

MINUTES OF THE REGULAR MEETING AND PUBLIC HEARING OF THE CITY OF APALACHICOLA CITY
COMMISSION HELD TUESDAY, OCTOBER 2, 2018, 6:00 P.M. AT THE APALACHICOLA COMMUNITY CENTER

PRESENT: Mayor Van W. Johnson, Sr.
Mayor Pro Tem Brenda Ash
Commissioner Jimmy Elliott
Commissioner Mitchell Bartley
Commissioner Anita Grove

Ron Nalley, City Manager
Lee Mathes, Director of Administration
Deborah Guillotte, City Clerk
Bobby Varnes, Chief of Police
Pat Floyd, City Attorney

ABSENT: N/A

CALL TO ORDER

Mayor Van Johnson called the meeting to order at 6:00 pm and Attorney Pat Floyd gave the invocation. Council members led the pledge of allegiance.

APPROVE THE AGENDA

Commissioner Jimmy Elliott made a motion to approve the Agenda. Commissioner Anita Grove seconded and the motion carried 5-0.

MAYOR'S COMMUNICATIONS

- Commissioner Bartley stated the September 25, 2018 minutes reflect a "yes" vote from him regarding the adoption of the 2018-2019 Fiscal Year Budget. Commissioner Bartley stated he voted "nay" and would like the minutes corrected.
- Commissioner Grove gave an update on the Apalachicola Florida/Georgia Litigation case, stating case will possibly go before the Supreme Court in fall of 2020.

CITY MANAGER COMMUNICATIONS

- **Paddle Jam** - Mr. Nalley reported on the upcoming Paddle Jam Festivities to be held on October 5th-7th, 2018 at Battery Park. Mr. Nalley stated historically the City of Apalachicola has waived fees for this event, but has informed Themis Patriotis that next year and thereafter there will be usage fees associated with the use of the park and facilities.

Themis Patriotis outlined Paddle Jam Events, detailing road closures and boat launch activities.

- **TRIUMPH Grant Award** – Mr. Nalley reported the City of Apalachicola received \$1.1 million grant award for the Port of Apalachicola Scipio Creek Basin and Boat Yard Project, stating this grant will fund improvements to the Scipio Creek Basin boat yard, landing docks and the historic Popham Building to improve usability for the commercial fishing fleet and the boat building program associated with the Maritime Museum. Mr. Nalley reported there is no cash match from the City associated with this grant. Mr. Nalley thanked Bill McCartney and Augusta West for writing this grant and to everyone else for all their support of this project.

David Adlerstein inquired about the job creation of the Port of Apalachicola TRIUMPH Grant.

Mr. Nalley reported tentatively 15 jobs. Mr. Nalley stated that there are 3 metrics of requirements and they are: 1) job creation; 2) number of people that go through the boat building program and; 3) the number of new commercial customers at the Scipio Creek Marina and these will be developed over the next few weeks.

Robin Vroegop asked who is the market for the boats being built at the Popham Building, will they do repairs and will this compete with the repair yard at Scipio Creek. Mr. Nalley responded that the Popham Building is for the boat building and educational program, where they have classes and come and build their own boats.

- **Apalachicola Maritime Museum (AMM), George K. Floyd** – Mr. Nalley reviewed proposal items Mr. Floyd would like the City of Apalachicola to consider in developing a lease agreement. Mr. Nalley requests approval to have a meeting with Mr. George Floyd, but needs direction from the board on what you require and would like each commissioner to get with him individually so we can move forward with the terms of this agreement, making it more favorable to the City. Commissioner Ash inquired if the TRIUMPH grant would have any effect on the proposed lease. Mr. Nalley stated these are two different leases, the maritime lease which is the paddle boat at Riverfront Park and the second is the TRIUMPH grant for the Popham Building to expand Maritime Museum services. Mr. Nalley will research this further.
- **Water Rates and Charges** – Mr. Nalley stated with the increase in the water rates, he would like to get approval to suspend Section 20-19 (10% penalty) of Ordinance 2008-02, for two to three months until citizens can get use to the new rate structure.

Commissioner Grove made a motion to suspend the 10% penalty in Ordinance 2008-02, Section 20-19. Commissioner Jimmy Elliott seconded motion. Motion carried 5 to 0.

Attorney Floyd asked Mr. Nalley to make sure suspending this penalty is not a violation of any agreement to mandates we have with someone like the US Rural Development grant. Mr. Nalley will research this.

- **Solid Waste Contract** – Mr. Nalley reported that the City of Apalachicola has a 3 year contract with Waste Pro that automatically renewed on July 1, 2018. Per contract terms, Waste Pro had to be notified at least 120 days before contract end date stating City wishes to terminate contract. The City did not notify Waste Pro, therefore, contract automatically renewed. Mr.

Nalley stated we will review this contract and see if there is some clause that may release us from contract, otherwise, we will not be able to renew until 2021.

- **Budget Reduction Plan** – Mr. Nalley outlined immediate steps that have been taken to reduce operating expenses. Mr. Nalley stated he will present budget reduction plan to Commission upon completion.

COMMISSION LIASON REPORTS & COMMENTS

- **Floating Structure Ordinance** - Attorney Floyd reviewed draft of the Floating Structure Ordinance. Attorney Floyd stated this Ordinance is still in the process of amendments, but will be ready for November Commission meeting.

Commissioner Ash inquired how the City can regulate open waters. Attorney Floyd stated FWC has jurisdiction over vessels, but floating structures/houseboats can be regulated by municipalities or counties that have jurisdiction.

PRESENTATIONS

- **Weems Hospital** – Mr. H.D. Canning, new CEO of Weems Hospital announced two upcoming events: 1) Open House October 9th, 2018, in Carrabelle from 2 PM to 6 PM; and 2) Franklin County Day of Health “Health Fair” at Weems Hospital on November 17th, 2018 from 10 AM until 2 PM, everyone welcome.

PUBLIC HEARING

- Attorney Floyd read Ordinance 2018-03 by title as follows:

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF APALACHICOLA, FLORIDA CHANGING THE PUBLIC SERVICE UTILITY TAX CHARGED FOR ELECTRIC UTILITY SERVICE TO A FLAT RATE OF 10% ON THE PURCHASE OF ELECTRICITY WITHIN THE CITY OF APALACHICOLA; PROVIDING FOR DEFINITIONS; PROVIDING FOR LEVY; PROVIDING FOR EXEMPTIONS; PROVIDING FOR THE DUTY OF SELLER TO COLLECT AND REMIT; FAILURE OF PURCHASE TO PAY; PROVIDING FOR RECORDS REQUIRED, INSPECTION AND AUDIT; PROVIDING FOR SEVERABILITY; THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; AND ESTABLISHING AN EFFECTIVE DATE.

Mayor Johnson opened the floor for public comment.

No public comments.

PUBLIC COMMENT

Mayor Johnson opened the floor for public comment.

- Robin Vroegop expressed her concern regarding the Paddle Wheel Lease to use Riverfront Park dock, and inquired if City would be taking citizens concerns on this issue. Mr. Nalley stated this lease agreement is still in the working process and that there will be several occasions for this to be discussed, but she is welcome to come in and see him about any concerns.
- Dreamal Worthen stated FAMU is still working in the County, and informed the Commission that FAMU has posted a job announcement for the director position of the incubator program.
- Despina George asked that the City Commission get the City Auditors to come to a commission meeting and present the Fiscal Year 2017/2018 audit when completed. Ms. George also asked if Attorney Floyd had the agreement for George Floyd’s Paddle Wheel Lease for Riverfront Park. Attorney Floyd informed Ms. George that Mr. Nalley is handling this with Mr. George Floyd.
- Chris Moore stated it is her understanding that a lawsuit has been filed against her due to violations in the Floodplain Ordinance, and is requesting a meeting with Mr. Nalley to see if some solution can be reached. Attorney Floyd reminded the City Commission that litigation has started, but a meeting can be set with him, Mr. Nalley, and Ms. Moore to see if a solution can be reached.

Mayor Johnson asked that Mr. Nalley schedule a time to meet with Chris Moore and Attorney Floyd.

- Uta Hardy expressed her concerns with the new commercial water and sewer rates for businesses and wanted to make sure that all business, including Air B&B rentals are paying commercial rates. Ms. Mathes will review this to make sure they are paying commercial rates.

CONSENT AGENDA

Mayor Van Johnson presented the Consent Agenda and asked if any items should be removed before called for action.

Commissioner Mitchell Bartley made a motion to approve the Consent Agenda with the correction of the September 25, 2018 Second Budget Public Hearing and Special Meeting stating he voted “nay” on adopting Ordinance 2018-04 Final Adoption Fiscal Year 2018-2019 Budget. Commissioner Jimmy Elliott seconded and the motion carried 5-0.

- Meeting Minutes Adoption - Adopt the September 6, 2018 Budget Workshop; September 11, 2018 First Budget Public Hearing & Special Meeting; September 25, 2018 Second Budget Public Hearing & Special Meeting; and September 4, 2018 Regular Meeting Minutes

Commissioner Brenda Ash made a motion to approve the consent agenda item minutes adoption.

Commissioner Mitchell Bartley seconded and the motion carried 5-0.

- Bill List Approval – Approve the August 2018 Bill List

Commissioner Brenda Ash made a motion to approve the Consent Agenda bill list approval. Commissioner Anita Grove seconded and the motion carried 5-0.

- Planning & Zoning Minutes Confirmation - Confirm the August 2018 Planning and Zoning Minutes

Commissioner Brenda Ash made a motion to approve the Consent Agenda Planning & Zoning minutes confirmation. Commissioner Mitchell Bartley seconded and the motion carried 5-0.

- Approval of Capital Health Plan Insurance Plan - 3104

Commissioner Brenda Ash made motion to approve the consent agenda approval of Capital Health Plan 3104 and authorize May and City Manager to execute necessary documents. Commission Anita Grove seconded and the motion carried 5 – 0.

UNFINISHED BUSINESS:

A. ORDINANCE NO. 2018-03 AMENDING THE PUBLIC SERVICE UTILITY TAX CHARGED FOR ELECTRIC UTILITY SERVICE

Attorney Floyd read Ordinance 2018-03 by title as follows:

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF APALACHICOLA, FLORIDA CHANGING THE PUBLIC SERVICE UTILITY TAX CHARGED FOR ELECTRIC UTILITY SERVICE TO A FLAT RATE OF 10% ON THE PURCHASE OF ELECTRICITY WITHIN THE CITY OF APALACHICOLA; PROVIDING FOR DEFINITIONS; PROVIDING FOR LEVY; PROVIDING FOR EXEMPTIONS; PROVIDING FOR THE DUTY OF SELLER TO COLLECT AND REMIT; FAILURE OF PURCHASE TO PAY; PROVIDING FOR RECORDS REQUIRED, INSPECTION AND AUDIT; PROVIDING FOR SEVERABILITY; THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; AND ESTABLISHING AN EFFECTIVE DATE.

Commissioner Jimmy Elliott made a motion to adopt Ordinance 2018-03 Amending the Public Service Utility Tax Charged for Electric Utility Service. Commissioner Anita Grove seconded and the motion carried 4-1, with Commissioner Bartley voting nay.

NEW BUSINESS

A. HALF-LOT MINIMUM DEVELOPMENT STANDARDS

- Mr. Nalley stated that Uta Hardy is requesting on behalf of Mary Mirabella a land use code change to allow the sale of an individual half-lot recorded after 1991. Ms. Mirabella has included in her request information regarding the lot, research on the development of other half lots and a survey of the property. The land use code states that any lot platted before 1991 is considered a buildable lot as long as they can meet the lot coverage and set back requirements. Due to the lot being recorded in 1993, the sale of the half lot does not meet the Land Use Code requirements as a buildable lot. A variance request is not appropriate in this case as variances of this nature are not permissible and I request the City Commission not approve individual exceptions to the Land Use Code. However, if based on the research provided by Uta Hardy the City Commission determines that changes may be

needed to the Land Use Code and Comprehensive Plan, staff feels that the matter should be forwarded to the Planning and Zoning Board in keeping with adopted amendment policy procedures.

Uta Hardy stated she has a sale of the property meeting the set back codes, but would like the City Commission to consider amending the Land Use Code on the ½ lot requirements with an exception, so people can buy half lots and build on them legally.

Cindy Clark stated if we move this bar to October 2018, there is a precedent to set for someone to come forward and request that theirs now be changed. I think there are enough avenues to pursue on a case to case basis so we wouldn't have to mess up the complete land use code for seven 1/2 lots.

Mr. Nalley reiterated that the Land Use Code does not allow this and requests if the board considers this change, it needs to go before the Planning and Zoning Board.

Darren Guillotte with Leavins Seafood stated if the City Commission does change this Land Use Code, that he will also be coming before the board for an exception as he was denied in the past.

Commissioner Brenda Ash made motion to deny request for ½ Lot change in the Land Use Code. Commissioner Mitchell Bartley seconded and the motion carried 5 to 0.

NEW BUSINESS

B. RESOLUTION 2018-10 SUPPORTING AMENDMENT 9 TO PROHIBIT OFFSHORE OIL AND GAS DRILLING

Attorney Floyd read Resolution 2018-10 by title as follows:

RESOLUTION 2018-10 OF THE CITY OF APALACHICOLA, FLORIDA SUPPORTING AMENDMENT 9 TO PROHIBIT OFFSHORE OIL AND GAS DRILLING.

Commissioner Anita Grove made a motion to adopt Resolution 2018-10. Commissioner Mitchell Bartley seconded and motion carried 5-0.

NEW BUSINESS:

C. PROFESSIONAL SERVICES – MARKETING AND SALE OF CITY OWNED PROPERTY

Mr. Nalley stated 3 proposals were received. After reviewing all proposals, it is recommended RFP per awarded to Higgenbotham Auctioneers Internation Limited, Inc. to market and sale the approved list of city owned properties.

Commissioner Ash stated she would like for the City to consider going with a local realtor.

Commissioner Jimmy Elliott made a motion to have Mr. Nalley negotiate contract and to eliminate the termination fee of 2.5% if the property did not sell at auction with Higgenbotham Auctioneers International Limited, Inc., and bring back before the City Commission. Commissioner Mitchell Bartley seconded and motion carried 5-0.

NEW BUSINESS

D. JOINT WORKSHOP WITH TREE COMMITTEE – TREE ORDINANCE REVISIONS

Mr. Dennis Winterringer stated the Tree Committee has a proposal for a new Tree Ordinance to replace Ordinance 2011-01, and would like to set a joint workshop with the Tree Committee and the City Commission on Tuesday, November 6th at 5 P.M.

Commissioner Mitchell Bartley made a motion to set a joint workshop with the Tree Committee and the City Commission on Tuesday, November 6th at 5 P.M. Commissioner Jimmy Elliott seconded and motion carried 5-0.

NEW BUSINESS

E. BOARD OF ADJUSTMENT APPEAL – MCLEMORE VARIANCE DECISION

Mr. Nalley requests to set a Special Meeting in October 2018 to conduct an Appeal Hearing regarding the McLemore Variance BOA decision.

Attorney Floyd stated the McLemores were out of town, and requests setting a date when all parties could be present.

NEW BUSINESS

F. RESOLUTION 2018-11 REQUESTING THAT THE U.S. ARMY CORP OF ENGINEERS RESUME REMOVING SNAGS IN THE APALACHICOLA RIVER CHANNEL

Attorney Floyd read Resolution 2018-11 by title as follows:

A RESOLUTION BY THE CITY OF APALACHICOLA REQUESTING THAT THE U.S. ARMY CORP OF ENGINEERS RESUME REMOVING SNAGS IN THE APALACHICOLA RIVER CHANNEL AS NECESSARY TO ENSURE SAFE AND CONTINUOUS NAVIGATION ALONG THE LENGTH OF THE RIVER AND THAT ANY AND ALL PERMITS BE GRANTED AND UTILIZED TO ENSURE THAT THIS ACTION IS INITIATED AND COMPLETED AS SOON AS POSSIBLE.

Commissioner Jimmy Elliott made a motion to adopt Resolution 2018-11. Commissioner Mitchell Bartley seconded and motion carried 4-1. Commissioner Anita Grove voted nay.

ADJOURN THE MEETING

There being no further business, meeting adjourned.

Van W. Johnson, Sr., Mayor

Deborah Guillotte, City Clerk