

DeFuniak Springs City Council
Regular Meeting
July 8, 2019

The following members were present: Mayor Bob Campbell, Mayor Pro-Tem Robert McKnight (Seat 2); Councilman Todd Bierbaum (Seat 1); Councilman Kevin Crystal (Seat 3); Councilman Henry D. Ennis (Seat 4), and Councilman Wayne Graham (Seat 5). Also present were Attorney Clay Adkinson, City Attorney; Mr. Mell Smigielski, City Manager; Ms. Debra Gibson, Finance Director; and Ms. Kimberly Wilkins, Interim Clerk.

Mayor Campbell called the meeting to order at 6:00 p.m. followed by the invocation and Pledge of Allegiance led by Councilman Crystal.

Meeting Minutes

Motion by Councilman Graham, second by Councilman Ennis, to approve the May 13, 2019 Regular Meeting minutes with the corrections as recommended.

Councilman McKnight noted errors in the May 13, 2019 Regular Meeting minutes in which a motion was incomplete.

Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Motion by Councilman McKnight, second by Councilman Bierbaum, to approve the June 17, 2019 Workshop Minutes with the changes as recommended.

Councilman McKnight noted an error to the adjournment time on the June 17, 2019 Workshop minutes.

Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Motion by Councilman Graham, second by Councilman Bierbaum, to approve the June 24, 2019 Regular Meeting minutes as presented. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Consent Agenda

Consent Agenda Revisions

Discussion was held regarding the previous meeting action to table Consent Agenda Item 4(A)(5)-U.S. Highway 331 Gas System Upgrades and Expansion CSX Agreement and to determine if the issue should be placed on the Consent Agenda or Regular Agenda. Councilman McKnight requested the item be removed and placed on the Regular Agenda for discussion.

Motion by Councilman Bierbaum, second by Councilman McKnight, to approve the Consent Agenda with the revisions as follows. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

1. **Administration**

1. Request to approve the amended minutes of the June 10, 2019 Regular Meeting to include the Consent Agenda items list
2. Request by Akyra Eiland to hold a book signing and sale on July 27, 2019 from 2:00 p.m. to 6:00 p.m. in the Arts and Crafts Room of the Community Center
3. Request by Sheryl Siler to hold a DoTerra Team Event and Class on July 27, 2019 from 9:00 a.m. to 9:00 p.m. in the Meeting Room of the Community Center
4. Request by Christopher Mitchell, City Grant Coordinator, to approve the agreement with Dewberry for engineering services for the Live Oak

Waster Water Improvements Project in the amount of \$40,195.00 to be funded through a Community Development Block Grant

5. ~~Request by Elissa Pettis, Dewberry, to approve the U.S. Highway 331 Gas System Upgrades and Expansion CSX Agreement- Removed for discussion~~
 6. Request to ratify the Settlement Agreement between Loretta Laird and the City of DeFuniak Springs
2. Airport
 1. Request to approve the DeFuniak Springs Airport Minimum Standards for Commercial Operators Policy as reviewed and approved by the Airport Advisory Committee
 3. Finance
 1. Request to ratify the June, 2019 bills
 4. Planning Department
 5. Public Works

Regular Agenda

Regular Agenda Revisions

1. Addition Executive Requests: Councilman Bierbaum, Seat 1-Request to discuss the Special Events Committee Reorganization
2. Addition: Ms. Kelly Schultz, Planning Department: Request to conduct the first reading of an ordinance amending the city's Land Development Code establishing rules and guidelines for the installation, use, placement, and location of mobile homes, manufactured homes, and modular homes, and providing for manufactured home parks, providing for a penalty for violations
3. Addition: Consent Agenda Item 4(A)(5) Request by Elissa Pettis, Dewberry, to approve the U.S. Highway 331 Gas System Upgrades and Expansion CSX Agreement
4. Revision: Finance 9(A)-Request to present and discuss the FY 2018 Financial Audit after Citizen Comments

Motion by Councilman Bierbaum, second by Councilman Graham, to approve the Regular Agenda with the revisions as presented. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Citizen Comments

Rev. Tyrone Broadus expressed his appreciation for the officials who attended the Juneteenth celebration.

Finance

Mr. Smigielski spoke about the efficiency of the new auditing firm. He commented on the job well done by the auditors and the city finance team.

Mr. Kevin Bowyer and Mr. Adam Nelson, of Warren Averett-Certified Public Accountants and Advisors, gave a brief overview of the FY 2018 audit results and said the city has made significant strides to get things back in order. Mr. Bowyer announced there were three or four administrative items to be submitted; otherwise the report is 99% complete. He discussed the audit results, other audit matters, and major estimates in judgements. There was one significant deficiency which was reported under the city's internal control; a result of the turnover and changes in staffing. There were no issues of non-compliance with state and city laws and regulations. There were also no reports of deficiencies in the federal and state grant reporting compliance. Mr. Bowyer stated the city complied with all the requirements by the Auditor General. There were 22 adjustments recorded which resulted in changes to assets, liabilities, revenue, expenses, and fund balance. Staff found two adjustments which were provided to the auditors; 16 year-end adjustments were made by the auditors. He said there were two adjustments to the interlocal agreement with the county that resulted in a decrease in assets. Mr. Bowyer said there were no instances of fraud or illegal acts noted. There were no changes to the

audit plan. He said all the disclosures are neutral, consistent, and clear. He briefly discussed the issues which delayed making the June 30, 2019 deadline. Mr. Bowyer discussed the changes in accounting policy, scope of service, and Florida Retirement Systems (FRS). Councilman Crystal questioned where the city should be in their adjustments in comparison to other cities. Mr. Bowyer said there is not a general consensus. He said the city should be under 10 journal entries and talked about the journal entries which are made in conjunction with year-end reporting. Mr. Nelson briefly discussed the 16 year-end adjustments. Councilman McKnight stated the calendar dates of the audit was October 1, 2017 through September 30, 2018. Mr. Bowyer replied it was. Councilman McKnight questioned if the amount of the expenditures was approximately \$16 million. Mr. Nelson said that it was. Mayor Campbell asked when the audit will be finalized. Mr. Bowyer stated by the end of the month. Mr. Nelson discussed what was left to be done. Councilman Crystal expressed his gratitude for the auditors and Ms. Gibson for their hard work. Mayor Campbell discussed the past auditing issues and expressed his appreciation to all who worked on the audit.

Ms. Gibson presented information regarding the Property Appraiser's Certification DR-420 for the ad valorem taxes and said that the millage rate would be approved at a later date. Councilman McKnight, referring to items 16 and 17 of the certification, asked for the reasons why the millage rate was proposed at 5.00 mills. Ms. Gibson replied that the current millage rate is at 4.5 mills and that 5.00 mills was set because it cannot be raised, but it can be lowered.

Executive Requests

Councilman Crystal discussed the duplication in duties among some of the city committees. He noted the Economic Development Committee (EDC) is performing the same tasks as the Walton County Economic Development Alliance, Community Redevelopment Advisory (CRA) Committee, and Main Street DeFuniak Springs. He reported that the EDC was created in 2015 and has used very little of their yearly budgets; with the exception for last year's donation to the Main Street DeFuniak Springs organization. He said the EDC budget could be more efficiently utilized by the CRA. He recommended dissolving the Economic Development Committee. Attorney Adkinson said the committee could be dissolved by motion at this time. By-law revisions can be brought back at a later date.

Motion by Councilman Crystal to dissolve the Economic Development Committee. (Motion died for lack of a second.)

Councilman Bierbaum discussed the reorganization of the Special Events Committee and how the process has begun to make standing committees with their own by-laws to become a working group. He said the formation of those groups need to be addressed.

Motion by Councilman Bierbaum, second by Councilman McKnight, to clear the appointments to the committees which fall under the Special Events Committee and instruct staff to bring back recommendations on how the newly formed working groups should be populated.

Councilman McKnight asked if the recently adopted Special Events Committee ordinance addressed this issue. Attorney Adkinson said it implied what the new structure would be. The intent of the council was to move certain committees under the Special Events Committee advisory standing for Sunshine purposes. He said by-law revisions would be brought back. He stated it would be appropriate to clear the appointments and have staff come back with recommendations regarding the proper appointing authority.

Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Agenda Requests

Mr. Smigielski reported that appointments needed to be made to the following committees: Planning Board-1 appointment; Special Events-2 appointments; Economic Development-2 appointments; Community Redevelopment Agency-1 appointment; and Beautification and Tree Board-5 appointments

Motion by Councilman Bierbaum, second by Councilman Ennis, to appoint Mr. Charlie Kelly to the Seat 1 position on the Planning Board. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Councilman Crystal asked if contracted employees could serve on boards. Attorney Adkinson said there is not a city guideline on that, but it would create a status conflict according to Florida Ethics Code.

Councilman Crystal deferred his appointments to the Special Events Committee and Economic Development Committee.

Motion by Councilman Graham, second by Councilman Ennis, to appoint Mr. Jay Evans to the Seat 5 position on the Special Events Committee. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Motion by Councilman Bierbaum, second by Councilman Crystal, to appoint Ms. Diane Tidwell to the Seat 1 position on the Economic Development Committee. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Motion by Councilman Graham, second by Councilman Ennis, to appoint Mr. Joe Johnson to the Seat 5 position on the Community Redevelopment Agency. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Mr. Smigielski stated the appointments to the Beautification and Tree Board could be done as a group. The positions have been staggered with some expiring in 2021 and others in 2023. One of the positions expiring in 2021 is vacant.

Councilman McKnight stated he would like to see women placed on the Beautification and Tree Board. Attorney Adkinson said the council can act as the Tree Board or the mayor can offer the nominations to the council. It has been done both ways in the past. Mayor Campbell said he would review potential appointees upon council direction. Discussion was held regarding the appointments of Mr. Don Harrison (2021), Mr. Dan Owens (2023), Mr. Daniel Leonard (2023), and Mr. Mike Goodchild (2021). One 2021 position remains vacant.

Motion by Councilman Graham, second by Councilman Ennis, to appoint Mr. Mike Goodchild (2023), Mr. Don Harrison (2021), Mr. Dan Owens (2023), and Mr. Daniel Leonard (2023) to the Beautification and Tree Board. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Mayor Campbell stated the last position will be appointed at the next Regular Meeting.

Motion by Councilman Bierbaum, second by Councilman Graham, to appoint Councilman Bierbaum to the Council on Aging Advisory Board and the Library Board. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Mr. Smigielski presented for consideration a draft of the Non-Profit Policy and Application Form. He said a current policy and application is needed to insure fairness in funding non-profits. A change request was submitted to require seven years of financial data to accompany question 14 which asks if the city has funded the organization before. A concern was raised regarding question 19 which requires three months of bank statements or investment balances. Mr. Smigielski suggested an individual statement with a bank balance could be substituted. He said the resolution requires the applications be submitted by June 30th to allow for a 30 day time frame for consideration. He said the deadline date should apply beginning in 2020.

Councilman Bierbaum voiced concern with the requirement for the names, addresses, and phone numbers of the executive board members of the organization (question 9) and said that information would become public record. He agreed with a statement of balances and not

including all banking account information. He suggested a statement from a CPA verifying that the organization is in good financial standing be an acceptable submission. Councilman McKnight agreed and stated it would be sufficient to have their names, titles, and city of residence. He said there is an obligation to insure that the city money is being used appropriately. Discussion continued on the appropriate amount of financial information to be submitted.

Councilman McKnight proposed that Mr. Smigielski move forward with making the changes as discussed and stated this is time sensitive. Mr. Smigielski said the adoption of the resolution can be postponed and move forward with the recommendations as discussed. Councilman McKnight said that the resolution could move forward. Councilman Bierbaum voiced concern that it would be an imposition on the non-profits to produce all the requested data in less than 30 days. Discussion was held on the effects of the limitation on the non-profits and the need to have guidelines in place.

Motion by Councilman McKnight, second by Councilman Ennis, to adopt the resolution approving the Non-Profit Policy and Application Form and authorize the city manager to make the application changes as discussed.

Councilman Crystal, addressing questions eight and nine, stated a 501(c)3 organization will have an operating agreement and will have to file a report with Sunbiz every year.

Attorney Adkinson said the action should be done in two motions: one to adopt the resolution and one to address the application form.

The motion was rescinded.

Motion by Councilman McKnight, second by Councilman Ennis, to adopt the resolution related to the non-profit organization funding request policy.

Ms. Shayne Betts voiced concern with the lack of public input on the issue and spoke against a 30 day time frame for submission.

Ayes 2, Nays 3. Councilman Bierbaum Nay, Councilman McKnight Aye, Councilman Crystal Nay, Councilman Ennis Aye, Councilman Graham Nay. (Motion failed and the application was not considered.)

Mr. Smigielski presented for review and approval new city seal designs and color schemes. Discussion was held regarding the removal of “the” and “est” from the seal and using 1884 (town established) instead of 1901 (formal incorporation). Councilman McKnight questioned if this seal would be replacing the current city seal or if this would be a city logo. Mr. Smigielski stated that it would not replace the city seal used on documents and vehicles. Councilman Bierbaum understood this to be a change to the official seal. Attorney Adkinson stated the packet requested the approval of a new seal and clarified the city charter does not use the word “the” in front of City of DeFuniak Springs.

Further discussion was held to determine the use of “est” and whether or not the design was for a seal or a logo.

Motion by Councilman Bierbaum, second by Councilman McKnight, to adopt rendering five (5) as the new city seal.

Ms. Melinda Henderson voiced concern with the building not being centered in the seal with the removal of the sun from the background.

Motion amended by Councilman Bierbaum, second amended by Councilman McKnight, to adopt rendering five (5) as the new city seal with the removal of “the” and “est.”

Ms. Jerilane Langley spoke in opposition to the designs and stated different colors should also be considered.

Ms. Shayne Betts voiced her disapproval of the choices and felt the citizens should have more say and a better presentation to review. Councilman Crystal said that multiple designs had been

considered by both the old and new council and that the issue cannot be continued to be sent back'.

Attorney Adkinson recommended the motion be amended to approve the design only. The color scheme can be decided at a later time when the true color codes are available.

Motion amended by Councilman Bierbaum, second amended by Councilman McKnight, to adopt rendering five (5) as the new city seal with the removal of “the” and “est” and exclude the color scheme.

Ayes 4, Nays 1. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Nay.

Motion by Councilman Bierbaum, second by Councilman McKnight, to approve to reconsider the request to approve the U.S. Highway 331 Gas System Upgrades and Expansion CSX Agreement. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Ms. Elissa Pettis, Dewberry, was present for questioning regarding the gas system upgrades and CSX agreement.

Motion by Councilman McKnight, second by Councilman Bierbaum, to approve the U.S. Highway 331 Gas System Upgrades and Expansion CSX Agreement. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Planning Department

Ms. Kelly Schultz, Planning Department, requested to schedule a Public Hearing to be held on August 12, 2019 to consider 2019-VAR-02, a request to construct an addition onto the non-conforming structure at 227 West Orange Avenue.

Motion by Councilman Crystal, second by Councilman Graham, to approve to hold a Public Hearing on August 12, 2019 to consider 2019-VAR-02. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Ms. Schultz presented for first reading an ordinance amending the city's Land Development Code establishing rules and guidelines for the installation, use, placement, and location of mobile homes, manufactured homes, and modular homes, and providing for manufactured home parks, providing for a penalty for violations. She briefly discussed the definitions of modular homes, manufactured homes, and mobile homes. She stated documentation would be needed proving the homes were built to Florida Building Code requirements. Ms. Schultz addressed the areas where these homes would be allowed. Attorney Adkinson said this could be considered as first reading or the council could submit comments back to Ms. Schultz. He said there have been changes to the laws regarding municipalities and discussed the ramifications if an ordinance is adopted that does not meet Florida law. He recommended policies be created to insure the homes are aesthetic and compatible with the community and surrounding neighbors. Discussion ensued regarding architectural renderings and the inclusion of site built tiny homes.

Councilman McKnight referenced ordinance page 6 and voiced concern regarding the prohibition of vacated RV/trailer type vehicles being parked on private property. He asked how many citations have been issued for this violation. He also referred to ordinance page 4 and stated the definitions of motor home and van conversion were confusing. He expressed concern that this was an intrusion on private property rights. He questioned when this was passed and why it had not been enforced. Ms. Schultz said she did not know when it was adopted and will get that information. She said that staff is in the process of enforcement and discussed the issues determining storage and vacancy. Discussion ensued on van conversion and RV definitions. Councilman Ennis stated this was an issue a while back and that a big concern at the time was property values.

Discussion was held on various code violation cases, the future of home building, and the importance of code enforcement on derelict and abandoned properties. Ms. Schultz reported that

code enforcement usually complaint driven. Councilman McKnight questioned if code enforcement is based on a list or on a set of priorities agreed upon by the city. Mr. Smigielski discussed the code enforcement procedures which include both complaint driven and officer rounds. Councilman Bierbaum discussed the different sides of the issues and stated there should be some compromise. He suggested a first reading and to schedule a workshop to gather public input.

Motion by Councilman Bierbaum, second by Councilman Crystal, to move forward with the first reading of the ordinance amending the city's Land Development Code regarding mobile homes, manufactured homes, and modular homes.

Councilman Graham questioned if other cities' ordinances were reviewed as a template. Ms. Schultz said that she could not find a model ordinance and that the ordinance being presented is a compilation of several jurisdictions and state statutes. This ordinance does not take away the ability of a property owner to build a site built tiny home.

Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Ms. Schultz read into the record for first reading the ordinance amending the city's Land Development Code regarding mobile homes, manufactured homes, and modular homes.

Ms. Schultz reported a first reading for ordinances associated with a small scale amendment and rezoning request on property located at 1575 N. 9th Street (AAA Truss). She stated Mr. Nolan Baker, representing Frank and Sharon Anderson applicants, was available for questioning. The request is to change the future land use from Industrial to Medium Density Residential and to rezone the property from Light Industrial/C-2 Commercial-General to R-2 Multi-family Residential. She requested a first reading for both ordinances and to accept public comment. The required advertisements were placed in the DeFuniak Herald, on the city's website, and notification mailed to the adjoining property owners.

Motion by Councilman Graham, second by Councilman Bierbaum, to move forward with the first reading of 2019-SSA-02.

There was no public comment.

Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Ms. Schultz read for first reading an ordinance regarding 2019-SSA-02.

Motion by Councilman Bierbaum, second by Councilman Crystal, to move forward with the first reading of 2019-RZ-01.

There was no public comment.

Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

City Attorney

Attorney Adkinson presented an update on legislative action which affects municipalities. The updates included a summary of revisions of the Community Redevelopment Agency (CRA) statutes, fire fighter cancer benefits, attorney's fees, growth management revisions, tax referendums, permit fees, building permit and inspection reports, local tax referendum discretionary surtax by county or school board, financial form changes, auditing practice revisions, and public record laws. He said there were other changes which would be addressed by various departments.

Attorney Adkinson discussed the Kaiser Agreement and said the request is to settle in the amount of \$14,598.40. Chief Hurley has been advised of the settlement. Attorney Adkinson recommended accepting the settlement due to the amount of litigation fees. He said a motion could be made at this meeting or at a later date.

Motion by Councilman Crystal, second by Councilman Graham, to approve the Kaiser Settlement Agreement in the amount of \$14,598.40. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Staff Reports

Mr. Smigielski reported that there were two qualified applicants for the planner position and interviews will be held. He reported there are three qualified applicants for the city clerk position. Two of the applicants are from out of state. He questioned if the council would be agreeable to hold Skype interviews with the out of state applicants due to the numerous other meetings scheduled. After a brief discussion the council concurred to hold Skype interviews. Mr. Smigielski stated that the council can still request an in person interview after the Skype session. Mr. Smigielski said the clerk ordinance amendment and the second reading of planning text amendment would be presented at the next meeting.

Council Comments

Councilmen Bierbaum and Ennis had no items to present.

Councilman Crystal discussed his attendance at the LOCUS Summit. He discussed the need for regional participation to bring in economic growth.

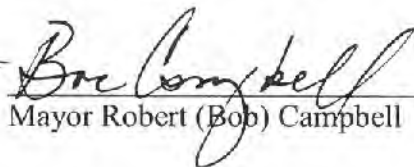
Councilman McKnight discussed the upcoming workshops and thanked Attorney Adkinson for the legislative updates.

Councilman Graham thanked the city staff for their hard work during the 4th of July festivities.

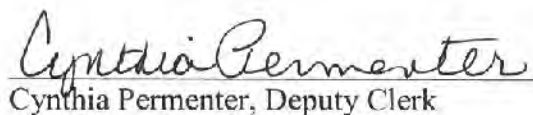
Mayor Comments

Mayor Campbell had no items to present.

There being no further items to discuss, the meeting was adjourned at 8:19 p.m.



Mayor Robert (Bob) Campbell



Cynthia Permenter, Deputy Clerk