

MINUTES OF THE PUBLIC HEARING & REGULAR MEETING OF THE CITY OF APALACHICOLA CITY
COMMISSION HELD TUESDAY, DECEMBER 4, 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 Administrative Services
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

Mayor Johnson stated if there is anything to add or delete to the agenda, now is the time to do so.

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

MAYOR'S COMMUNICATIONS

- Commissioner Grove gave update on the 911 dispatch console and how it affects the volunteer fire department communications.
- Commission Elliott asked if Public Works could pick up the boards that were torn off the Lafayette Park Pier that is in the marsh and store them if they can be reused. Mr. Nalley stated he has talked with Greg Harris about this and they can possibly get to this next week.

CITY MANAGER COMMUNICATIONS

- **DEP Report** - Mr. Nalley gave update on CRA Board meeting on November 20, 2018 referencing payments from the City to the CRA District Fund were not being calculated correctly. As of November 2018, the City owed the CRA Fund approximately \$25,094. The amount owed by the City to the fund will increase as the County makes their annual contributions. Because the City is not currently in the financial position to reimburse the fund, the City has received a recommendation

that a letter from the City to the CRA Board agreeing to reimburse the fund will suffice. Attached is a letter from the Mayor agreeing to such an agreement. At their meeting, the CRA Board acknowledged the amount due and agreed to accept payment when the City was in a position to do so.

Commissioner Mitchell Bartley made a motion to authorizing Mayor Johnson sign letter to the CRA Board acknowledging the amount owed and agreeing to accept payment when the City is financially able to do so. Commissioner Elliott seconded and motion carried 5-0.

- **Matchbox Rezoning** – Mr. Nalley stated recently the City was approached about the relocation of a dance studio to the Johnson City Complex. Unfortunately, the proposed use is not in keeping with the existing zoning regulations and the plans had to be put on hold. In speaking with several Commission members, there is some agreement that certain existing general uses that are in keeping with the historical intent and purpose for the uses of the building are appropriate. Staff is recommending moving forward with a request to revise the zoning of the City Complex to Office/Residential. This zoning district seems to encompass the original uses and intent of the facility. If the Commission is agreeable, staff can begin the necessary work.

Commissioner Jimmy Elliott made a motion to approve staff move forward with the rezoning process of the Mayor Van Johnson Complex to change to Office/Residential. Commissioner Anita Grove seconded and the motion carried 5-0.

Mayor Johnson asked Mr. Nalley where the Matchbox is with the overall program and if they are in compliance.

Mr. Nalley stated he is not ready to report on this tonight, that there is some additional items that he needs to put into the agreement.

- **Water and Sewer Fund** – Mr. Nalley reported that Revenues received during our first month of the rate increase are in line with projections made during the budget discussions in September. Monthly expenditures in the water and sewer departments have been trimmed by almost 40% since July.

Accounts Payable was three months behind and is now current. All sinking and reserve fund payments are now current and have been transferred to the appropriate funds for disbursement in September 2019.

DEP is considering a loan amendment for the City of Apalachicola that will restructure the existing loan and freeze late fees and fines associated with the amount of loan in default. A final decision is expected prior to the December 15th Loan payment.

On average, the City issues cut-offs to approximately 100 customers each month for non-payment. This is 5% of our total 1,963 customers. During the first month of the rate increase, cut-offs increased by 30% to 130.

- **Audit Committee** – Mr. Nalley reported that Ms. Diane Brewer notified him that she can't serve on the Audit Committee.

Mayor Johnson recommends Lee Mathes be appointed to Audit Committee.

Commissioner Jimmy Elliott made a motion to appoint Lee Mathes to serve on the Audit Committee.
Commissioner Anita Grove seconded and the motion carried 5-0.

Mr. Nalley stated the Audit Committee reviews the audit and gives recommendations to the City Board.

- Mr. Nalley announced City Hall is now located at the Mayor Van Johnson Complex (Old High School), 192 Coach Wagoner Blvd, in the front office.

COMMISSION LIASON REPORTS & COMMENTS

- Attorney Floyd gave updated report on the Florida-Georgia Supreme Court water case, stating it is moving forward with no more discoveries necessary.
- Attorney Floyd distributed the (draft) Duke Energy Franchise Agreement for the 6% franchise and City right-of-way use to the City Commission for review and further discussion. Attorney Floyd stated there are some revisions pertaining to the 6% franchise fee and also it proceeds with caution by putting in a three year period for the term of the franchise so we can readdress at that time.
- Attorney Floyd gave update on the City of Apalachicola verses Hale Smith lawsuit which references Floodplain Management Ordinance and Application and Compliance. Attorney Floyd had meeting with parties involved and the City requires their Engineer to provide the specific statement of the document elevation and fill, which they stated they will provide.

Commissioner Grove inquired about the concrete slab that was poured under the house and making it impervious material.

Attorney Floyd stated the concrete was poured before the Certificate of Occupancy was entered by the County and was already in place and the slab is underneath the roof. The motion that was made in the past was the illegal fill would be taken out and the only illegal fill done after time is the shell which is landscape.

- Attorney Floyd gave update on ApalacHeart, Inc., a non-profit corporation developed to help with the City of Apalachicola Water Bill Increases in assisting citizens. Attorney Floyd stated there has been a meeting with numerous people (volunteers) and that a bank account is now open and available to have monies contributed into this fund. This account has to have a \$5000 balance before monies can be dispersed to applicants.

David Adlerstein gave a brief overview of how the ApalacHeart program worked. Mr. Adlerstein stated this is a private sector initiative. Applicants have to meet certain criteria to qualify for this program. This program is set up to assist citizens with the water and sewer utility bill increases. Mr. Adlerstein stated a letter would go out making citizens aware of this fund and that Holy Family Center is where you will make application.

Attorney Floyd stated ApalacHeart bank account is set up at Centennial Bank if anyone would like to make a donation.

PUBLIC HEARING:

A. ORDINANCE NO. 2018-05 AMENDING THE FISCAL YEAR 2017-2018 ANNUAL BUDGET

Mayor Van Johnson opened the public hearing.

Robin Vroegop commented that the Florida Statutes state that a public hearing has to be advertised in the local paper ten (10) days prior to having a public hearing.

Mayor Van Johnson asked City staff to re-advertise and schedule a special meeting after the advertisement was properly published 10 days prior to meeting.

Public Hearing not held due to advertisement not being published 10 days prior to public hearing.

PUBLIC HEARING:

B. ORDINANCE NO. 2018-06 FLOATING STRUCTURE ORDINANCE

Public Hearing not held due to advertisement not being published 10 days prior to public hearing.

PUBLIC COMMENT

Mayor Johnson opened the floor for public comment.

- Bonnie Davis stated last July the City adopted Ordinance 2018-02 Parking Mitigation for Commercial Downtown District. Ms. Davis stated there is a significant typo error in this Ordinance, Sec. IV.E.8.d(I). This sentence should say this provision does not apply to other zoning districts. I would suggest you make a motion to correct a Scribner's error and revise Ordinance in performance with original so no-one is misled as to availability of parking mitigation.

Attorney Floyd stated the City can make an amendment to the Ordinance in connection with another process to the Historic guidelines and make a motion to state this is a Scribner's error and it does not apply.

Commissioner Anita Grove made a Motion to amend Ordinance 2018-02, Sec. IV.E.8.d(I) last sentence that states "This provision does apply to other zoning districts, in connection with another process to the Historic guidelines and state this is a Scribner's error and should say, "This **does not** apply to other zoning districts". Commissioner Mitchell Bartley seconded and the motion carried 5-0.

- Robin Vroegop wanted to clarify a statement made in September 2018, that I stated that no payment was made to the CRA Fund Payment and not that they were miscalculated. There are other subjects I

don't think are right with CRA and I would like to discuss these, so I would like to request a special meeting with the Board and CRA Committee.

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Commissioner Bartley stated we have regular CRA meetings that are open to the public that anyone is welcome to attend.

Commissioner Grove suggests Ms. Vroegop get a list of items she is concerned about and discuss with Mr. Nalley. If meeting needs to be called to address issues, then Mr. Nalley will set up a meeting.

- Teri Sentz with Small Business Administration reported that Monday, December 10, 2018, is the deadline for applying for SBA low-interest federal loans for disaster related damages.
- Rich Hall reviewed his case and voiced his concern why this is still active and going on eighteen months later and not resolved as of this date.

Attorney Floyd commented this is now a lawsuit and cannot be discussed with the City Council.

Mayor Johnson stated Mr. Hall cannot continue to discuss this case that it can only be resolved by a Judge during the lawsuit.

- Despina George inquired if the draft audit report for 2016-2017 has been received. Ms. George stated that the Resolution passed at the last meeting per Florida Statutes states that the audit committee shall be included in the auditors exit conference and other functions of audit business.

Mr. Nalley stated Ms. Mathes will be contacting the Audit Committee with a meeting date.

- Robin Vroegop stated that the City Hall address needs to be changed to reflect new location on the City website.

CONSENT AGENDA

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

- Meeting Minutes Adoption - Adopt the October 16, 2018 Emergency Special Meeting; October 22, 2018 Emergency Special Meeting; and November 6, 2018 Regular Meeting Minutes.
- Budget Amendment – Community Redevelopment Agency
 1. To Dispense of the Two-Reading Requirement for Ordinances Found in the City Charter so that Budget Amendments may be allowed to Pass Upon First Reading by Unanimous Vote.
 2. To Approve Budget Amendment 1 Amending the Special Revenue Fund to Reflect Final Changes Approved by the CRA Board.
- Planning & Zoning Minutes Confirmation - Confirm the October 2018 Planning and Zoning Minutes

Commissioner Anita Grove made a motion to approve the Consent Agenda. Commissioner Jimmy

Elliott seconded and the motion carried 5-0.

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UNFINISHED BUSINESS:

A. ORDINANCE NO. 2018-05 AMENDING THE FISCAL YEAR 2017-2018 ANNUAL BUDGET

No action taken.

UNFINISHED BUSINESS:

B. ORDINANCE NO. 2018-06 FLOATING STRUCTURE ORDINANCE

No action taken.

NEW BUSINESS:

A. BATTERY PARK AND MINING LEASE AGREEMENT PROPOSALS

Mr. Nalley stated that in February 2018 Mr. Chris Langston with Coastline Environmental Materials approached the City about leasing an area of Battery Park for the purpose of loading material for habitat purposes and the possibility of entering into a joint agreement for mining this material. At the time, the Commission approved a letter of intent stating that a request had been presented for the lease of a parcel along the Apalachicola River at Battery Park for stockpiling and loading fossilized shell for oyster-bed replanting. The Commission went on to confirm that the City is interested in working with Mr. Langston to determine the terms and enter into a lease for this purpose. Since that time, Mr. Langston has developed several agreements for consideration by the Commission and would like to discuss the terms of these agreements in a workshop style setting.

Based on the length of time this project has been stalled and the need by the Commission for additional information from Mr. Langston, staff has not spent considerable time reviewing the attached documents. With that said, staff has also not asked the City Attorney to review them at this point in the process. This information is being presented to you with the idea that if the Commission is still interested in moving this project forward, that we can schedule a workshop on the matter, and following the workshop, the Commission can provide staff further direction. Changes to these documents will likely need to be made prior to adoption.

Chris Langston stated there are 3 proposals we will be reviewing, 1) Battery Park or the staging site for loading material for habitat restoration both inshore and offshore, 2) Artificial Reef Creation and 3) Fossilized Shell (State Land Lease).

Commissioner Brenda Ash made a Motion to Schedule a Workshop on January 10th or 11th, 2018 at ____PM to discuss the Battery Park and Mining Lease Agreement Proposals. Commissioner Mitchell Bartley seconded and the motion carried 5-0.

Date for workshop will be announced when decided.

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NEW BUSINESS:

B. ORDINANCE NO. 2018-07 TREE ORDINANCE – FIRST READING

Attorney Floyd read Ordinance 2018-07 by title as follows:

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF APALACHICOLA, FLORIDA ADOPTING ORDINANCE 2018-07 TO REPLACE ORDINANCE 2011-01 IN ITS ENTIRETY; PROVIDING FOR INCLUSION OF ITS REGULATIONS IN THE LAND DEVELOPMENT CODE OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Beth Wright addressed concern that a few trees that were not included on the protective list.

Mayor Johnson asked Ms. Wright to get with the Tree Committee about making an amendment to the Ordinance before it comes to next month's meeting for adoption.

Commissioner Anita Grove made a motion to approve the First Reading of Ordinance 2018-05 and Proceed with the Adoption Process. Commissioner Mitchell Bartley seconded and the motion carried 5-0.

NEW BUSINESS:

C. CITY OF APALACHICOLA LEGISLATIVE PRIORITIES

Ms. Augusta West requests approval for the attached proposed 2019 Legislative Priorities for the City of Apalachicola.

Commissioner Brenda Ash made a motion to approve the City of Apalachicola Legislative Priorities. Commissioner Jimmy Elliott seconded and the motion carried 5-0.

NEW BUSINESS:

D. ELECTRIC VEHICLE SITE HOST AGREEMENT – DUKE ENERGY FLORIDA

Ms. West requests approval for Duke Energy to invest in installing Electric Vehicle Sites for charging of electric vehicles in the City of Apalachicola. Specific locations are to be determined in consultation with engineers from Duke Energy, but potential sites include the Library, Commerce Street and Riverfront Park.

Commissioner Ash inquired how the users of the electric vehicle station will pay for their power and Ms. West stated the user pays by credit card.

Danny Collins, Duke Energy representative, stated the Park & Plug Program is a pilot program by the Public Service Commission, and Duke Energy takes the cost of setting up sites for these charging stations, rates are set by the Public Service Commission.

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Commissioner Brenda Ash made a motion to approve the Electric Vehicle Site Host Agreement with Duke Energy contingent on Duke Energy Engineers finalizing site locations and authorize the City Manager to Execute the Agreement. Commissioner Mitchell Bartley seconded and the motion carried 5-0.

NEW BUSINESS:

E. ORDINANCE NO. 2018-08 DUKE ENERGY ELECTRIC FRANCHISE AGREEMENT – FIRST READING

Attorney Floyd read Ordinance 2018-08 by title as follows:

AN ORDINANCE GRANTING TO DUKE ENERGY FLORIDA, LLC. d/b/a DUKE ENERGY, A NON-EXCLUSIVE ELECTRIC UTILITY RIGHTS OF WAY UTILIZATION FRANCHISE; PRESCRIBING THE TERMS AND CONDITIONS RELATED TO THE OCCUPANCY OF MUNICIPAL STREETS AND RIGHTS OF WAY IN THE CITY OF APALACHICOLA, FLORIDA, FOR THE PURPOSE OF PROVIDING ELECTRIC SERVICE; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

Commissioner Mitchell Bartley made a motion to approve the First Reading of Ordinance 2018-08 and Proceed with the Adoption Process. Commissioner Jimmy Elliott seconded and the motion carried 5-0.

Commissioner Anita Grove thanked Duke Energy for the donation of \$10,000 to help with the devastation of Hurricane Michael in the City of Apalachicola.

NEW BUSINESS

F. RESOLUTION 2018-13 COMMENDING THE FLORIDA SEAFOOD FESTIVAL BOARD OF DIRECTORS FOR THEIR RESOLVE IN HOSTING THE 55TH ANNUAL FLORIDA SEAFOOD FESTIVAL

Attorney Floyd read Resolution 2018-13 in its entirety.

Commissioner Brenda Ash made a motion to Approve Resolution 2018-13 Commending the Florida Seafood Festival Board of Directors for their Resolve in Hosting the 55th Annual Florida Seafood Festival. Commissioner Anita Grove seconded and the motion carried 5-0.

ADJOURN THE MEETING

With no further business, Commissioner Brenda Ash made a motion to adjourn the meeting at 8:30 p.m. Commissioner Anita Grove seconded and motion carried 5-0.

Van W. Johnson, Sr., Mayor

Deborah Guillotte, City Clerk