

DeFuniak Springs City Council
Regular Meeting
October 28, 2019

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

Mayor Campbell called the meeting to order at 6:02 p.m. followed by the invocation and Pledge of Allegiance led by Councilmember Kevin Crystal.

Mayor Campbell welcomed everyone to the new location at the Walton County Courthouse, and said we are excited about using the facilities.

Consent Agenda - Mayor Campbell asked if there were any additions or deletions to the Consent Agenda.

Motion by Councilmember W. Graham and seconded by Councilmember by Councilmember K. Crystal to approve the Consent Agenda.

Vote: Councilmember Crystal: Aye, Councilmember Bierbaum: Aye, Councilmember McKnight: Aye, Councilmember Ennis: Aye: Councilmember Graham: Aye.
Ayes 5, Nays 0. All ayes. Motion carried.

Regular Agenda Mayor Campbell asked if there were any additions/deletions to the Regular Agenda.

Mell Smigielski, City Manager mentioned Item 7C should be moved before Item 5C because they are related.

Motion by Councilmember T. Bierbaum and seconded by Councilmember W. Graham to approve the Regular Agenda with moving Item 7C should be before Item 5C.

Vote: Councilmember Crystal: Aye, Councilmember Bierbaum: Aye, Councilmember McKnight: Aye, Councilmember Ennis: Aye: Councilmember Graham: Aye. Ayes 5, Nays 0. All ayes. Motion carried.

3. Consent Agenda – As Approved

A. Clerk

1. Minutes for approval: October 14, 2019-Regular Minutes
2. Minutes for approval: October 14, 2019-Workshop Minutes

B. Administration

1. Mell Smigielski, City Manager requests ratification of the CSX/Florida Gulf & Atlantic Railroad agreement that the City Council passed on July 8, 2019

C. Finance - Reserved

D. Planning

1. Kelly Schultz, Planning Director, requests approval for the temporary Use Permit from New Wave Auto to conduct an event from November 14 – November 24, 2019 from 9:00 a.m. – 8:00 p.m. based on the condition that only the area on the site plan is used and it does not disrupt operations of existing permanent businesses
2. Kelly Schultz, Planning Director, requests approval for the alternate date of November 23, 2019 for the Roll Out Concept's 1st Annual Charity Cornhole Tournament - Sushi and H & M which includes a roadblock, as the approved date of October 26th was cancelled due to the potential of inclement weather
3. Kelly Schultz, Planning Director, requests approval of the MainStreet Mistletoe Market to be held on November 30th from 10 a.m. – 6:00 p.m.

and December 6th, 13th and 20th from 4:00 – 7:00 p.m. and December 7th from 2:00 – 8:00 p.m.

E. **Airport - Reserved**

F. **Public Works**

1. Jim Gierlinski requests approval for the Mayor to execute the contract with Pendleton + Bowman, Inc. for the renewal of the Chautauqua Building, Hall of Brotherhood: Phase II Grant
2. Jim Gierlinski requests approval for the Mayor to execute the contract with Parish & Bowman, Inc. for the Restoration of the Chautauqua Hall of Brotherhood, Phase II Grant

4. Regular Agenda, As Approved

5. Administration

Item 5A. Mell Smigielski, City Manager requested a motion to authorize him to sign the agreement with Ben Nelson, Christmas Reflections Independent Contractor. He said the agreement was held over from last meeting to address who Mr. Nelson will report to and provide documentation to, as well as mileage verification.

Councilmember K. Crystal inquired about the mileage. Mell said as discussed during the Workshop, if he travels, he would have to get permission from him. City Attorney clarified anything beyond the standard travel, he would need to get permission from the city manager.

Councilmember T. Bierbaum suggested he use a city vehicle, so we do not have to pay mileage.

Motion by Councilmember T. Bierbaum and seconded by Councilmember H. Ennis to authorize the City Manager to sign the agreement with Ben Nelson, Christmas Reflections Independent Contractor.

Vote: Councilmember Crystal: Aye, Councilmember Bierbaum: Aye, Councilmember McKnight: Aye, Councilmember Ennis: Aye: Councilmember Graham: Aye. Ayes 5, Nays 0. All ayes. Motion carried.

Item 5B. Mell Smigielski, City Manager requested a motion to proceed with the process and advertisement of the previously approved list of unused city properties.

M. Smigielski said as previously approved the purpose is to sell the properties and give the proceeds to the CRA, as they do not have funds to clear up the blight. The method chosen is by sealed bid. He displayed the invitation to bid with advertising and said the displayed bid form must be used. He stated the outside of the envelope must be completed, as directed in the bid packet. He added there is a provision with dates for the project beginning.

Motion by Councilmember R. McKnight and seconded by Councilmember H. Ennis to approve going forward with the sale of surplus properties with the proceeds going to the CRA.

Vote: Councilmember Crystal: Aye, Councilmember Bierbaum: Aye, Councilmember McKnight: Aye, Councilmember Ennis: Aye: Councilmember Graham: Aye. Ayes 5, Nays 0. All ayes. Motion carried.

Item 7C. Councilmember Crystal requested Council to enforce the MainStreet contract and request the financials regarding the Visitor's Center.

Councilmember Crystal said he made a request for documentation for the Visitor's Center to Main Street, as outlined in the agreement. He stressed he is not against Main Street as an organization. His concern is that transactions have been done that could be viewed as unethical, have a conflict of interest or even have potential criminal undertones. He mentioned the Braven Group contract for data work. The original sum they asked for was \$300,000, and then later it was reduced to \$150,000. After doing some research, he learned the principals were Jay Evans, Executive Director Main Street and David Harrison, Treasurer of Main Street and Us Datatronics. Later he found out that a \$5,000 check was written from Main Street to the Braven Group. He asked about a conflict of interest with the director writing the check to a company he

owns. He stated he requested the records as the agreement gives the city the ability to look at the records for the Visitor's Center. He asked Mell to request the records, who forwarded his request to Mr. Naylor, Interim Chairman. He said he thinks Main Street is terminating the agreement for the Visitor's Center to avoid the city examining the records. He stressed he campaigned on being transparent. He said citizen dollars were given to paint, buy furniture, and provide printed material. No work other than the website was done. He asked M. Smigielski to display page 8 on this exhibit, there is nothing about a website on the list. Main Street received the check for almost \$11,000 from the City, which they received in August to provide the services in the agreement, and to date it has not been done. The City Manager said the Main Street Director said he wanted the full Council to request the records, not an individual Council member.

Council member R. McKnight asked about #15 in the agreement. It states that Main Street will manage and maintain the Visitor's Center website, so he believes the scope does include the website. He read aloud on #4, a clause "relating to the scope in the terms of this agreement" to clarify it is related to money of those items listed in attachment B. He said Mr. Crystal mentioned potential unethical and criminal conduct, as well as a conflict of interest, but he does not see evidence of that. Main Street is a private non-profit group with its own attorney.

T. Bierbaum called for a Point of Order, as there was discussion with no motion on the floor.

Motion by Councilmember K. Crystal and seconded by Councilmember H. Ennis to direct staff or whomever to ask Main Street to turn over their records, as it relates to the Visitors Center.

Councilmember R. McKnight asked about the scope of the agreement, as he does not have any evidence of wrong doing by Main Street.

City Attorney Clay Adkinson interjected that we do not govern the Code of Ethics, as it is not for this Board to adjudicate. He prefaced the Council has a right to see the records, as it relates to the Visitor's Center per the terms of the agreement. When the City turned the Visitor's Center over to Main Street, they were placed under the Sunshine Law, so the city is entitled to it. He said regarding paragraph 5, it requires 60 days written notice from either side to terminate the agreement. As to the issue under the second whereas, if we kicked them out, it is only invoked if we kicked them out of the Visitor's Center. If we are all on the same page, we could agree to the termination immediately. We still should have the records – it cannot be prejudicial to our rights to see the records to see how the public dollars were used. The Council's issue is simple, as any council member can request the records under chapter 119. The question solely is to vote on the records in scope of the agreement pertaining to the Visitor's Center which includes the website. He said he cannot act to make the request without the vote of the Council, if the Council wants him to act.

Councilmember R. McKnight asked the city attorney if the \$10,733 given to Main Street is for the contract for equipment, racks, logos. None of that money is for the development or maintenance of the website. He asked whether the city is only able to see how money outside the \$10,733 was spent based on our financial agreement?

City Attorney Clay Adkinson replied that in Paragraph 4, it clearly states the scope of terms of this agreement shall always be open to inspection and audit by the city during the terms of the agreement. Since the records are not before us, we cannot see what money was spent for the Visitor Center. He added Main Street is subject to Open Government under Chapter 119, as it relates to the Visitor's Center.

Councilmember R. McKnight said the agreement allows for the expenditure of the \$10,733, so it is an appropriate request, and it would be up to them to show what they did regarding the scope of terms on what they spent on the Visitor's Center.

In reply to the question from Councilmember T. Bierbaum on criminal activity or violation of policy on who Main Street wrote the check to for the website, City Attorney Clay Adkinson said our scope only relates to the terms of the agreement, which is the scope of services.

Discussion ensued on the amount expended beyond the \$10,733 on the Visitor's Center and the inspection of records and books. Councilmember T. Bierbaum voiced his concern that the motion was predicated on an accusation of wrong doing and said it was an over reach.

Councilmember K. Crystal voiced his concern that 1/3 of the Main Street budget came from the city, and 66% of their budget is from public funds, so that expenditure gives us the authority to look at their records. He called for the question and it was seconded by Councilmember H. Ennis.

Vote: Councilmember K. Crystal: aye, Councilmember T. Bierbaum: nay, Councilmember R. McKnight: nay, Councilmember H. Ennis: aye: Councilmember W. Graham: aye. Ayes 3, Nays 2. City Attorney Clay Adkinson said the vote required 2/3 vote or super majority, so the debate ensued.

Councilmember T. Bierbaum read a letter from the Attorney General and stated the fact they received 66% of public funds was irrelevant to the motion.

City Attorney Clay Adkinson said it is not the decision of the Council to try to determine whether Main Street is fully subject to Chapter 119 by merely receiving public funds. Our agreement pertains to the Visitors Center. He asked the Council for direction on whether they want him to pursue the request for records from Main Street relating to the Visitor Center. Councilmember R. McKnight said we should be restricted to the funds of \$10,733. He added it is up to the Ethics Commission to pursue the issue Councilmember Crystal brought up, so he asked for the motion to be restricted to the expenditure of those funds.

Resident Dan Cosen came forward, and said if Councilmember Crystal wants to watchdog this, he could contact the State Attorney to look at it to see if foul play is involved. He asked the city manager if the city was given an itemized bill, and M. Smigielski replied it was not itemized.

Resident Melinda Henderson asked if the motion passes to terminate the contract immediately, will it invalidate the contract with her, as she has a tacit agreement with Main Street to use the Visitor's Center. The Council said they would honor her agreement.

Councilmember T. Bierbaum voiced his concern of the perceived wrong doing of Main Street and our future dealings with other non-profit businesses. Councilmember R. McKnight agreed, so he wanted to limit the debate to the \$10,733. Councilmember H. Ennis clarified that the motion was to look at the records, as it relates to the Visitor's Center per the agreement. Discussion ensued on the merits of the scope of the term of the agreement and the request for their records. City Attorney Clay Adkinson reiterated the motion only relates to the Visitor's Center.

Mayor Campbell stated the motion was on looking at Main Street records and anything pertaining as it relates to the Visitors Center.

Vote: Councilmember K. Crystal: Aye, Councilmember T. Bierbaum: nay, Councilmember R. McKnight: nay, Councilmember Ennis: Aye: Councilmember Graham: Aye. Ayes: 3, Nays: 2. Motion carried.

Item 5B. Mell Smigielski, City Manager, requested a motion to terminate the Main Street Visitor's Center Agreement.

City Attorney Clay Adkinson said the agreement states Main Street must give 60 days' notice, unless we kick them out per the clause. He told the Council they are preserving the rights under the agreement, so Council could accept it immediately or enforce it.

Mell Smigielski, City Manager expressed disappointment at the decision of Main Street to terminate the agreement, as we relied heavily on them to get the printed materials together, and now it directly affects staff.

The Council discussed the merits of holding Main Street to the agreement or terminating it immediately.

Motion by Councilmember T. Bierbaum and seconded by Councilmember R. McKnight to accept the request for termination immediately, subject to our preservation of rights.

Councilmember W. Graham asked if we were going to get the funds back for the unfinished work, and City Manager M. Smigielski replied he and Mr. Evans have a meeting on Wednesday to discuss the issues on any printed materials and any leftover money.

Vote: Councilmember K. Crystal: Aye, Councilmember T. Bierbaum: Aye, Councilmember R. McKnight: Aye, Councilmember H. Ennis: Aye: Councilmember W. Graham: Aye. Ayes 5, Nays 0. All ayes. Motion carried.

6A. Citizen Comments

Rudy Sangl, a commercial business owner, commented on agenda Item F. He voiced his concern that a cover sheet states the contracts have no funding impact, but the background material states otherwise. He requests that it be clearer. City Manager, M. Smigielski replied the intent was they are not spending any funds that was not budgeted.

6B1. Residents that requested to be on the agenda, following:

Marianne Hussey came forward to request the City Council overturn the decision of the Cemetery Board denying her request to replace her damaged marble burial slab.

Miss Hussey stated she moved here in 1941 and bought a lot in 1957, for her father. The family purchased more spaces and have matching burial slabs. The broken marble pieces were presented as evidence. She stated it could not be repaired, so she received a quote of \$4495 to replace the slab. The Cemetery Board denied her request, so she asked the Council to overturn their decision.

Councilmember R. McKnight asked about the photograph with the damage. He said the Council was concerned about setting precedent, so he asked if she would be willing to accept a lower amount. Miss Hussey replied she would take anything the city would offer.

Councilmember K. Crystal asked Finance Director D. Gibson, if we had any discretionary fund, and she replied we do not.

Motion by Councilmember K. Crystal to overturn the Cemetery Board decision and pay her the full amount of \$4,495.

Mayor Campbell asked Mr. Thomas of the Cemetery Board to come forward.

Mr. Lee Thomas said the Cemetery Board voted to deny her because the ordinance states the city shall not be responsible for any major damage. The Board does not have the authority to change the ordinance, so we may want to look at changing the ordinance. He mentioned talking to the City Clerk today who offered some suggestions. He suggested a fund be put in place to fund repairs, if the City is found to have caused the damage. Secondly, a rule could be set if other people bring in heavy equipment, the work can only be done if one of our employees are present. This damage may not have been done by the city. He does not know what our liability would be without proof that we damaged it.

Motion by Councilmember R. McKnight and seconded by Councilmember K. Crystal to have the City pay for one half of the amount at \$2,247.50 for the damage to her tomb.

Councilmember K. Crystal said his parents visit the cemetery regularly, and he cuts the grass for his parents, so he is sympathetic to her. If the Council would give her half, he will pay for the remainder personally.

Councilmember R. McKnight said the issue is our moral and ethical responsibility for her final resting place.

Vote: Councilmember Crystal: Aye, Councilmember Bierbaum: nay, Councilmember McKnight: Aye, Councilmember Ennis: nay: Councilmember Graham: nay. Ayes 2; Nays 3. Motion failed.

Councilmember K. Crystal told Miss Hussey he will still pay for half of her amount.

7. Executive Requests –

Item 7A. Councilmember McKnight Accomplishments and Expectations for FY 2020

Councilmember R. McKnight stated the Council put together a good budget. In a year from now, he wants the departments to have written goals and objectives to show what is being accomplished with the money. He would like to see tracking and evaluating to meet the goals. He expressed concern of spending 30 million dollars in 12 months and only having a financial document. He mentioned now that we have a mission statement, the job for the Council is to remove the barriers and move forward on the goals and objectives. He asked other council members to submit their goals and objectives. He wants the numbers to translate to meet the goals and objectives.

Mayor stated this budget had a huge boost in salaries and added positions to make the employees more productive. He voiced his concern that the city manager needs administrative help, as he has many things going on.

Motion by Councilmember T. Bierbaum and seconded by Councilmember R. McKnight to direct staff to develop written goals and objectives and present them at a workshop in three months.

Discussion ensued on whether to schedule a quarterly budget workshop to go over the coming year or whether to focus on ensuring we have goals and objectives that are complementary to our current budget. The Council was concerned about time frames with the holidays. Strategic goal planning was also discussed.

City Manager, M. Smigielski said he has spoken to staff about preparing a list for each project to correspond with a goal. He also has several items that work toward the strategic plan.

Discussion ensued on when it would be possible to meet at a workshop to go over goals and objectives.

Motion by Councilmember T. Bierbaum and seconded by Councilmember R. McKnight to amend the motion to set a date for a workshop to go over goals and objectives in four months.

Councilmember H. Ennis was concerned about the work load for the city manager.

Vote: Councilmember Crystal: Aye, Councilmember Bierbaum: Aye, Councilmember McKnight: Aye, Councilmember Ennis: Nay: Councilmember Graham: Aye. Ayes 4, Nays 1.
Motion carried.

Item 7B. Councilmember R. McKnight informed the Council about the invitation from Southern Rail Commission to lobby for an Amtrak stop in DeFuniak Springs on December 6, 2019, which would include a one night stay and travel costs payable to Bay St. Louis, Mississippi.

Councilmember R. McKnight said a request was given to him for a ten-minute presentation that looks at the plan for extension of Amtrak through the city. He added this is our shot to give a strong presentation. He mentioned we should send the city manager; chair of the Walton Economic Development committee and the mayor. He would like the city to be placed on the list for a potential stop. He will be in Washington DC, so cannot attend.

Motion by Councilmember K. Crystal and seconded by Councilmember T. Bierbaum to accept the invitation to lobby for an Amtrak stop with travel and accommodations to bay St. Louis Mississippi.

Mayor Campbell said he has met with the Southern Rail Commission in the past. Councilmember R. McKnight said it will be good for economic development. Mayor said Seaside is very interested in Amtrak.

Dan Cosen, resident, suggested that the Council should go as he in favor of an Amtrak stop. Since April, this town has picked up momentum with the new members.

He also stated that citizens are concerned about all that is being placed on the city manager, so he advocates getting an administrative assistant, as well.

Vote: Councilmember Crystal: Aye, Councilmember Bierbaum: Aye, Councilmember McKnight: Aye, Councilmember Ennis: Aye: Councilmember Graham: Aye. Ayes 5, Nays 0. All ayes. Motion carried.

City Attorney – City Attorney Clay Adkinson mentioned the ordinances on the 2nd reading required advertising, so they are placed on the agenda as placeholders only. They will be acted on at the first meeting in November.

Item 13. Staff Report

City Manager, M. Smigielski, reminded everyone of the special meeting November 1st at 5:00 to award the bid for the lake yard. The deadline is December 31st for the project. He reminded the Council it is a 2014 project that has been languishing for years. As we do not want to impose on the County for such a short meeting, he requested the Council approve the meeting to be held in the Council Chambers.

Motion by Councilmember T. Bierbaum and seconded by Councilmember H. Ennis to hold the meeting at the Council Chambers.

Vote: Councilmember Crystal: Aye, Councilmember Bierbaum: Aye, Councilmember McKnight: Aye, Councilmember Ennis: Aye: Councilmember Graham: Aye. Ayes 5, Nays 0. All ayes. Motion carried.

City Manager, M. Smigielski said we have momentum for the Chautauqua building. He asked Council if they would to attend a tour of the building on November 18 at 3 p.m., so Mr. Bowman can show the Council about the updates and plans. He mentioned the public is welcome. The tour date was confirmed.

City Manager, M. Smigielski announced the Bailiff cost has been waived for the Courthouse meetings. The Division of the Sheriff's department has graciously taken care of the cost. The Council thanked them for their hospitality.

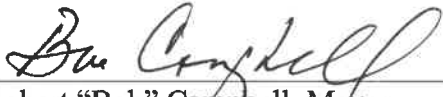
Item 14. Council Comments

Councilmember T. Bierbaum encouraged the employees to come forward with recommendations for efficiency and improvement, and Council will provide vision. He mentioned that looking over Mell's weekly report, the City Clerk gave details on where we could improve on processes and gave direction, as well as communicated she will bring back solutions. Mr. Overton also gave information and provided excellent details on his needs and challenges. He said employees could identify an area that we need to look at which could result in a process change or service. He added we need to document what we do to understand why we do it. He thanked the employees for all they do.


Councilmember R. McKnight thanked the City employees who participated in Government Week. The appreciation dinner was nice, as well as "Coffee with the Council", airport event and other activities. We need to make sure we use Government Week to educate the citizens in what we do.

Mayor Campbell added that Councilmember T. Bierbaum and Councilmember K. Crystal have asked about the cost of a new City Hall and Police Station, so hopefully they will be updated on ideas of what can be done and what direction to take by bringing back cost information and strategies.

Mayor Campbell adjourned the meeting at 7:50 p.m.



Robert "Bob" Campbell, Mayor



Maryanne Schrader, City Clerk
Proper notice having been duly given