

**MINUTES OF THE REGULAR MEETING OF THE APALACHICOLA CITY COMMISSION HELD TUESDAY, MARCH 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

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

ABSENT: Commissioner Mitchell Bartley

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

Commissioner Brenda Ash made a motion to approve the agenda as presented. Commissioner Anita Grove seconded and the motion carried 4-0.

MAYOR'S AND COMMISSIONERS REPORTS AND COMMUNICATIONS

CITY MANAGER COMMUNICATIONS

- **Commission Retreat** – The Commission Retreat is scheduled for March 23, 2019 beginning at 9:00 a.m at the Community Center. A draft agenda is attached to this Agenda packet..
- **Ethics Training** – 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.
- **Triumph Grant Update** – Cindy Clark gave a brief update on the Housing and Infrastructure Initiative proposed for funding through Triumph. The project is composed of three basic components: 1) leverage city-owned property and tax incentives for workforce housing; 2) expand infrastructure to support an area targeted for workforce housing; and 3) provide trades-related education and career options through apprenticeships. A meeting of Housing stakeholders to discuss the project will be held on March 6th at 10 a.m. in the Community Building.

Cindy Clark also gave a brief update of the Triumph Gulf Coast Board of Directors action, in which guidelines were developed to release monies specifically earmarked for Hurricane Michael Major Disaster Area Recovery Program, including language that all Triumph applications, including those already submitted, must have County endorsements. Current applications include Scipio Creek Project, Solar Project, and Pre-Application that has been approved to move forward as the Affordable Housing Initiative. Ms. Clark stated the City Manager will be

following up on the individual Scipio Creek Project with Triumph this month. The City received preliminary repair estimates of \$2.5 million for the Popham Building and only received \$200,000 in insurance proceeds. FEMA has declared the Popham building ineligible for public assistance because it was not in use at the time of the storm, but the City has appealed this decision based on the fact that a plan for restoration was in place at the time of the storm. The Solar application is currently in staff review and will need to be supported by a letter from Franklin County to be able to move forward.

- **Legislative Update** – Augusta West gave a brief update on the Apalachicola Environmental Stewardship Bill, stating that the ½ cent bed tax provision was removed and that this will be revisited next year. This Bill will likely undergo more changes during the course of the session. Ms. West also reported that the City has filed three Local Funding Initiative Requests for the Water Filter Project, Waste Water Infrastructure Improvements and funding to alleviate our debt default amount.

Mayor Johnson thanked Ms. West for all her hard work of research over the past few years.

- **Finance Report** - Mr. Nalley stated that a summary sheet was added to the finance report including total revenues, total expenditures and the balance in each fund.

ATTORNEY PAT FLOYD COMMUNICATIONS

- Attorney Floyd gave update on the Georgia/Florida case.
- Attorney Floyd gave update on the Duke Energy Franchise Agreement and the concern over the term of the Agreement, the rate being paid by Duke Energy for the use of the City right-of-ways and some other additional areas that have to be revisited. Attorney Floyd will get in touch with Duke Energy to finalize this Agreement and bring back to the City Commission for further review.
- Attorney Floyd presented a draft Mobile Food Vendor Truck Ordinance, stating that it was revised with additional suggestions from interested citizens. Additional items that require further consideration by the City Commission are: 1) whether permanent placement is allowable, 2) do they have to comply with the Land Development Regulations for food and drink establishments, and 3) if it is a temporary use, will separate restrictions for parking and lot space be required.

PRESENTATIONS

A. **Presentation of Service Award – Commissioner James Elliott** – Mr. Mark Sittig, Membership Manager with the Florida League of Cities presented Commissioner James Elliott with a Resolution honoring him for 35 years of elected service and a John Land Years of Service Award plaque.

PUBLIC COMMENT

Mayor Johnson opened the floor for public comment.

- Chris Moore informed the City Commission that she filed an Appeal for an official hearing of the Floodplain Administrators decision regarding her property.
- Rich Hall gave update on his floodplain violation and distributed timeline pictures of damage at 39 7th Street with all the recent rain events. In response to a question from Commissioner Grove, Attorney Floyd reminded the City

Commissioner the City is in litigation and should not be discussing this case and stated that a court date should be set in June or July of this year. In a response to a question from Mayor Johnson, Attorney Floyd stated that the City will get a trial date and in the meantime, the City will move forward with discovery and have this completed so that the City can go ahead with trial. In response to a question from Donna Ingall, Mr. Nalley stated we are at this time addressing the Fill and Stormwater Regulations Ordinance and to set a joint meeting with Planning and Zoning tonight.

- Kevin Martina inquired about the status of the Scipio Creek Ice House and when the City will be moving forward with this project. Mr. Nalley stated we are scheduled to meet with Triumph staff this month and will give an update of the Scipio Creek and Popham Building Grant Project. In a response to a question from Commissioner Elliott, Mr. Nalley gave update on the power and water issues at Scipio Creek, and that staff was working on those issues at this time.
- Jamie Liane offered suggestions on some items in the Rules and Procedures relating to Special Meeting and Workshop Announcements to citizens.
- George Floyd stated his concerns with the stability of the Popham Building and introduced architects who stated the urgency of stabilizing the building. In a response to a comment made by George Floyd, Commissioner Grove stated the City does not have money up front to stabilize the Popham Building since the grant applied for at this time has not officially been awarded to the City. Bill McCartney then gave a quick review to date of the Triumph Grant of Scipio Creek and Popham Building Application. Mr. Floyd stated his concern about communication efforts for the project.

In a response to a question by Mayor Johnson, Mr. McCartney stated that initially the project called for a construction manager. Travis Millender stated his concerns of not having adequate electric and water at Scipio Creek. In a response to a question by Commissioner Elliott, Mr. Nalley stated we will look into this matter further.

- James Frost thanked the City Commission for the quick response of the Mobile Food Vendor Ordinance and stated his concerns with the proposed Ordinance, especially the word “Permanent”.
- Despina George expressed her concern with the parcels the City of Apalachicola has allotted for the Triumph Pre Application Affordable Housing Initiative, and stated she thought these parcels were on the City’s Property Sale List.

CONSENT AGENDA

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

- Meeting Minutes Adoption - Adopt the November 5, 2018 Joint Workshop with Tree Committee, February 5, 2019 Joint Workshop with Planning and Zoning, and February 5, 2019 Regular Meeting Minutes.
- Planning & Zoning Minutes Confirmation - Confirm the January 2019 Planning and Zoning Minutes.
- Approval of Copier Lease – Office Business Systems

Commissioner Brenda Ash made a motion to approve the Consent Agenda. Commissioner Anita Grove seconded and the motion carried 4-0.

UNFINISHED BUSINESS

A. ORDINANCE 2019-03 MOBILE FOOD VENDOR REGULATIONS
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COMMERCIAL OPERATIONS, PROVIDING OPERATION REQUIREMENTS AND CONDITIONS, PROVIDING FOR PROCEDURES AND PENALTIES FOR VIOLATION AND PROVIDING AN EFFECTIVE DATE.

Mr. Nalley stated currently, no provisions in the Zoning Ordinance supports or provides development standards for mobile food vendors or itinerate merchants. Historically, the City has informally allowed, on a temporary basis, mobile food vendors in conjunction with events and festivals and a provision in the Business License Ordinance allows for this. Recently, the City has received requests from businesses interested in either locating a Mobile Food Truck on their property or operating a Mobile Food Truck within the City. At their February meeting, the Commission asked the City Attorney to develop an Ordinance which was presented tonight.

Commissioner Grove recommended limiting the number of mobile vendor licenses and that they have to be on private property and create more of a use permit instead of a land use.

Following discussion, Mr. Nalley and Mrs. Clark were asked by the Commission to review and make further recommendations as quickly as possible.

UNFINISHED BUSINESS

B. RULES OF PROCEDURE FOR THE CITY COMMISSION

Mr. Nalley reported that at their February meeting, the City Commission held discussion on creating their own Rules of Procedure and requested that the City Manager prepare a draft Rules of Procedure document for the Commissioner’s review and consideration. A draft Rules of Procedure was presented so the City can move forward with review and adoption. Mayor Johnson stated the Legislature is also taking up this matter, and that he would request the City move to create and adopt the Rules and Procedures even if it doesn’t pass in the Legislature. Mayor Johnson reviewed briefly House Bill 265 and Senate Bill 518. Mr. Nalley stated we have patterned the Rules of Procedure for the City Commission closely to what we do already, but if there were anything else the City Commission would like to add to please contact him.

NEW BUSINESS

A. ORDINANCE 2019-01 HISTORIC AND CULTURAL PRESERVATION – FIRST READING

Attorney Floyd read Ordinance 2019-01 by title as follows:

AN ORDINANCE REPEALING CHAPTER VI IN ITS ENTIRETY AND CREATING THE PURPOSE AND INTENT OF PROTECTING HISTORIC ASSETS, REQUIREMENTS FOR OBTAINING A CERTIFICATE OF APPROPRIATENESS WITHIN THE HISTORIC DISTRICT; PROVIDING FOR PROTECTIVE MAINTENANCE OF HISTORIC STRUCTURES, PROVIDING REQUIRED MATERIAL DESCRIPTIONS; AMENDING CHAPTER II, DEFINITIONS; AMENDING CHAPTER VII, PART C, 2B AND PROVIDING FOR SEVERANCE.

Commissioner Anita Grove made a motion to approve First Reading of Ordinance 2019-01 Historic and Cultural Preservation and proceed with the adoption process. Commissioner Brenda Ash seconded and motion carried 4-0.

NEW BUSINESS

B. ORDINANCE 2019-04 AMENDING ARTICLE 17 – ELECTIONS OF THE CITY OF APALACHICOLA CHARTER

Mayor Johnson stated at the February Commission meeting, Franklin County Supervisor of Elections Heather C. Riley

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presented information to the City Commission regarding a proposal to move Apalachicola’s municipal elections to the first Tuesday in November in even-numbered years to coincide with the State of Florida General Elections. Following the presentation, the City Commission requested that the City Manager work with Supervisor Riley to present options for making such a change to the Commission. Mayor Johnson encouraged the City Commission to make this Election Change for the good of the City of Apalachicola.

In response to a question from Commissioner Ash, Attorney Floyd stated there are some amendments that may require a referendum to be made to the Charter, and that some parts may be changed by approval of the City Commission. Attorney Floyd and Mr. Nalley will do further research and report back to the Commission.

Rebecca Jetton then reviewed the Municode process and the importance of notifying them of changes to the City’s Ordinances.

NEW BUSINESS

C. PROPOSED T-MOBILE SITE LEASE AGREEMENT

In February, a representative of T-Mobile approached the City about leasing a portion of the water tower on Coach Wagoner Boulevard and Avenue L for the location, installation and operation of an antenna facility. T-Mobile has provided the City a standard lease agreement for the Commission’s consideration. The Agreement contains an Option Period of one year with three one year renewals to allow T-Mobile an opportunity to determine if the site is suitable for the proposed use and to obtain all governmental approvals. Once T-Mobile decides to exercise its options, the Agreement sets terms and a rental payment of \$1,800 per month for the first 5 years, which will increase upon each successive renewal term. If the full term is realized, the lease would extend for 39 years. The property is located in the R-2 Zoning District and allows the antenna through a Special Exception as a “Public Facility or Structure”.

Mr. Nalley stated that should the Commission decide to move forward with consideration of the lease of the water tank property, the Agreement will need further review by staff and a complete review by the City Attorney. This information is being presented to the Commission with the idea that if they are interested in pursuing this Agreement, a revised Agreement, if needed, can be brought back to the Commission for approval at a later meeting.

Mayor Johnson commented that the City of Apalachicola has had similar type agreements in the past.

In response to a question from Commissioner Ash, Mr. Nalley stated that he will talk with T-Mobile on the proposed option term versus lease term price difference and how this was determined. Attorney Floyd also asked that we get from T-Mobile lease amounts paid by other cities.

Mr. Nalley will contact T-Mobile to further discuss Agreement options.

NEW BUSINESS

D. CDBG GRANT AGREEMENT 19DB-ON-02-29-02-N18

In August 2018, the City submitted an application to the Florida Department of Economic Opportunity (DEO) for a \$650,000 Florida Small Cities Community Development Block Grant (CDBG). The grant was awarded effective December 10, 2018, but the City has just received the subgrant agreement with DEO. The City must execute the agreement and return it to DEO for their signature. In addition, the City will need to contract with a consultant grant administrator for the CDBG project. Following the development of a request for proposals and advertisement, Roumelis Planning and Development Services, Inc. (RPDS) was the only response. The proposed fee of \$51,500 is \$500 less than the CDBG grant administration budget. RPDS

has prepared the attached contract for the Commission's review and approval. Because the City was not certain of funding, the CDBG project was not included in the adopted budget and a budget amendment is needed prior to approving the attached

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agreements. A local contribution of \$25,000 is needed for the project, which the City Commission approved as part of the grant application.

In a response to a question by Mayor Johnson, Mr. Nalley stated this is the Manhole Repair Project.

Commissioner Anita Grove made a motion To Dispense of the Two-Reading Requirement for Ordinances as Allowed for in the City Charter so that the Budget Amendment may be Allowed to Pass Upon First Reading by Unanimous Vote. Commissioner Brenda Ash seconded and motion carried 4-0.

Commissioner Brenda Ash made a motion to Approve Budget Amendment 2 Amending the Sewer Fund to Reflect Award of the Community Development Block Grant Project. Commissioner Jimmy Elliott seconded and motion carried 4-0.

Commissioner Jimmy Elliott made a motion to Approve the CDBG Subgrant Agreement 19DB-ON-02-29-02-N18 and Authorize the Mayor to Execute the Agreement. Commissioner Anita Grove seconded and the motion carried 4-0.

Commissioner Anita Grove made a motion to Award the Contract for CDBG Grant Administration Services to Roumelis Planning and Development Services, Inc. in the Amount of \$51,500 and Authorize the City Manager to Execute The Agreement. Commissioner Jimmy Elliott seconded and the motion carried 4-0.

NEW BUSINESS

E. JOINT WORKSHOP WITH PLANNING AND ZONING BOARD – FILL AND STORMWATER REGULATIONS

Cindy Clark reported that the issue of fill, flooding and stormwater control has been an ongoing challenge for the City in recent months. Current regulations do not provide adequate guidance for the regulation of fill on lots for the purposes of flood prevention. With the help of State planning and floodplain management officials, staff has drafted proposed regulations relating to the deposition of fill materials for new development and redevelopment. The proposed regulations provide certainty for applicants wishing to modify the elevation of property and provides consistency with the City's adopted floodplain regulations. In accordance with Policy No. 002, Comprehensive Plan and Land Development Code Amendment Procedure, the proposed document was presented to Planning & Zoning Board in two public workshops (January 14, 2019 and February 11, 2019). The Planning and Zoning Board voted at their February 11 meeting to transmit draft changes forward for a City Commission/Planning & Zoning Board joint workshop.

Commissioner Jimmy Elliott made a motion to set a Joint Workshop with the Planning and Zoning Board on May 7, 2019, at 5:00 p.m. to Review Proposed Changes to the Land Development Code Relating to Fill and Stormwater. Commissioner Anita Grove seconded and motion carried 4-0.

NEW BUSINESS

F. REQUEST CONSIDERATION OF C-1 ZONING USE CHANGE

There exists an area along south 4th Street (Block 11) that is split zoning between commercial and residential districts. One half of the block is designated C-1 Commercial and the other half is R-1 Residential separated by an alley. The C-1 side of the block contains an existing professional office and a residential structure. The half block in question is an anomaly in that it is not part of the downtown commercial district although it is considered C-1 and is bordered by transient rental activity (Gibson Inn) which does provide transient lodging on the first floor. The City has received a request from a property owner to consider allowing transient rentals on the first floor of the existing structure consistent with the neighboring transient rental property (Gibson Inn). Current regulations allow transient lodging in existing residential structures in the C-1 district along 4th street.

The parcel in question is not located in the flood zone and is part of a transitional area currently providing commercial office space.

Staff stated that the request has merit and recommends forwarding the matter to the Planning and Zoning Board to consider revisions to the C-1 Regulations that would allow first-floor transient lodging in existing structures in C-1 transition zones (split residential/commercial blocks) provided such parcels are not located within flood zones and provided the zone is not located within the City's core walking district.

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Commissioner Anita Grove made a motion to send the Request For Consideration of C-1 Zoning Use Change to the Planning and Zoning Board for further review and recommendation. Commissioner Jimmy Elliott seconded and motion carried 4-0.

ADJOURNMENT

With no further business, Commissioner Jimmy Elliott made a motion to adjourn the meeting at 8:00 pm. Commissioner Brenda Ash seconded and motion carried 4-0.

Van W. Johnson, Sr., Mayor

Deborah Guillotte, City Clerk