisions to Rules of Procedure.

Commissioner George commented on a previous agenda item from July 2023, regarding meeting times, preparation of agendas, responsibilities of the volunteer boards and committees. George stated that her and City Manager Wade's view on the Rules of Procedure were opposed. Commissioner George proposed that the Commission reject the revisions presented by City Manager Wade.

Commissioner Grove suggested some changes be made to some of the Rules of Procedure. Commissioner Grove also spoke about the volunteer committees being required to have an agenda and minutes for meetings and having the minutes posted for public review.

Commissioner Duncan thanked City Manager Wade for his efforts in revising the Rules of Procedure. Commissioner Duncan expressed being in favor of having a workshop to delve more into the Rules of Procedure.

Commissioner Elliott was also in support of having a workshop to discuss the Rules of Procedure.

Commissioner Elliott asked Attorney Hartman to research recent Ordinances regarding the legitimacy of the resolution to amend the meeting times is valid. Commissioner Elliott also noted that the time limit for public speaking was changed back in 2019 during a regular meeting and by the previous Commission. Elliott further clarified that the revisions made by City Manager Wade was simply a re-wording of the existing doc and that the content did not change.

City Manager Wade commented on the Commission's feedback and explained some of his proposed revisions. Wade was not opposed to having a workshop to discuss the Rules of Procedure document.

Mayor Ash suggested that the Commission have their comments, suggestions, and revisions to City Manager Wade within 10 calendar days.

#### **CITY CLERK POSITION**

City Manager Wade stated he recommends Sheneidra Cummings be hired into the position of City Clerk.

Commissioner George stated she feels the position should be advertised before an appointment is made.

Motion to appoint Sheneidra Cummings as City Clerk made by Commissioner Grove, seconded by Commissioner Elliott. Motion carried 4-1 with Commissioner George opposing.

#### **FDOT-M-SCOP APPLICATION**

Manager Wade presented the MSCOP Grant opportunity and requested direction on the recommended area or street to specify in the application.

Discussion held.

Motion to apply for the FDOT MSCOP grant and focus on Commerce St. between Ave G and Ave F and work southward made by Commissioner Duncan, seconded by Commissioner Elliott.

Commissioner Grove inquired about the process of repairs and if the existing concrete road would pose an issue.

City Manager Wade clarified that the concrete would be removed prior to asphalt being poured.

Motion carried 5-0.

Attorney Hartman read Resolution 2024-01 in its entirety.

Motion to approve Resolution 2024-01 was made by Commissioner Elliott; seconded by Commissioner Grove. Motion carried 5-0.

### **SURPLUS PROPERTY**

City Manager Wade outlined surplus property list and recommended approval that items be sold at auction.

Motion to approve surplus list as outlined by City Manager Wade and to send vehicles to auction was made by Commissioner George, seconded by Commissioner Grove. Motion carried 5-0.

### **DENTON COVE LITIGATION**

Attorney Hartman briefed the Commission on the process of litigation with Denton Cove and explained the circumstance surrounding their breach of contract and requested that the Commission grant him the authority to draft a complaint against Denton Cove LLC and provide them with Notice.

Motion to authorize the consideration and/or initiation of litigation towards Denton Cove GP LLC made by Commissioner Elliott, seconded by Commissioner Duncan.

Commissioner George referenced costs that were removed from the budget with the understanding that Denton Cove would fulfill their obligation to pay for the repairs.

City Manager Wade explained the agreement made between Denton Cove regarding the Ellis Van Vleet St lift station.

Motion carried 5-0.

### **TASKS PREVIOUSLY DIRECTED BY THE CITY COMMISSION**

Commissioner George spoke about tasks previously directed to City staff to complete that have not been brought back before the Commission. Commissioner George presented a list of unfinished

tasks and recommended that Attorney Hartman and City Manager Wade present a detailed report regarding the status of each task and timeline for completion by the April meeting.

Attorney Hartman and City Manager Wade will provide update at April meeting.

**MAYOR & COMMISSIONER COMMENTS**

Mayor Ash stated that it will require a unified body to move forward and make progress on behalf of the City and would hope that her constituents would be able to put any differences aside and work together for the betterment of the City. Mayor Ash also recommended having a volunteer appreciation event.

City Manager Wade expressed a willingness to put an event together to recognize and honor the volunteers.

Motion made to hold a volunteer appreciation luncheon at a date, time, and menu to be determined by City Manager Wade made by Commissioner Elliott; seconded by Commissioner Duncan. Motion carried 4-1 with Commissioner George opposing.

Attorney Hartman read Proclamation for National Volunteer Week being reserved from April 21<sup>st</sup> through April 27, 2024.

Motion to adopt the National Volunteer Week Proclamation made by Commissioner George; seconded by Commissioner Grove. Motion carried 5-0.

Commissioner Grove commented on updates regarding emergency telecommunications, TRIUMPH grant, current grants, acknowledged various persons and/or organizations for their contributions to the City, and the Apalachicola Bay Restoration program.

Commissioner Duncan commented on a concern from the public at a previous meeting and asked if the Chief and/or his staff seen an increase in homelessness activities around the City. Duncan also thanked staff for their prompt action in resolving stormwater issues throughout the city.

Chief Varnes stated that while homelessness is prevalent and steadily increasing in some areas, he cannot confirm that homelessness activity is increasing within city limits per se.

Commissioner Elliott commented on the increase of traffic and speeding vehicles traveling down Water Street, expressed concerns regarding pedestrian safety and suggested that the downtown commercial area be monitored more to deter speeding and increase safety. Commissioner Elliott also expressed public safety concerns regarding old, dilapidated homes and buildings within the City, expressed appreciation and respect for Mayor Ash, and congratulated Sheneidra Cummings on being the City's first African American City Clerk.



Chief Varnes, with support from City Manager Wade, recommends purchasing digital speed signs to help deter unsafe driving speeds and commented on the benefits of having access to portable devices that could be used throughout the city in high traffic areas.

Commissioner George commented on Commissioner Grove's ARPA inquiry clarifying that the Commission directed staff to compile costs estimates and present it to the Commission at the February meeting. Commissioner George suggested that staff present the list of prioritized projects with their cost estimates at the April meeting. Commissioner George also commented on the reduced department reports being included in the agenda packet and encouraged staff to provide regular updates via their department report(s).

#### **CITY MANAGER COMMUNICATIONS**

City Manager Wade provided update on the Wastewater Treatment Plant and Leslie Street Project, the Avenue(s) Stormwater Project, the Market Street Vacuum Station grant application, and informed the Commission that Municode has been updated.

#### **FINANCE DIRECTOR COMMUNICATIONS**

Report included in agenda packet.

#### **ATTORNEY COMMUNICATIONS**

Attorney Hartman addressed the memorandum regarding staff safety, permissible activities, and the City's ability to control the public areas in City Hall and requested authorization to proceed with preparing ordinance.

Mayor Ash was in support of Attorney Hartman's request.

Commissioner Duncan was in support of Attorney Hartman's request.

Commissioner Elliott was in support of Attorney Hartman's request.

Commissioner George was also in support of Attorney Hartman's request and advised caution and ensure the First Amendment Right(s) will remain protected.

Commissioner Grove was in support of Attorney Hartman's request.

Mayor Ash concluded that Attorney Hartman had the support of the Commission to move forward and draft an ordinance in support of the memorandum and existing policy.

Attorney Hartman referenced the previous P&Z meeting in regard to a request made by City Planner to conduct a workshop prior-to, or immediately after the upcoming P&Z meeting to discuss

Sunshine Law, board scope and responsibilities. Attorney Hartman asked the Commission for their recommendations, thoughts, concerns, and/or any specifics that should be discussed at the next P&Z meeting.

Commissioner Grove would like for it to be expressed that strict adherence to the State's Sunshine Law is mandatory.

Commissioner Elliott suggests that every committee and/or Board be reminded of the Sunshine Law restrictions and mandates.

Commissioner George commented on Sunshine Law violations during P&Z meetings and clarified the purpose and need for a workshop.

Commissioner Duncan recommended that a scope is defined for all board members to detail their duty, and limit liability for their action(s) and/or inaction(s).

**CONSENT AGENDA**

Mayor Ash acknowledged an email from Ms. Gibson regarding the minutes from the January 16<sup>th</sup> and February 6<sup>th</sup> meeting and requested a motion to approve the consent agenda with those minutes excluded to allow for further review.

Motion to approve the consent agenda excluding the January 16<sup>th</sup> and February 6<sup>th</sup> minutes made by Commissioner Grove; seconded by Commissioner Duncan. Motion carried 4-1 with Commissioner Elliott opposing.

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

  
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Brenda Ash, Mayor

  
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Sheneidra Cummings, City Clerk