

DeFuniak Springs City Council
Regular Meeting
September 9, 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. Maryanne Schrader, City Clerk, 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 Bierbaum.

Mr. Smigielski thanked Ms. Wilkins for serving as interim city clerk and introduced Ms. Schrader as the incoming city clerk.

Consent Agenda

Additions/Deletions to the Consent Agenda-There were no changes to the Consent Agenda.

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

- A. Administration
 - 1. Request renewal of Tri-County Community Council Low Income Home Energy Assistance Program (LIHEAP) Agreement
- B. Clerk
 - 1. Minutes for approval: August 26, 2019-Regular Meeting
- C. Finance
 - 1. August 2019 bill ratification
- D. Planning
 - 1. Kelly Schultz, Planning Director-request by Keturah Dockery to place a dumpster in a public parking space for disposing of demolition materials at 23 South 7th Street
 - 2. Kelly Schultz, Planning Director-request submitted by Pleasant Ridge Baptist Church to approve the 4th Annual RidgeFest Arts & Music Festival and road closure to be held on April 4, 2020
- E. Public Works
 - 1. Elissa Pettis, Dewberry Engineering-request to approve SRF Wastewater Improvements Phase II (Sewer Rehabilitation and New Transmission Main) – Clean Water SRF Design Loan Agreement WW660240 and Grant Agreement SG660241

Regular Agenda

Additions/Deletions to the Regular Agenda-There were no changes to the Regular Agenda.

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

Administration

Mr. Smigielski discussed the need to bring several city buildings up to Florida Building Code and Federal ADA standards. He said Dag Architects presented a proposal to assess the costs to bring the buildings into compliance and up to code. Mr. Smigielski stated the proposal amount exceeded his spending authority and requested direction from the council whether to advertise a Request for Proposals (RFP) for the cost assessment. He said the cost to assess the buildings would cost upwards of \$50,000.00. A brief discussion was held regarding the upgrades which are needed in order to comply with Federal ADA standards, the need to replace some of the buildings due to structural issues, and the need to have a plan for the improvements before any construction could begin.

Motion by Councilman Bierbaum, second by Councilman Crystal, to invest \$50,000.00 into developing a new plan for the city hall, police department, fire department, and the city hall annex, and to consider combining the fire and police departments into a single facility and having a single city hall.

Councilman Bierbaum said the \$50,000.00 should be used to develop a new plan for city hall, fire, and police departments. Councilman McKnight stated he preferred that the money be spent on minor upgrades and discussed a possible upgrade to the public entrance into the billing department. He did not feel that combining department buildings would be in the best interest of the city.

An in-depth discussion was held on utilizing the conceptual plans which are already in the city's possession in order to save money and move forward. Combining the police and fire departments into one building was also addressed. Mr. Smigielski stated he would draft an RFP to assess the city hall, city hall annex, fire, and police departments and bring it back to the council for consideration.

Councilman Bierbaum rescinded his motion and Councilman Crystal rescinded his second.

Motion by Councilman Bierbaum, second by Councilman Crystal, to direct staff to develop an RFP and present it to the council for review to address the police, fire, city hall, and city hall annex buildings. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Mr. Smigielski requested direction regarding the rental of the gazebo at the Chautauqua Building which was presented at the August 26, 2019 Regular Meeting. The Mollman/Ward wedding party is requesting to use the gazebo for their wedding ceremony on November 16, 2019. There will be no parade and road closures as originally thought. He said the gazebo is normally rented along with the Chautauqua Building. He recommended a first come, first serve use as it traditionally has been and that the Mollman/Ward wedding party be allowed to use the facility on that basis; there has been no traditional fee involved for the gazebo. Councilman McKnight voiced concern with the first come, first served concept. Ms. Cindy Permenter, Deputy Clerk-Administrative Assistant, stated that Ms. Diane Sweet had understood the agreement for the use guaranteed their spot. She noted the family lives in Panama City and have rented rooms for the wedding party and hired a caterer here in DeFuniak Springs. Ms. Sweet briefly discussed the wedding plans which would include rental of all the rooms in the Hotel DeFuniak, the use of local caterers, florists, and bakers. Mayor Campbell questioned if a \$25.00 fee could be charged to reserve the gazebo for the day. He said the fee could apply to the gazebo until the completion of the Chautauqua Building. Attorney Adkinson said it could be rented and that the council could set the fees for the facilities. He said the gazebo is not a separate facility under the ordinance and that a temporary use fee could be established for that purpose providing that construction materials do not impede the use of the gazebo.

Motion by Councilman Graham, second by Councilman Bierbaum, to approve the rental of the Chautauqua gazebo for the Mollman/Ward wedding and accept a \$25.00 fee. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Councilman Crystal asked if this would be a good time to review the rental policies. Attorney Adkinson agreed that it would be and that staff could bring back recommendations. Councilman Crystal discussed the different areas which could be considered for rentals. Attorney Adkinson stated that determinations for profit and non-profit events could be included in staff recommendations. Councilman Crystal voiced concern regarding insurance on the rental sites. Mayor Campbell recommended this issue be placed on an agenda for discussion. Attorney Adkinson said staff would bring back ideas for discussion.

Mr. Smigielski discussed Resolution 2015-21 setting the annual water rate increase allowed by the Florida Public Service Commission. The current year price index is 2.36%. He said moving forward would require an advertised Public Hearing. He questioned if the council wished to continue with the current percentage or to increase it. Discussion was held regarding past raises, the monetary effects on the citizens, and the negative impact to the citizens and the city budget if rate increases are delayed. Councilman Graham said he did not support the raise due to the

public input he had received opposing the raise. Councilman McKnight was hesitant to move forward without sufficient information on additional revenue. Mr. Smigielski announced there was an approximate 20% increase in both 2015 and 2016. Ms. Gibson reported the estimated amount of additional revenue based on the 2.36% current year index would be \$72,000.00. Further discussion was held on what could be done with the additional funds and the need for a new waste water treatment facility.

Motion by Councilman McKnight, second by Councilman Crystal, to move forward with the 2.36% proposed price increase in water rates and to move forward with the advertisement for Public Hearing.

Councilman Graham asked how this issue affected the sewer. Ms. Gibson said this would only affect the water charges.

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

Citizen Comments

Mr. Josh Ervin reported the presence of a strong sewer/sewage smell along Bruce Avenue. He said that other neighbors have been smelling this for some time. He has reached out to staff and Mr. Smigielski to address the issue. He briefly discussed the temporary fix staff has attempted and said that the smell is affecting the quality of life for the neighborhood. He asked the council to direct staff to look into the problem and to bring back a plan to address the issue. Councilman McKnight questioned if the lift station had walls and a cover and if this odor issue had occurred at other lift stations. Mr. Ervin said he did not have information and deferred the question to staff. Mr. Craig Drake, Public Works Director, said a deodorizer block had been placed in a manhole near Mr. Ervin's residence and that staff is checking weekly on the block. Councilman Crystal asked if the cause of the odor has been identified. Mr. Drake stated the odor occurs at high flow and discussed the lift station processes. Councilman Bierbaum asked if the odor was emanating from the manholes as well as the lift stations. Mr. Drake said it was coming from the manholes and said there were other areas in town experiencing the same issue. Councilman Crystal asked how the issue could be fixed. Mr. Stuart Duncan, Jacobs, discussed what remedies could be done to correct the issue. Discussion continued on the length of time it would take to remediate the smell and the longevity of the issue. Mr. Duncan said he would bring back a plan to the September 23, 2019 Regular Meeting. Mr. Ervin questioned when the contract with Jacobs would expire. Mr. Smigielski stated he would get that information to Mr. Ervin.

Mr. Todd Campbell discussed noise issues from passing vehicles. He said he was told the code could not be enforced. Mr. Smigielski read for the record the code addressing loud speakers and sound amplification devices, and the areas where it is allowed. Chief Hurley reported several complaints had been made and said the way the code is written it could not be enforced. He recommended updating the ordinance to include residential areas, commercial areas, and what levels are acceptable. Attorney Adkinson said that case law has been applied within the last several years by the Florida Supreme Court to invalidate municipal ordinances addressing solely decibel or sound related issues. The law enforcement officers would need decibel meters and studies would be required to determine the average decibel rate in the area. Councilman Bierbaum questioned if this is addressing traffic noise levels or noise from residences. Chief Hurley stated there are issues with both in Mr. Campbell's neighborhood. He said officers have addressed the issues with the individuals. He said he had researched the noise issue and discussed the details in the Panama City Beach Noise Ordinance. He said a decibel reader would cost approximately \$450.00. Councilman McKnight asked if any tickets or citations had been issued and asked if it is a specific group of people in the neighborhood. Chief Hurley reiterated that the ordinance could not be enforced. Discussion continued on issuing citations and the need for an ordinance. Councilman Bierbaum asked if the Panama City Beach ordinance had been tested in court. Chief Hurley said there is a set standard which is accepted throughout the state.

Motion by Councilman McKnight, second by Councilman Crystal, to address the issue of noise pollution within the city and direct the city marshal, city manager, and the city attorney to collect data to create a draft noise ordinance and bring back the information to the council for review and consideration.

Councilman McKnight asked if noise included animals/livestock. Chief Hurley said it could be included.

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

Mr. Jay Evans, Main Street DeFuniak Springs Executive Director, requested consideration of the creation of a downtown overlay district to include alcohol sales in downtown DeFuniak Springs. He gave a history of the city's ordinances regarding the sales of alcoholic beverages within 500 feet of a church and the written waivers which have been approved for certain businesses. He said a district overlay would provide a solution to insure a business friendly environment in downtown DeFuniak Springs. Mr. Evans requested the council consider the revocation of Section 18-60(b) (3) of the ordinance. Councilman Crystal asked for the city attorney's interpretation and recommendation. Attorney Adkinson said it is his opinion that Section 18-60(b) (3) is an unauthorized delegation of legislative authority and recommended it be repealed from the code. He discussed the requirements which would be placed on the city if the ordinance is challenged in court. Mayor Campbell asked if variances and waivers would be needed in an overlay district. Attorney Adkinson recommended the waiver clause be removed whether or not an overlay district is developed. Further discussion was held on the lack of enforceability of the current ordinance.

Motion by Councilman Bierbaum, second by Councilman Graham, to direct staff, along with Main Street and city legal, to review Section 18-60 and present recommended changes for review and consideration.

Councilman Crystal asked if this is being reviewed as part of the charter review. Attorney Adkinson said he hoped it would be. A question has been raised concerning whether the charter review should be performed by a separate committee or by the council through a series of workshops. He said this issue needs to be resolved now. Councilman Bierbaum discussed the increased interest in downtown and voiced concern that code should be structured to prevent saloons on every corner. Councilman McKnight questioned if additional individuals should be appointed to provide recommendations to the council. Councilman Bierbaum did not feel the number of individuals reviewing the ordinance should be expanded since Main Street is in direct communication with all of the downtown businesses.

Motion amended by Councilman Bierbaum, second amended by Councilman Graham, to direct the recommendations be presented by the council at the October 14, 2019 Regular Meeting for review.

Attorney Adkinson said there would be a minimum of two meetings to discuss these revisions.

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

Mr. Earl Thompson voiced concern with the disrepair of the sidewalks along 8th Street and throughout the city. He also voiced the need for additional police officers on patrol. Mayor Campbell asked Mr. Thompson to alert staff to the different locations with sidewalk issues. Chief Hurley said he would meet with Mr. Thompson.

Executive Requests

Mayor Campbell requested approval of the Term Sheet for the Grant Award Agreement between Triumph Gulf Coast, Inc., Walton County, Walton County Economic Development Alliance, and the city. Attorney Adkinson said this request is in regards to the water and sewer extension down U.S. Highway 331 and explained the two parts the city would participate in to complete the deal which would bring in several million dollars for infrastructure into the city. He discussed the different phases and requirements to be followed to receive the funds. He said the request tonight is the first of three documents and requested approval to execute the Term Sheet. Attorney Adkinson briefly discussed claw back provisions which would require the funds to be returned if the 100 job production requirement is not met. Mayor Campbell addressed the funding source and meeting the job requirement. Discussion was held on worst case scenarios which would

require a claw back. This is the first of several projects and it would be foolish not to take advantage of this.

Motion by Councilman Bierbaum, second by Councilman Ennis, to approve the Term Sheet as presented.

Councilman Crystal announced his voting conflict and would submit Form 8B: Memorandum of Voting Conflict to the clerk.

Ayes 4, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Abstained, Councilman Ennis Aye, Councilman Graham Aye. **(Form 8B: Crystal)**

Attorney Adkinson stated the interlocal agreement would be presented either at the September 23, 2019 Regular Meeting or the October 14, 2019 Regular Meeting.

Councilman Bierbaum discussed code enforcement actions and noted that the compliance issues were required to go before the council. He requested to direct staff to develop a Code Enforcement Policy to send written letters and notifications of violations, as well as involving legal, and present their recommendations to the council for review. He felt that the city manager should have the authority to consult with legal and to send compliance letters and notification before involving the council. Attorney Adkinson asked that a caveat be included in the policy that council must give explicit authority to initiate litigation.

Motion by Councilman Bierbaum, second by Councilman McKnight, to direct staff to develop a Code Enforcement Policy to send written letters and notifications of violations, as well as involving legal, and present their recommendations to the council for review.

Councilman McKnight expressed his appreciation for Councilman Bierbaum taking this action to address these issues.

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

The meeting briefly recessed. At 7:34 p.m. and reconvened at 7:41 p.m.

Councilman McKnight discussed the goals and objectives for the new fiscal year starting October 1, 2019. He presented a hand-out and asked the council to submit their budget initiative ideas at the next meeting. He also would like to bring this up again after the budget process is complete. Councilman Bierbaum expressed his appreciation for Councilman McKnight's presentation and reminded everyone that Councilman Crystal had recommended additional budget workshops and asked for these issues to be addressed at those meetings. Mayor Campbell expressed the need to share ideas and that he was pleased with the progress this council is making. Mr. Smigielski reported that two budget hearings had been scheduled for September and that an additional budget workshop would be scheduled for October.

Motion by Councilman Crystal, second by Councilman Bierbaum, to appoint Ms. Brianna Burgess to the Special Events Committee. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Finance

Ms. Gibson requested to approve a letter of intent with Raymond James & Associates. She discussed the restructuring of debt to save the city money and said the letter is required by the Securities Exchange Commission to move forward. There would be no cost to the city. She said that under Municipal Advisory Rule Raymond James & Associates could not be the cities underwriter; a Request for Proposal (RFP) would be needed.

Motion by Councilman Crystal, second by Councilman Graham, to authorize the Finance Director to sign a letter of intent with Raymond James & Associates as presented. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Ms. Gibson briefly discussed the proposals received in response to the Banking Services RFQ and request to award the RFQ to Trustmark Bank as the highest ranked firm.

Motion by Councilman Crystal, second by Councilman Ennis, to award the Banking RFQ to Trustmark as highest ranked firm.

Attorney Adkinson requested the motion include the authorization to begin negotiations.

Motion amended by Councilman Crystal, second amended by Councilman Ennis, to include the authorization to begin negotiations. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Ms. Michelle Johnson, Trustmark Branch Manager, thanked the council for the opportunity to serve the city.

Ms. Morgan Hulion, Finance, requested approval of the Adjustment Policy and forms to assist citizens with adjustment requests. There is currently no procedure for adjustments. Attorney Adkinson said a revision to the resolution approved at the August 26, 2019 Regular Meeting would be brought back for approval. Councilman Bierbaum voiced concern with the timeframe to have the leaks repaired to insure the bill is not delinquent. Ms. Hulion said that contact with the city prior to the actual disconnect is what staff is looking for. A lot of people wait until the disconnect date to inform the city of the leak. She said the request is for contact to be made prior to the 25th of each month. Councilman Crystal voiced concern that some residents may be trying to extend the cut-off date by basing it on a leak. Discussion ensued on the different types of documentation which would be accepted as proof of a leak. Councilman Crystal asked how these contacts are tracked. Ms. Hulion stated notes are placed on the account. Councilman Crystal asked if staff had reviewed the form. Attorney Adkinson stated legal approves the forms as presented. Ms. Hulion asked Councilman Bierbaum to submit his suggested changes.

Motion by Councilman Graham, second by Councilman Ennis, to approve the Adjustment Policy and forms as presented. Ayes 3, Nays 2. Councilman Bierbaum Nay, Councilman McKnight Nay, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Ms. Hulion discussed the proposed Payment Plan Arrangement and Voucher Assistance Policy and requested approval. There is no current policy in place and all payments must be received by 5:00 p.m. on the disconnect date. Councilman McKnight requested the city attorney's findings on the policy and if the resolution was taken into consideration. Ms. Hulion discussed the resolution which was adopted at the August 26, 2019 Regular Meeting and explained that the resolution limits only one waiver, reduction, or abatement per account. Attorney Adkinson said the resolution would be revised and presented to the council for consideration and approval. Councilman McKnight questioned the percentage of users who were delinquent. Ms. Hulion stated approximately 125 out of 4500 accounts are disconnected monthly. Councilman Bierbaum spoke in favor of giving the city manager authority to make a single bill adjustment for a specific amount of time. He voiced concern that the city did not need to become a collection agency. Discussion was held on the different scenarios in which this policy would be beneficial. Ms. Hulion recommended that a payment plan should not be longer than six months and that it be granted on a case-by-case basis. Councilman McKnight discussed the health and safety issues which could occur with the water disconnect. He questioned if the 125 disconnect each month were recurring customers. Ms. Hulion stated approximately 75% were repeat disconnects. Councilman Bierbaum reiterated his concern with the city becoming a debt collector. He supports the flexibility of staff to accept vouchers. Ms. Hulion clarified that this policy would only apply to those accounts which are abnormally high bills. There are no guidelines to act on and this would allow for better service to the citizens.

Motion by Councilman Graham, second by Councilman Crystal, to approve the Payment Plan Arrangement and Voucher Assistance Policy. Ayes 3, Nays 2. Councilman Bierbaum Nay, Councilman McKnight Nay, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Ms. Hulion requested approval of the Debt Collection Policy and Procedures and agreement. There is currently no collections policy or procedures for the collection of bad debts. She said a processing fee and a small balance threshold needed to be established. Councilman Crystal clarified that the city is using a vendor to collect on the debts. Ms. Hulion stated yes and discussed the final bill and processes. Councilman Crystal asked the amount of debt on the books which needed to be recovered. Ms. Gibson replied approximately \$400,000.00; this amount is years of accumulation. Councilman Crystal asked what the staff's recommendation on a minimum bill amount was. Ms. Hulion recommended a \$10.00 minimum bill amount for collections and Ms. Gibson recommended a \$25.00 processing fee.

Motion by Councilman Crystal, second by Councilman Bierbaum, to approve the Debt Collection Policy and Procedures agreement with a \$10.00 minimum bill amount and a \$25.00 processing fee.

Discussion was held regarding the minimum amount to collect upon and the percentages used by debt collection agencies. Ms. Hulion stated the agreement shows the debt recovery percentage.

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

Public Works

Mr. Chris Lightfoot, Dewberry, requested approval of the FDOT Supplemental Agreement #2 for the U.S. Highway 331 Gas System Upgrades and Expansion project. This is the same agreement previously submitted for approval. FDOT has removed the prequalification requirement prior to the project bidding. He requested approval of the new agreement.

Motion by Councilman Graham, second by Councilman Crystal, to approve the FDOT Supplemental Agreement #2 for the U.S. Highway 331 Gas System Upgrades and Expansion. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

City Attorney

Attorney Adkinson presented for second reading and adoption Ordinance 902 amending the City Clerk Ordinance. First reading of the ordinance was held at the July 22, 2019 Regular Meeting.

Motion by Councilman Ennis, second by Councilman Bierbaum, to approve to hold the second reading and to adopt Ordinance 902 amending the City Clerk Ordinance as presented. Ayes 5, Nays 0. Councilman Bierbaum Aye, Councilman McKnight Aye, Councilman Crystal Aye, Councilman Ennis Aye, Councilman Graham Aye.

Attorney Adkinson read into the record Ordinance 902.

Staff Report

Mr. Smigielski briefly discussed the draft City Council Policies and Procedures. He requested the council submit comments and edits on September 23, 2019. He announced a workshop would be held on October 14, 2019 at 5:30 p.m. prior to the Regular Meeting and that subsequent workshops would be scheduled until the complete draft has been reviewed.

Council Comments

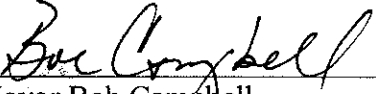
Councilman Bierbaum announced he would not be attending the September 10, 2019 Budget Hearing. He is being sworn in as a board member for the Children's Advocacy Center.

Councilmen McKnight, Crystal, Ennis, and Graham had no items to present.

Mayor Comments

Mayor Campbell had no items to present.

There being no further items to present, the meeting was adjourned at 8:29 p.m.



Mayor Bob Campbell



Cindy Permenter, Deputy Clerk