

A special meeting of the City Commission of the City of Apalachicola was held on Thursday, January 31, 2013 at 12:00 Noon at the Apalachicola Community Center, #1 Bay Avenue, Apalachicola, Florida.

Present: Mayor Van Johnson, Commissioner Brenda Ash, Commissioner Mitchell Bartley, Commissioner Frank Cook, City Administrator Betty Webb, City Clerk Lee Mathes, City Attorney Pat Floyd

Visitors: Gail Johnson, Shannon Hartsfield, Kim Bodine, Chris Millender, Brian Daffin

Special meeting opened by Mayor Johnson followed by prayer and pledge.

GULF COAST WORK FORCE SHELLING PROJECT

Ms. Webb stated that Work Force has been given an allocation that is tied in with FEMA to get the Apalachicola bay back into working condition. Ms. Webb stated that Work Force needs an agency that can process payroll and actually have the workers as employees of their agency. Work Force has tried several routes, but none have been successful so they are asking if the City can undertake this for them. Ms. Webb stated that no insurance, retirement, or unemployment benefits are required. The City would be required to withhold social security and provide liability/workman's comp insurance. Ms. Webb stated she has been working with Brian Daffin, the City's insurance representative, and he has provided a quote for insurance that has come in \$90,000 less than what was originally expected. Ms. Webb stated we want to make sure that everything outlined is covered under insurance. Workers will have to fill out the proper employment forms, do drug test, and complete an OSHA class. Ms. Webb stated the first step would be to finalize the administrative costs.

Commissioner Ash asked if Ms. Webb has a breakdown with the new insurance quote.

Ms. Webb stated she has just received the paperwork with the new quote. Ms. Webb outlined employee hours per week and number of employees that would be working each week.

Kim Bodine stated that there will be a total of 200 employees working, but only 100 working each week.

Shannon Hartsfield stated that employees have to prove that 80% of their incomes come from the Bay.

Commissioner Ash asked how we got away from the insurance requirement.

Ms. Webb stated they will only work 24 hours per week and also under FEMA or federal funded projects you are not required to offer all the benefits.

Mayor Johnson asked if they will be special employees of the City.

Ms. Webb stated it would be more like special assignment. Employees would get paid weekly.

Mayor Johnson asked if the overtime would be paid out of Work Force funds.

Ms. Webb stated all costs would be covered by Work Force funds. There will be no costs to the City. Ms. Webb stated that employees have to be certified through the Work Force. The City will be doing the payroll, reporting, and maintaining employee files.

Commissioner Ash why Work Force has approached the City to process the payroll.

Ms. Bodine stated that she tried 8 different companies, but the costs were too high. The County was approached but showed no interest.

Mayor Johnson stated the only responsibility the City will have is to cut checks.

Mr. Hartsfield stated that is correct.

Ms. Bodine stated everyone that is hired must be eligible under our grant.

Mayor Johnson stated as long as the City doesn't lose any money, we will be happy to help.

Ms. Webb stated the administrative cost is just 2.5% on a \$1.8 million payroll.

Commissioner Bartley asked if everyone has to go through the certification process.

Mr. Hartsfield stated that everyone on the vessels have to be certified.

Ms. Bodine stated there are a lot of employment requirements when dealing with federal funds.

Commissioner Ash asked if there would be regular drug testing.

Ms. Bodine stated that Work Force only tests once.

Ms. Webb stated employees will fall under the City's policies.

Ms. Bodine stated program has been approved through June, but will ask for extension through July.

Attorney Floyd asked if they are suspicious of someone will they get them tested.

Ms. Bodine stated employees will fall under the City's policies. Funds have been allocated to pay for drug tests.

Attorney Floyd stated they are the ones that are going to be around the workers, and if they are suspicious of someone, then they need to send them for a drug test.

Ms. Webb stated that drug testing should be outlined in the contract.

Attorney Floyd stated this is to continue to give the oystermen work, and try to give some effort to rebuild the Bay.

Chris Millender stated they have to take drug test to pass certification, but thinks they can send someone for test if they are suspicious.

Commissioner Ash if there is a claim, how does this affect the City's overall outlook at renewal.

Brian Daffin stated anything over land is tied into the City's current liability policy. If there is a major claim, then it will affect the City's overall renewal rate. The Jones Act will take over once the workers are on the water. The majority of the project is going to be over the water.

Ms. Webb stated their work site begins when they step onto the boat.

Commissioner Ash asked Mr. Daffin if he had a general idea on the percentage increase if there was a claim.

Mr. Daffin stated it depends on the claim. If it is a major claim over land then it will affect the City's insurance rate. Anything over water is covered under the Jones Act.

Ms. Webb stated the City would have to pay the additional premium if there was a major claim that affected our insurance rates.

Commissioner Ash asked if there was a way to have some sort of contingency funds set aside for this type of liability. Commissioner Ash stated a reserve needs to be set aside to cover the liability costs if needed.

Ms. Bodine stated if price increase happens after program ends then the grant won't pay.

Mr. Daffin stated if the City had a major claim, the increase would not show until renewal in October.

Commissioner Ash stated she is in support of this project, but is concerned about the financial stability of the City. Commissioner Ash stated she would like to make sure all the bases are covered before a decision is made.

Attorney Floyd stated the City needs to be assured the proposed insurance is the proper insurance to cover all the bases.

Mr. Daffin stated he can provide the information that was provided to the insurance companies.

Attorney Floyd stated we just want some assurance that risks have been covered and we have insurance. Attorney Floyd stated when policy is received, we just need to make sure everything is covered. Attorney Floyd asked why is there a concern about liability coverage over land because workers are only employed by the City while they are in their boats.

Mr. Daffin stated when any agency takes on 200 employees, they take on liability. They will be City employees.

Ms. Webb stated the City could put the \$90,000 insurance savings as some type of a contingency to cover any unexpected costs. The Commission could approve what the contingency could be used for.

Mayor Johnson stated he has no problem with contingency as long as the money goes back to the workers.

Commissioner Bartley stated he also wants to make sure the workers get all the funds they can get.

Commissioner Ash stated time is of the essence.

Ms. Bodine stated she can word the contingency funds correctly so the grant will cover the costs.

Commissioner Cook stated the contingency is the City's self-insurance, and if it is not needed, then the Commission can decide how to give it back to the workers.

Attorney Floyd stated the contingency will have to be covered under the administrative costs.

Ms. Webb stated this project needs to get started as soon as possible.

Motion to approve to move forward with Work Force project contingent upon approval of insurance coverage and set contingency aside made by Commissioner Cook, second by Commissioner Bartley.

Motion carried 4 to 0.

Voting Aye: Ash, Bartley, Cook, Mayor Johnson

Voting Nay: None

Ms. Bodine stated there will be a work site agreement between Work Force and the City that outlines pay rate, job description, eligibility requirements, and other issues. Ms. Bodine stated the County has such a contract with Work Force.

Attorney Floyd requested a copy of the County's Work Force agreement.

Ms. Bodine stated she will provide a copy to Attorney Floyd.

“COMMUNITIES OF DISTINCTION” PRODUCTION

Mayor Johnson stated he has been approached by a company that wants to feature Apalachicola as one of the “Communities of Distinction”. The cost is \$19,000. Mayor Johnson recommends instructing the City's TDC representative to present this to TDC as one of the City's allocation projects.

Motion to authorize TDC representative to present the “Communities of Distinction” project to TDC for funding made by Commissioner Ash, second by Commissioner Bartley.

Motion carried 4 to 0.

Voting Aye: Bartley, Cook, Ash, Mayor Johnson

Voting Nay: None

ADMINISTRATIVE CLOSE-OUT AMENDMENT 1 – REUSE PROJECT

Motion to approve amendment 1 for close out for Reuse Project made by Commissioner Cook, second by Commissioner Bartley.

Motion carried 4 to 0.

Voting Aye: Cook, Ash, Bartley, Mayor Johnson

Voting Nay: None

RESTORE ACT

Attorney Floyd stated he would like to have confirmation that authorized filing suit with County based on actions outlined in December 15th meeting.

Motion confirming filing of lawsuit against Franklin County based on action outlined in December 15th joint meeting with City of Carrabelle made by Commissioner Bartley.

Motion dies for lack of second.

Commissioner Ash asks if City of Carrabelle was filing suit as well.

Attorney Floyd stated that both cities don't need to file suit.

Commissioner Ash stated that the purpose of the law suit was to force the County to talk with Apalachicola.

Mayor Johnson stated the City needs to exercise F.S. 164.

Commissioner Ash stated that according to the Apalachicola Times, Carrabelle has appointed Cal Allen to sit on the Restore Act Committee.

Mayor Johnson stated that Cal Allen was appointed by William Massey as his district representative.

Commissioner Ash stated she feels the City has alienated the County with this lawsuit.

Attorney Floyd stated the City of Carrabelle is still in full support with Apalachicola. Attorney Floyd outlined actions concerning law suit.

Commissioner Ash asked what is the City's plan to cover the costs of the litigation.

Attorney Floyd stated the plan is to ensure the City of Apalachicola gets our fair portion of the funds. Attorney Floyd stated he feels the attorney's fees can be recouped.

Mayor Johnson stated this is an investment to make sure the City gets our fair share.

Commissioner Cook asked whose job will the City have to terminate or how much will taxes have to be raised in order to pay for this. Commissioner Cook stated even if the judge orders the County to meet with the City, there is no guarantee the County will be willing to do anything.

Attorney Floyd stated he will not charge the City for the lawsuit charges.

Commissioner Cook stated he has a problem spending money and putting the City in jeopardy with citizens asking the Commission why we are raising taxes to pay for this lawsuit. Commissioner Cook stated if Attorney Floyd is going to pursue this lawsuit then he should get paid, but at the end of the budget year, all this money will be spend without receiving any benefit.

Mayor Johnson asked if Commission would be more comfortable setting a cap on legal expenses.

Commissioner Cook stated he just doesn't want to have to terminate a position or raise taxes to cover these expenses.

Attorney Floyd the legal budget decreased \$25,000 this budget year.

Commissioner Cook stated he is just apprehensive in being aggressive in areas that may not come through.

Attorney Floyd stated this is a god to get a fair share of millions of dollars.

Commissioner Cook stated there are other ways to attack this problem without going to court. The City is not at the point where monies are here or even close to being here. Commissioner Cook stated he doesn't feel the City will ever see any Restore Act money, and there is a fair chance no monies will be received. Commissioner Cook stated it is great to work with City of Carrabelle, but we are betting the City's money on something that is not a good investment.

Commissioner Ash asked Attorney Floyd for a breakdown of the process, and the cost of each phase.

Attorney Floyd stated the whole purpose of the lawsuit is for the County to sit down in a public meeting with Apalachicola to discuss how much money the City will receive. The total costs of the lawsuit should be no more than \$5,000.

Mayor Johnson stated he instructed Attorney Floyd to proceed with the lawsuit.

Commissioner Ash stated she is not being informed of the progress.

Motion to confirm actions for lawsuit made by Commissioner Ash, second by Commissioner Bartley.

Ms. Webb stated to amend motion to reflect actions approved on December 15th.

Commissioner Ash amended motion.

Motion carried 3 to 1.

Voting Aye: Ash, Bartley, Mayor Johnson

Voting Nay: Cook

There being no further business, meeting adjourned.

Van W. Johnson, Sr., Mayor

Lee H. Mathes, City Clerk