

**MINUTES OF THE REGULAR MEETING OF THE APALACHICOLA CITY COMMISSION HELD TUESDAY, FEBRUARY 5, 2019,
6:00 PM AT THE APALACHICOLA COMMUNITY CENTER.**

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

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

CALL TO ORDER

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

AGENDA ADOPTION

Mayor Johnson called for motion to approve agenda.

Commissioner Brenda Ash made a motion to approve the agenda as presented. Commissioner Jimmy Elliott seconded and the motion carried 5-0.

Ron Nalley requested New Business- Item E be removed from agenda due to item is under further review.

MAYOR'S/COMMISSIONER'S COMMUNICATIONS

- In response to a question asked by Commissioner Grove, Mr. Nalley reported water is available and working at the Mill Pond.
- In response to a question asked by Commissioner Ash about the Sidewalk Ordinance, Attorney Floyd stated that it was passed contingent with the rates for the usage of the sidewalks based on square footage being adopted, and the fees at this time have not been set by the City Commission.
- In a response to a question asked by Commissioner Elliott, Mr. Nalley stated we are in the process of repairing the Battery Park electric receptacles that will be approximately \$6,000 and are waiting for the insurance check and FEMA money at this time. Commissioner Elliott requested that Mr. Nalley contact Duke Energy about getting individual power outlets so that each individual can apply and pay for their own power and Mr. Nalley reported this is already in the process.

CITY MANAGER COMMUNICATIONS

- **2019-2020 Budget Calendar** – In your packet is the 2019-2020 Budget Calendar. In March, staff will begin preparing the Capital Improvement Plan in preparation for Commission review in May and adoption in July. In July, staff will begin preparing the Annual Budget for the initial presentation

to the Commission in August and final adoption in September. Workshops can be scheduled by the Commission throughout the calendar period in order to receive regular updates, receive public input and to provide any further direction to staff.

- **Commission Retreat** – As we move towards budget season, I would like to propose that the Commission set a time and date for the one-day retreat to discuss existing projects and to allow the development of immediate, intermediate and long-range goals for the next fiscal year. These goals are then used by staff to develop a realistic working budget for the City and to accomplish the annual priorities of the Commission. Mr. Nalley stated the retreat is usually held late February to early March on Saturday from 8 AM to 4-5 PM. Staff will send out dates and if you could let us know what is good for each of you.

Bonnie Davis requests that the public be able to attend the Commission Retreat so they can give their input on upcoming projects. Mr. Nalley stated this is an opportunity for the City Commission's input on upcoming projects but most input will be held between staff and City Commission before the upcoming budget season, but the public is welcome to attend.

- **Ethics Training Opportunity** – In 2014, the Florida legislature mandated four hours of ethics training for all municipal officers every calendar year. The Northwest Florida League of Cities is offering an ethics training opportunity in Apalachicola on March 28th from 8 a.m. until 12 p.m. at the Community Center. Please let the City Clerk know if you can attend so that we can get everyone registered.
- **16th Annual African-American History Festival** – The African-American History Festival will be held February 15th through February 17th. The City will be assisting the members of H'COLA in preparing for the festival by allowing the use of Franklin Square, blocking roads for the festival and assisting along the parade route.
- **Chris Langston – Battery Park Lease** – Staff is still working on this matter and we will be bringing an update at next month meeting with staff recommendation.
- **Storm Water Project** – The Storm Water Project between 16th and 17th Street is a very big project and at this time we have spent approximately \$6,000, which doesn't include staff time. We are trying to prioritize these projects and we are looking at the listing of areas there are concerns about, so please be patient as we work on these issues. At this time, we have \$30,000 for storm water projects in the 2018-2019 budget and so far on this project we have already spent \$6000, which gives everyone a idea of how much these projects cost.

In a response to a question from Commissioner Ash inquiring if a list of these projects are available to the public for review, Mr. Nalley responded yes, the Stormwater Master Plan outlines the projects and is available for public review.

In response to a question from Commissioner Elliott, Mr. Nalley stated that with the completion of the 16th and 17th stormwater repairs, this work will not eliminate the holding of water over Highway 98, but it will help with the Sawyer Lane area.

ATTORNEY COMMUNICATIONS

- Attorney Floyd gave update on the Denton Cove litigation stating the depositions for him and Mayor Johnson was cancelled until further notice. The City had council in the previous litigation which we may need to use again if needed.
- Attorney Floyd gave update on the floodplain ordinance cases stating we have an answer on the Smith/Hall case and we have a motion coming up for hearing in the Moore case.

- Attorney Floyd stated as of this time he still hasn't received any information from Chris Langston on the Battery Park Lease.

In response to a question from Commissioner Grove about the Amicus Brief, Attorney Floyd stated as of this time there has not been any briefs filed by the parties.

PRESENTATIONS

A. **Proposed Change to Municipal Elections Schedule** – Heather Riley, Franklin County Supervisor of Elections, presented the City Commission with the option of moving the municipal elections to even number of years to fall in line with the general elections cycle, which would save the City approximately \$5,000 to \$6,000 per election cycle. Ms. Riley stated if this is something the City is interested in this would mean the seats coming up for reelection would need to extend their term for one year to 2020 and also the commissioners upcoming in 2021 to 2022. Ms. Riley stated the city elections would approximately increase about 30% voter turnout by changing the election cycle. The last city election voter turnout was 44%, but during the general election for just the City of Apalachicola voter turnout was 72% which is a big difference. A change to the City Charter will be required if the Commission chooses to move forward with the proposal. The proposal also requests eliminating the run-off requirement in the City Charter and relying on the recount guidelines found in the Florida Statutes.

Commissioner Ash recommends Ms. Riley and Mr. Nalley discuss further and present options to Commission.

B. **Apalachicola Environmental Stewardship Bill** – Mr. Nalley gave a presentation on the City's proposed bill, the Apalachicola Environmental Stewardship Bill, which is leveraging the City's Area of Critical State Concern designation into funding for the City's most critical needs. Mr. Nalley stated the Stewardship Bill along with the Legislative Agenda is posted online for public viewing. The Apalachicola Environmental Stewardship Bill is a 2019 Legislative initiative by the City of Apalachicola to establish funding sources that address the City's most pressing needs: infrastructure improvements to our wastewater, drinking water, and stormwater systems; water quality protection; and workforce housing. The Bill builds on the Legislatures intent to support our unique needs and asks for comparable funding to Monroe County, the other populated area in Florida that shares the Area of Critical State Concern designation. The Bill requests \$17 million to repair and upgrade our wastewater and stormwater infrastructure; \$1.6 million to install a water filtration system; \$4 million per year over ten years for land acquisition and capital improvements to facilitate public access; and updates to State statutes to facilitate a 1% bed tax levied on visitors for infrastructure and/or workforce housing projects. Mr. Nalley reported the legislative session begins March 5, 2019, and ends May 3, 2019.

Commissioner Grove asked about the \$1.6 million for the water filtration system from the State and Mr. Nalley stated this is from special appropriations funding. Mr. Nalley stated we have three appropriations requests: 1) pay off the debt default amount of \$755,000; 2) water filtration project at \$1.6 million and; 3) sewer project approximately \$2.5 million.

PUBLIC COMMENT

Mayor Johnson opened the floor for public comment.

- Byron Blan asked about mobile food vendor truck regulations in the City of Apalachicola and stated if the City doesn't have a current ordinance on mobile food vendor trucks, could City consider piggy backing off the County's Ordinance until the City's ordinance is in force.

In response to this issue, Mayor Johnson asked Ms. Clark to address comments and concerns.

Ms. Clark stated currently the City doesn't have standards in the LDC that directly addresses mobile food vendor trucks so any changes made to the LDC to accommodate this request would require going through the ordinance adoption process.

Mayor Johnson asked Ms. Clark and Attorney Floyd, is there any provision that would allow the City to have a temporary period that would allow mobile food vendor trucks to operate until an ordinance is put in place.

Ms. Clark stated currently mobile food vendor trucks are not even addressed in the Land Development Code. In the past, citizens have stressed concerns of not being able to have mobile food vendor trucks in the City of Apalachicola, but any request can be addressed and included in the LDC if the Commission chooses to do so, it just has to go through the process. If the City Commission would like to go in this direction, staff can draft a proposal to provide development standards and guidance for placement of mobile food vendor trucks.

Commissioner Elliott asked if the City Commission could possibly draft a proposal for temporary allowance of mobile food vendor trucks while ordinance is being drafted and going through the process.

Commissioner Grove stated maybe it is time to address this issue, but this should go through the adoption process outlined in the Land Development Code.

Attorney Floyd recommends the City Commission give authorization to allow staff to draft a proposed Ordinance allowing mobile food vendor trucks and go through the process for adoption.

Commissioner Mitchell Bartley made a motion for Attorney Floyd, Cindy Clark, and staff to draft a proposed Ordinance allowing mobile food vendor trucks and go through the adoption process. Commissioner Anita Grove seconded and motion carried 5-0.

- Robin Vroegop distributed a list of questions she would like to get answers too.

Mayor Johnson asked Mr. Nalley to respond to the submitted questions.

- Chris Moore outlined details regarding her floodplain management case.

Attorney Floyd reminded Ms. Moore that this case is in litigation and that the City cannot communicate with her on this matter without the presence of her attorney. Attorney Floyd stated the City will be going to court next week on this case.

CONSENT AGENDA

Mayor Johnson presented the Consent Agenda and asked if any items should be removed before a motion.

- Meeting Minutes Adoption - Adopt the January 8, 2019 Public Hearing and Regular Meeting and January 11, 2019 Special Meeting Minutes.
- Planning & Zoning Minutes Confirmation - Confirm the December 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.

UNFINISHED BUSINESS

A. ORDINANCE NO. 2018-07 - TREE ORDINANCE
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Attorney Floyd read Ordinance No. 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.

Commissioner Elliott stated he doesn't think water/scrub oaks should be listed in this Ordinance.

Commissioner Brenda Ash made a motion to adopt Ordinance 2018-07 Tree Ordinance. Commissioner Anita Grove seconded and the motion carried 4-1. Commissioner Mitchell Bartley opposed.

UNFINISHED BUSINESS

B. DUKE ENERGY ELECTRIC FRANCHSE AGREEMENT

Attorney Floyd stated details have not been finalized at this time, and recommends addressing agreement at March meeting. Attorney Floyd stated Duke Energy is objecting to a 3 year franchise term, and is proposing a 10 year franchise term.

UNFINISHED BUSINESS

C. DISCUSSION CONCERNING THE SMITH/HALL CASE - 39 7TH ST.

Attorney Floyd stated he has filed a motion for default by the court and they have filed an answer of defense within the last couple of days. Attorney Floyd stated we will now file a reply to see if there is any discovery to be done and then we will ask the court for a trial date which will be given by the judge.

Rich Hall reviewed the issues he still has with these floodplain management violations and stated he has researched this further and the concrete fill needs to be addressed. Mr. Hall requests clarification regarding the removal of the concrete and rear fill.

NEW BUSINESS

A. RESOLUTION 2019-02 ADOPTING A POLICY OF PROHIBITING THE USE OF EXCESIVE FORCE

Attorney Floyd read Resolution 2019-02 in its entirety. Title is as follows:

A RESOLUTION OF THE CITY OF APALACHICOLA, FLORIDA, ADOPTING A POLICY OF PROHIBITING THE USE OF EXCESSIVE FORCE BY LAW ENFORCEMENT AGENCIES WITHIN THE CITY AGAINST ANY INDIVIDUALS ENGAGED IN LEGALLY PERMITTED NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS AND ALSO ENFORCING APPLICABLE STATE AND LOCAL LAWS AGAINST PHYSICALLY BARRING ENTRANCE TO OR EXITS FROM A FACILITY OR LOCATION WHICH IS THE SUBJECT OF SUCH NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS, AND PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

Commissioner Mitchell Bartley made a motion to adopt Resolution 2019-02 Policy of Prohibiting the Use of Excessive Force. Commissioner Jimmy Elliott seconded and the motion carried 5-0.

NEW BUSINESS

B. PROPOSED FDOT SIDEWALK PROJECT ALONG HIGHWAY 98

Mr. Nalley stated Franklin County is proposing to apply to the Florida Department of Transportation for funding under the Transportation Alternatives Set-Aside to build a sidewalk along the north side of Highway 98 from Prado Street westward to the Ace Hardware Store. The length of the project is 0.72 miles and because 88% of the project is located in the City of Apalachicola, Franklin County is requesting the City’s support for this project. While normally requiring a local match, the match is waived because both the City and County are part of the designated Rural Area of Opportunity. FDOT will maintain sidewalk.

Commissioner Anita Grove made a motion to support Franklin County’s Application to FDOT for the construction of a sidewalk along Highway 98 from Prado Street westward to the Ace Hardware Store and once completed FDOT agrees to maintain the sidewalk. Commissioner Brenda Ash seconded and the motion carried 5-0.

NEW BUSINESS

C. DISCUSSION OF MOBILE FOOD VENDOR REGULATIONS

Discussion of Mobile Food Vendor Regulations held under Public Comments, therefore, no further discussion held.

NEW BUSINESS

D. DISCUSSION CONCERNING RULES OF PROCEDURE FOR THE CITY COMMISSION

Mr. Nalley stated following a discussion of parliamentary procedure, public comment periods and rules of procedure at a Community Redevelopment Agency Board meeting, Commissioner Grove requested that the City Commission have an opportunity to discuss the same matter at the February meeting. The City of Apalachicola Charter states that, “the Commission shall determine its own rules and order of business and shall keep a journal of its proceedings.” The Florida Municipal Officials’ Manual states, “The primary principle of procedure is to facilitate the transaction of business and promote cooperation and harmony. Such procedure should not be used to entangle and confound the uninformed but rather to expedite business, avoid confusion and unfair advantage, and protect the rights of members.” Mr. Nalley continued stating that a well written “Rules of Procedure” Manual for the City will address many of the concerns/matters discussed during the CRA meeting. Cities in Florida have a lot of discretion in determining how to conduct business and each Board must therefore fashion rules of procedure that will meet its own particular needs. Staff is willing to assist in the development of such a manual for the Commission’s input and review if you would like for us to do so.

Commissioner Jimmy Elliott made a motion for staff to write proposed Rules and Procedures for the City Commission of the City of Apalachicola and present to the City Board for further review, discussion and possible action. Commissioner Mitchell Bartley seconded and the motion carried 5-0.

NEW BUSINESS

E. PROPOSED REZONING OF VAN JOHNSON COMPLEX

Item removed from agenda.

NEW BUSINESS

F. RECOMMENDATION OF AUDITING SERVICES – AUDIT COMMITTEE

Mr. Nalley stated at the December meeting, the Audit Committee authorized the advertisement of a Request For Qualifications for Audit Services. Three proposals were received by the submittal deadline of January 18, 2019. The Audit Committee evaluated each of three proposals and ranked their responses to the request for proposal. The Audit Committee recommends the following order of preference for the Auditing firms: 1) Moran & Smith CPA LLP, 2) Roberson & Associates, P.A. and Vance CPA, LLC, and 3) James Moore & Co., P.L. Mr. Nalley stated the Audit Committee felt that Moran & Smith had the unique qualifications, commitment to professional performance, and a proven record of working closely with their local government clients and recommends this firm to perform the auditing services.

Commissioner Jimmy Elliott made a motion to accept the Audit Committee recommendation of Moran & Smith, CPA LLP for audit services contingent upon the approval of contract by Attorney Floyd and authorization for Mayor Johnson's signature. Commissioner Mitchell Bartley seconded and the motion carried 5-0.

ADJOURNMENT

With no further business, Commissioner Jimmy Elliott made a motion to adjourn the meeting at 8:30 pm. Commissioner Mitchell Bartley seconded and motion carried 5-0.

Van W. Johnson, Sr., Mayor

Deborah Guillotte, City Clerk