

A Regular meeting of the City Commission of the City of Apalachicola was held on Tuesday, October 3, 2017 at 6:00 PM at the Apalachicola Community Center, #1 Bay Avenue, Apalachicola, Florida.

Present: Mayor Van Johnson, Commissioner Jimmy Elliott, Commissioner Brenda Ash, Commissioner Frank Cook, Commissioner Anita Grove

Visitors: Bob Lindsley, Cindy Clark, Mark Grove, Ashley Teat, Joe Taylor, Dreamal Worthen, Mark Friedman, Roderick Robinson, Brenda Benjamin, Diane Brewer, Tammy Ray-Hutchinson, Shannon Hartsfield, Mike Vroegop, Robyn Vroegop, Jerry Hall, Dixie Partington, Carrie Kienzle, Jan Thomas, Despina George, Val Webb, David Adlerstein, Rich Hall, Glyen Holmes, Beth Wright, Melissa West, Judi Stokowski, Islam ElSharkawy, Fran Edwards, Violet Solovad, Soundra Davis, Rich Hall

Mayor Johnson opened meeting followed by Prayer and Pledge.

REGULAR MEETING - OLD BUSINESS

APPROVAL OF AUGUST 2017 MINTUES

Motion to approve August 8, 2017 Joint Workshop with Planning & Zoning, August 8, 2017 Public Hearing & Regular Meeting, August 17, 2017 Budget Workshop, August 24, 2017 Budget Workshop, and August 29, 2017 Budget Workshop minutes made by Commissioner Ash, second by Commissioner Cook.

Motion carried: 4 to 0

Voting Aye: Ash, Cook, Elliott, Mayor Johnson

Voting Aye: None

APPROVAL OF SEPTEMBER 2017 MINUTES

Motion to approve September 5, 2017 Regular Meeting, September 12, 2017 Public Hearing & Special Meeting and September 26, 2017 Public Hearing & Special Meeting minutes made by Commissioner Ash, second by Commissioner Elliott.

Motion carried: 4 to 0

Voting Aye: Ash, Cook, Elliott, Mayor Johnson

Voting Aye: None

APPROVAL OF AUGUST BILL LIST

Motion to approve August bill list made by Commissioner Ash, second by Commissioner Cook.

Motion carried: 4 to 0

Voting Aye: Ash, Cook, Elliott, Mayor Johnson

Voting Aye: None

PRESENTATION OF PLAQUE - Commissioner Cook

Mayor Johnson presented Commissioner Cook with a plaque of appreciation for his services as a City Commissioner and a member of the City's Planning and Zoning Board. Mayor Johnson and Board thanked Commissioner Cook for all he has done for the City of Apalachicola and stated he would be greatly missed.

REGULAR MEETING - NEW BUSINESS

SWEARING IN OF COMMISSIONERS

Val Webb sworn in Commissioner Elect Anita Grove with the following Oath of Office:

I, Anita Grove, do solemnly swear that I will support, protect, and defend the constitution of the government of the United States and the State of Florida and that I am duly qualified to hold office under the laws of the State of Florida and the Charter of the City of Apalachicola and that I will well and faithfully perform the duties of the City Commissioner Seat 3 of said City upon which I am about to enter, so help me God.

Roderick Robinson sworn in Commissioner Ash with the following Oath of Office:

I, Brenda B. Ash, do solemnly swear that I will support, protect, and defend the constitution of the government of the United States and the State of Florida and that I am duly qualified to hold office under the laws of the State of Florida and the Charter of the City of Apalachicola and that I will well and faithfully perform the duties of the City Commissioner Seat 4 of said City upon which I am about to enter, so help me God.

RECOGNITION OF VISITORS

a) Fonda Davis - Chunky Sunday - Soundra Davis representing Fonda Davis requests permission to hold the Annual Chunky Sunday Event on Sunday, November 5, 2017 at the 6th Street Recreational Park. Ms. Davis stated road closure for the event and parade will be the same as last year and will clear everything with Chief Varnes.

Motion to approve Chunky Sunday Event to be held on Sunday, November 5, 2017 at the 6th Street Recreational Park made by Commissioner Elliott, second by Commissioner Ash.

Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

b) Dr. Frederick Humphries & Chauncey Ford - Grape Growing on City Owned Property - Dr. Humphries and representatives outlined proposal regarding a grape growing venture on City owned property and requests the City enter into a partnership to furnish and clear the 15 acre City owned property and install a drip irrigation system.

Project presentation outlined.

Mayor Johnson requests motion to enter into partnership with FAMU for proposed project, make available 15 acres of City property, and looking into possibility of City clearing land.

Motion to approve to enter into partnership with FAMU and make available 15 acres of City property for the grape growing project made by Commissioner Elliott, second by Commissioner Ash.

Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

Motion to approve City installing irrigation system and clearing property contingent on obtaining funds made by Commissioner Ash, second by Commissioner Elliott.

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Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

Dr. Humphries gave update on College of Marine Sciences in Apalachicola and stated we are still pursuing this project by applying for TRIUMP funds.

Dr. Humphries stated the College of Architecture is working on a housing plan for the Hill district in Apalachicola.

GLYEN HOLMES – FAMU MONTHLY REPORT

Glyen Holmes gave monthly report.

Commissioner Ash asked about the status of the incubator program.

Dreamal Worthen stated this is still being pursued.

APALACHICOLA BAY OYSTER HARVESTING LICENSE – STATUTE CHANGE

Lee Mathes stated DACS no longer wants to be involved in the issuing of the Apalachicola Bay Oyster License. DACS would like for the City to collect the funds and issue the Apalachicola Bay Oyster License. If Commission approved, the proposed change would go before the Legislature to adopt the Florida Statute change. License funds would be deposited into a trust fund, and those funds would be used as outlined per the statute minus administrative costs. DACS would still be responsible for printing the license and administering the required video.

Commissioner Ash asked if administrative fees can be accessed.

Ms. Mathes stated in the past for the shelling program the administrative fee was 5% but this will be increased. Staff will collect License fees for 45 days after hours, from 4PM to 6PM Monday through Friday.

Shannon Hartsfield thanked the City for administering the shelling programs. If the proposed legislature is approved, this gives us the opportunity to educate/test and keeps money in Franklin County. SMART is available to assist in any way.

Commissioner Grove voiced concern that DACS does not want to be very involved with the Apalachicola Bay. Commissioner Grove feels matters needs to be researched more before a final decision is made.

Motion to approve proposed Statute change to authorize the City of Apalachicola to collect Apalachicola Bay Oyster License fees, deposit funds in a trust account, and administer programs outlined in the Statute made by Commissioner Elliott, second by Commissioner Ash

Motion carried: 3 to 1

Voting Aye: Ash, Elliott, Mayor Johnson

Voting Aye: Grove

HARBOR MASTER HOUSE RENTAL

Ms. Mathes stated that River Keepers and Florida Geotourism are both interested in renting the Harbor Master House at Scipio Creek. Both parties are present to outline their rental proposal.

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Mark Friedman, representing River Keepers, stated they are interested in renting the entire facility, but Mike Thrasher would have to relocate out of the building. Mr. Friedman outlined detailed rental terms.

Robin Vroegop, owner of Florida Geotourism, stated she is only interested in renting half of the facility, and Mr. Thrasher could remain in his current office. Ms. Vroegop outlined detailed rental terms.

Mayor Johnson stated if the two interested parties could share the facility, then that would be a win win situation for everyone.

Discussion held.

Mr. Friedman stated that his board approved for renting the entire facility, and doesn't see how sharing could work between the two parties.

Commissioner Grove inquired about parking.

Ms. Vroegop stated this is addressed in proposal but there is adequate parking for each office.

Motion to approve rental of Harbor House (North Side) to Florida Geotourism Associates, LLC contingent upon Attorney Floyd preparing rental agreement made by Commissioner Ash, second by Commissioner Elliott.

Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

ADOPTION DECISION – RESOLUTION 2017-14 – DESIGNATING MAYOR PRO-TEM & COMMISSIONER DEPARTMENTS

Attorney Floyd read Resolution 2017-14 in its entirety.

Motion to adopt Resolution 2017-14 made by Commissioner Elliott, second by Commissioner Grove.

Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

ADOPTION DECISION – RESOLUTION 2017-15 – COMMUNITY RATING SYSTEM PARTICIPATION

Attorney Floyd read Resolution 2017-15 in its entirety.

Motion to adopt Resolution 2017-15 made by Commissioner Grove, second by Commissioner Elliott.

Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

FIRST READING – ORDINANCE NO. 2017-11 – FY 16/17 BUDGET AMENDMENT

Attorney Floyd Read Ordinance No. 2017-11 by title as follows:

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AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF APALACHICOLA AMENDING THE FISCAL YEAR 2016-2017 BUDGET

Motion to approve first reading of Ordinance 2017-11 and proceed with adoption process made by Commissioner Ash, second by Commissioner Elliott.

Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

REAFFIRM HISTORY, CULTURE, ARTS BOARD – NEW CHAIR & MEMBERS

Ms. Mathes requests to reaffirm the HCA Board: Val Webb, Chair, and members Nadine Kahn, Marie Marshall, Augusta West, Carrie Kienzle, Lynn Wilson-Spohrer, Ed Springer, Oryan Speed, Holly Brown, and Jill Rourke.

Motion to reaffirm HCA Board made by Commissioner Ash, second by Commissioner Elliott.

Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

COMMISSION APPOINTMENTS TO TDC BOARD, LIBRARY BOARD, TREE COMMITTEE, MAIN STREET, HCA BOARD

Mayor Johnson stated a Commissioner is to serve as a liaison to each of the above named boards. Commissioner with the most seniority will choose first, and so on.

Motion to appoint Commissioner Elliott to Tree Committee, Mayor Johnson to TDC, Commissioner Ash to Library, Commissioner Grove to HCA, and Commissioner Bartley to Main Street made by Commissioner Elliott, second by Commissioner Ash.

Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

PLANNING & ZONING

1. Motion to confirm August Planning & Zoning minutes made by Commissioner Ash, second by Commissioner Elliott.

Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

2. Cindy Clark – City Planner – Monthly Report

Ms. Clark reviewed Vulnerability Analysis Report, and stated Planning & Zoning will hold a QJ Hearing on October 16th at 6:00 PM for CVS.

CITY ADMINISTRATOR

Ms. Mathes requests a workshop to discuss rate study results.

Commission set a special meeting date for Friday, October 6th at the Johnson Complex Media Center to discuss Legislative Appropriation requests, SRF Loan, and Johnson Complex facility manager.

Motion to approve payment for Attorney Floyd invoice made by Commissioner Ash, second by Commissioner Elliott.

Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

ATTORNEY FLOYD

Attorney Floyd reviewed FL/GA case and ongoing Planning & Zoning issues.

OTHER VISITORS & COMMENTS

a) Rich Hall reviewed flooding issues pertaining to his property caused by a neighbor illegally filling in property and installing landscape. Mr. Hall distributed photos of flooding on his property that is being caused by neighboring property owner.

Mayor Johnson stated he wants this issue resolved and requests the illegal fill causing the flooding be removed.

Jerry Hall stated there has been a drainage issue in this area for years.

Commissioner Ash inquired if owner and contractor have been notified about this issue by letter or any kind of correspondence.

Attorney Floyd stated Wilbur Bellew has a lot of knowledge about this situation and talked with me about this. I know this is a particular stressing issue but from a due process standpoint and from a procedure standpoint, Mr. Hall coming before the Commission isn't the right process at this time. I hate to say that, but it is my duty to say this and what we have to do is this Board may be in an appellant capacity in looking over those particular matters. I take it, Mr. Hall didn't file an appeal and has not filed anything so far that would bring it in front of either Planning and Zoning and then the City Commission. This is why I say we have to be very careful because it may result in the Board being prejudice in terms of being able to make a decision being partial on this matter. I know that Mr. Hall has been to a number of different places complaining about this and certainly has a basis to be presented for determining this, but this is not the right procedure.

Attorney Floyd recommends the Board takes no comment or makes no actions and that Mr. Hall be directed to take whatever action is provided by the LDC to re-address this particular problem. I know it was approved by the County and this particular concrete is underneath the roof of the place and driveway with a number of different parts and factors to this. The City needs to get all facts before making a decision and talking about this with Mr. Hall tonight since we are hearing only one side of it.

David Adlerstein asked what options are there for nearby homeowners affected by this situation to challenge this problem.

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Attorney Floyd stated first there is a process administratively to challenge permit that was filed, or P&Z or the Flood Plain decision that was made. In addition to this, file suit in circuit court to address the problem of the neighbor, civilly for flooding his home.

Mayor Johnson commented he respects the opinion of the City Attorney and I know the best thing to do is take your advice, but this man is suffering and if we don't do something tonight this issue will only get worse and our liability insurance will increase so keep this in mind.

Mayor Johnson commented he will follow the advice of the city attorney but this man is seeking some solid relief. I know what we have done in the past and that was to issue an order to immediately remove it because if you don't take some kind of stand, what is going happen the next time this occurs. The County issued a permit for the fill for this house.

Cindy Clark stated this is a low depression area and used to be a stream bed and we are seeing more and more of this kind of development with the illegal fill. We are seeing a lot of the tier two lots being sold and people seeking development permits for them, when the reason they didn't sell them is they were marginal to begin with. We are starting to see more and more of this coming before us and we need to be stricter on our flood plain management and no-fill.

Commissioner Ash asks Attorney Floyd if Mr. Hall should take this issue back before Planning and Zoning and then it come back before the commission.

Attorney Floyd stated this sounds reasonable but I don't know what all has been done so far, therefore we would have to go back and look further into this. Attorney Floyd commented we may need to make the landscaping part of the application more in-depth when applying and what is it being filled with.

Attorney Floyd stated there is a process for the person who has a grievance against permit that has been issued and it is written in the LDC where you file an appeal. This process has to be taken with 30 days of the decision already made and if this is not done then you are out with the city and your remedy is with the court. If you feel your neighbor has abused you putting land and fill in and it was done with wrong material or even permitted you still have the right to go before the court for damages.

Attorney Floyd stated if the City Commission would like to go ahead and entertain everybody who is adversely affected by the city and let them come before the board, the City Commission hear it, (De Novo) which means new and have evidence put on it, the City needs to go ahead and dissolve the boards and let the people bring their evidence both sides, before the City Commission not just one side.

Commissioner Grove stated from hearing Mr. Hall's side of the story, where does the City Commission go from here.

Attorney Floyd stated he doesn't know if everything that is being said is correct, but there was a citation that was issued by Mr. Bellew, and there was a fine issued and that person paid the fine.

Cindy Clark stated the illegal activity is the concrete pad and the fill.

Mayor Johnson stated somebody dropped the ball, and error was made and the city needs to readdress and make it right.

Motion to remove all unauthorized fill made by Commissioner Elliott, second by Commissioner Grove.

Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

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b) Cindy Clark stated she has reviewed issues on driveways and whether or not they need permitting has come up recently and I would like some guidance from the board. I consider driveways something that needs to have a building permit, and we are seeing a lot of these happening.

Motion to approve permitting through the building department for driveways, sidewalks, walkways, patios, porches made by Commissioner Grove, second by Commissioner Ash.

Motion carried: 4 to 0

Voting Aye: Ash, Grove, Elliott, Mayor Johnson

Voting Aye: None

c) Joe Taylor expressed his concerns with CVS proposed parking lot.

MAYOR & COMMISSIONERS COMMENTS

Mayor Johnson asked Ms. Mathes to send a letter to the property owner with the fill issue and for this to be removed.

There being no further business meeting adjourned.

Van W. Johnson, Sr., Mayor

Deborah Guillotte, City Clerk