

A special meeting of the City Commission of the City of Apalachicola was held on Thursday, October 29, 2015 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 Mitchell Bartley, Commissioner Frank Cook, City Administrator Betty Webb, City Clerk Lee Mathes, Assistant City Clerk Deborah Guillotte, Attorney Pat Floyd

Visitors: David Meyer, Bill Warner, Toni Taranto, Mark Milliken, Kathy Robinson, Karen Ventimiglia, Jim Brown, Jenny Billings, Jaime Liang, Dennis Winterringer, Joe Taylor, Bonnie Davis, Tom Daly, Debbie Poloronis, Jan Thomas, Despina George, Margene Off, Lisa Chelsey, Beth Wright, Charles Sawyer, Sarah Robinson, Carolyn Sawyer, David Adlerstein, Kathleen Andrew, Holly Brown, Creighton Brown, Edward Michaels, Audie Pieper, Tom Pieper, Callie Nichols, Greg Wynot, Paula Martina

Special meeting opened by Mayor Johnson.

DISCUSSION AND ACTION REGARDING DISMISSAL OF DENTON COVE LAWSUIT

Attorney Floyd stated that is meeting was called in reference to Denton Cove. Because of the subject matter, the Mayor and Commission wanted an open meeting instead of an executive attorney client session. Attorney Floyd explained that the Franklin County School Board is the only party that owns property where the Denton Cove project is to be located. The City does not own the property nor does the City have control of the sale of the property. The City does not have a valid contract with Denton Cove, and the City does not have an interest in this property.

Attorney Floyd submitted Schedule A Commitment for Title Insurance issued by First American Title Insurance Company to be made part of the record.

Attorney Floyd read letter from Costin and Costin, Attorneys At Law, to be made part of the record:

This will serve as my opinion of title regarding the property described in Attachment A to the Purchase and Sale Agreement between Denton Cove, Ltd and the City of Apalachicola.

I have reviewed copies of the original plat, resolution vacating street and alleyways, and Official Plat of the City of Apalachicola adopted by resolution of the City of September 12, 1946 as well at the title commitment of First American Title Insurance Company procured by Denton Cove, Ltd which is Exhibit B to this opinion.

The Title Commitment (File 5011612-2037-3370649) reflects that title to the property in Attachment A is vested in the Franklin County District School Board and not the City of Apalachicola. I concur with the First American Title Insurance Company and its title agent that the subject property is solely vested in the name of the Franklin County School Board and cannot be conveyed by the City of

Apalachicola. Requirement 4.a. of the Title Commitment calls for a deed from the Franklin County School Board without any exception from the City of Apalachicola.

Any attempt by the City of Apalachicola to attempt to convey title by Warranty Deed would result in potential liability for breach of warranties of title under Florida law.

Sincerely,
Charles A. Costin

Ms. Webb presented the official City plat from 1946 which show no streets and alleys running through the Chapman High School property.

Attorney Bill Warner outlined complaint filed by Denton Cove. Attorney Warner recommends the City Commission not oppose the entry of an order which will determine the following:

1. That the subject area that is the platted but unconstructed streets and alleys in question, not owned by the City of Apalachicola, not subject to the authority of the City of Apalachicola to close or abandon the same, nor the ability to sell that property.
2. That as the Denton Cove site plan in its last submittal to the City is in compliance with the City's Land Development Code requirements and the City of Apalachicola Planning and Zoning board does not have discretionary authority over approvals in permits for the site plan that is required for the Denton Cove project to proceed for development. The City's Planning and Zoning Board will be directed to approve the last submitted application of Denton Cove for site plan that is in compliance with the City's Land Development Code as staff has determined it does.
3. That the City would issue all permits for the Denton Cove project in accordance with the City's code requirements.
4. That the Court would dismiss this lawsuit with each party incurring its own expenses and costs in filing where the court would retain jurisdiction to enforce the terms of the judgement when entered.

Attorney Warner stated the hearing has been set for Monday, November 2, 2015 in Tallahassee.

Public comments received regarding proposed recommended order.

Attorney Warner stated if the Commission approves the recommended order then the lawsuit goes away.

Discussion held.

Motion to approve recommendation as outlined by Attorney Warner and not oppose recommended order made by Commissioner Elliott, second by Commissioner Cook.

Motion failed 2 to 3.

Voting Aye: Elliott, Cook

Voting Nay: Ash, Bartley, Mayor Johnson

Mayor Johnson stated the City now goes to court regarding this issue.

There being no further business, meeting adjourned.

Van W. Johnson, Sr., Mayor

Lee H. Mathes, City Clerk