

**DeFuniak Springs City Council  
Special/Emergency Meeting Minutes  
March 16, 2020**

The following members were present: Mayor Bob Campbell, Mayor Pro-Tem Robert McKnight (Seat 2); Councilmember Todd Bierbaum (Seat 1); Councilmember Kevin Crystal (Seat 3); 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. Also, in attendance, Kelly Schultz, Planning Director, Chris Mitchell, Public Information Officer and Jim Gierlinski, Assistant Public Works Director.

Mayor Campbell called the meeting to order at 4:04 p.m. regarding two items on the agenda. The first item was a request to call a Declaration of a Local State of Emergency, and the second item is to discuss the Chautauqua Hall of Brotherhood.

City Attorney Clay Adkinson said in light of recent events with the virus COVID 19, he requested a motion of the Council to approve an emergency provision to the agenda for a Declaration of a Local State of Emergency for COVID 19 and allow meeting cancellations and related matters rather than calling a meeting later in the week in light of restricted gatherings.

**Motion** by Councilmember K. Crystal and seconded by Councilmember W. Graham declaring a Local State of Emergency because of the COVID 19 pandemic and allow meeting cancellations and related matters.

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

**Motion** by Councilmember T. Bierbaum and seconded by Councilmember K. Crystal to authorize the Mayor to declare and execute appropriate documents in relation to what is necessary relating to the COVID 19 pandemic.

Councilmember R. McKnight asked what the Mayor's powers are relating to a pandemic and asked about personnel policies within the city regarding overtime or working while sick. City Attorney Clay Adkinson replied that we are not under Martial Law, so the major significance is that FEMA will extend support for any financial benefit. We will not know when it will end at this point and added there are no deviation to any policies.

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

City Attorney Clay Adkinson stated we are now under a local state of emergency. City Manager M. Smigielski announced we need the ability to suspend out of county travel unless permitted by the Mayor or City Manager. Councilmember R. McKnight asked what the purpose of this is, and City Manager M. Smigielski said it is to keep people local and asked if the Council wanted to include out of city travel. Councilmember R. McKnight stated he did not know how that changes the risk profile. City Attorney Clay Adkinson said no one can go to a conference for official

business unless the Mayor and City Manager approve. He added it is to the extent it was already approved it centralizes the authority.

**Motion** by Councilmember K. Crystal and Councilmember W. Graham to suspend out of County travel for city employees for city business unless approved by the Mayor or City Manager.

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

Mayor Campbell said he had four meetings out of County, so all have been cancelled.

City Manager M. Smigielski said the next item is to suspend all permitted outdoor events until declared otherwise, as we do not want large gatherings.

**Motion** by Councilmember R. McKnight and seconded by Councilmember W. Graham to suspend all permitted outdoor events until declared otherwise.

Councilmember K. Crystal asked whether the airport should be included, and City Attorney Clay Adkinson replied no, as the FAA regulates air travel. In response to Councilmember R. McKnight, City Attorney Clay Adkinson clarified that it includes special events permits and temporary use permits. City Manager M. Smigielski added it included peddlers and the farmers market, as well.

Regarding church events, the city does not permit them unless it is on city property in response to Councilmember R. McKnight. Councilmember W. Graham asked if the Little League park was included and Councilmember K. Crystal said it would be up to the association. Councilmember T. Bierbaum asked how it changes someone's risk profile? He mentioned, during the Spanish 1918 influenza epidemic, people were encouraged to be outdoors.

Councilmember R. McKnight explained it reduces how many people are in a space, since we do not want more than ten people at any given event, as it reduces the risk profile. He mentioned one church has been advertising an event on the Lakeyard, so it should not occur. Regarding the temporary sales lot, if someone wants to come in, this would be covered by this. Also, this would prevent a parade from occurring.

City Attorney Clay Adkinson said we have received CDC guidance which states there is no indication that warm weather or heat will reduce the result of a threat or spread. Walton County is talking about closing beaches to avoid public gatherings.

City Attorney Clay Adkinson said the city will not authorize gatherings, so we are saying the action is that the city is not going to permit any outdoor events until we deem it is necessary. However, Mayor Campbell suggested removing peddlers, as they do not require a permit.

Councilmember K. Crystal asked who drafts the declaration, and City Attorney Clay Adkinson said it is just placing notices out and will be legally sufficient.

Discussion ensued on the wording of permits, activities or events including those that require a permit from the city, peddlers, temporary use, or sales permits.

**Motion** by Councilmember R. McKnight and seconded by Councilmember K. Crystal to suspend all outdoor events requiring a permit to be issued from the city, until declared otherwise.

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

City Manager M. Smigielski moved on to #4 to suspend rentals of all city facilities until declared otherwise. He said it would include the amphitheater, and church services in city facilities.

In response to Councilmember K. Crystal, City Manager M. Smigielski replied we were going to refund any fees.

**Motion** by Councilmember R. McKnight and seconded by Councilmember W. Graham to suspend rentals of all city facilities until declared otherwise.

Discussion ensued on the need to rent our facilities in case we need to have more hospital beds for hospitals or whether there could be a request from a hospital in another county. City Attorney Clay Adkinson said if a higher agency, there is no effect. Councilmember R. McKnight said if it is set up by a non-profit, we should suspend the rental of all facilities unless for emergency facilities. City Manager M. Smigielski said if a hospital needed it, we would not charge anything. City Attorney Clay Adkinson said this is just standard rentals, as it is not addressed in emergency situations.

Councilmember W. Graham asked the church group that uses our facility would be notified, and City Manager M. Smigielski replied they would be notified. Councilmember H. Ennis said some churches will not meet anyway. Councilmember R. McKnight said the public interest is to not allow people to assemble. Mayor Campbell added a church could lend itself in time of need.

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

City Manager M. Smigielski went on to #5 to suspend all volunteer Boards and Committee meetings until May 1st.

Discussion ensued on the low risk as they usually have less than ten in attendance and whether all meetings should be suspended. Councilmember R. McKnight said the work they do still needs to happen and suggested leaving it up to the committee members. He also questioned whether we will have staff to assist with the committees. In response to Councilmember K. Crystal, Planning Director K. Schultz said there is one for the April meeting and two hearings for variances. On the Council meeting on March 23<sup>rd</sup>, she has received 240 petitions and a large crowd is expected to attend. She was concerned about the personal space, as many are in the age group that are more susceptible.

City Attorney Clay Adkinson said it is prudent to adopt the measure through the first of April to get you out of the two-week window. City Manager M. Smigielski said it was consistent with the County to suspend through May 1<sup>st</sup>, as the goal is to get a unified message across.

Motion by Councilmember W. Graham and seconded by Councilmember K. Crystal to suspend all volunteer Boards and Committee meetings until May 1<sup>st</sup>.

**Vote:** Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Nay, Councilmember R. McKnight: Nay, Councilmember H. Ennis: Nay; Councilmember W. Graham: Aye. Ayes 2, Nays 3. Motion failed.

City Manager M. Smigielski moved to item #6, and stated the County said we cannot hold the Council meetings at the Courthouse, so we need to decide where to meet.

Discussion ensued on how far to separate the chairs or whether we could hold the meetings at the Civic Center and encourage people to watch by electronic means.

Councilmember H. Ennis said the meetings are needed. Councilmember T. Bierbaum said we need to be consistent with message between the Council and committee meetings, as he did not see any difference in that and outdoor events with the risk profile.

Council discussed outdoor events again and whether the individuals should make the decision on risk. Discussion ensued on encouraging social distance, having wipes available, and putting up signs. There was discussion on electronic meetings, but City Attorney Clay Adkinson advised the city cannot meet by video at this time by law. Councilmember W. Graham said safety is the number one priority, and if the County is cancelling, we should follow suit.

Councilmember K. Crystal said he has discussed the situation with several agencies, and said the County is shutting the courthouse down. He added it does not make sense to put more than 100 people in the building, as public safety is what we are here for. He stated issues can wait a couple of weeks, so we should air on the side of caution. We should be consistent.

City Attorney Clay Adkinson said Criminal Court is being suspended with no face-to-face contact. He added it is possible the governor could change the stance on electronic meetings, so we could reevaluate after the two-week period.

**Motion** by Councilmember R. McKnight and seconded by Councilmember K. Crystal to cancel the City Council regular meeting for Monday, March 23rd.

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

City Attorney Clay Adkinson said to plan to reconvene in the future to determine the next steps.

Councilmember T. Bierbaum requested an amendment to the motion on the suspension of Boards and Committees.

**Motion** by Councilmember R. McKnight and seconded by Councilmember K. Crystal to reconsider the motion related to the Boards and Committees suspension. All ayes. Motion carried.

**Motion** by Councilmember W. Graham and seconded by Councilmember T. Bierbaum to suspend all Boards and Committees until May 1<sup>st</sup>.

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

City Attorney Clay Adkinson said Council could reconsider at the meeting in April.

Discussion ensued on whether to defer water shut offs because we place them at a greater risk, the concern of limiting access to water, the choice to use hand sanitizers, and the percentage for people paying their bills if the water is turned off. City Manager M. Smigielski mentioned that March 25<sup>th</sup> is the cut-off date. Councilmember R. McKnight suggested disseminating a flyer with precautions on the COVID-19 virus in the water bill mailings.

**Motion** by Councilmember R. McKnight and seconded by Councilmember W. Graham to authorize the City Manager to place inserts in the utility bills to inform residents of the risks of the COVID-19 virus.

In response to Councilmember T. Bierbaum, Finance Director D. Gibson replied that mailing cost is about \$500 or 600 dollars. City Manager M. Smigielski said it should not impact the cost of a normal mailing because it is just one or two sheets.

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

Mayor Campbell then went to the next item on the agenda, Chautauqua Hall of Brotherhood update, over to City Manager M. Smigielski who asked the Council to make it a constructive exercise.

Mayor Campbell announced that Melinda Henderson, Chris Mitchell or Victor Bowman will not be held to the three minutes restriction, as they have information to contribute.

V. Bowman said he approached the project as a team. He went over his past projects and passed out his credentials. He went over the timeline of his company and the building renovations for the Chautauqua building, as well as the history of submitting the grant that was initially funded in 2014 and the frustrations of delays for funding with the hurricane.

V. Bowman said in October 2016, he outlined the existing conditions of the building and presented the adaptive use of the building when the Council approved the program. The money was spent at that time. He then provided the summation of the estimated total cost of \$1,250,000 for the total cost of construction in December of 2017. There has been a 25% escalation of costs since that time. In 2017, he needed a balance of \$689,000; the grant total of Phase II was \$625,000. He added the fees have been built on a time and material process with mechanical and electrical charges. At the initial bid date, no bids were received because of the nature of the project. His company has put in \$45,000 of in-kind saving to the city and added he did not charge for the trips to Tallahassee. He passed out the sheet and suggested the Council apply for Grant #3 for \$250,000. He added we may not need to use all the money, but if we must remove and replace the cupola, we will be prepared. Ms. Henderson added the project is still in the reimbursement

state. In response to Councilmember W. Graham, V. Bowman replied that \$75,000 is the total for architectural fees from the city.

Discussion ensued on the timeline from the time of the award of the first grant and the start of actual renovation. V. Bowman went over several items: The Award was announced July 1, 2016 but construction was not started until August 21, 2017. The gap time included going out for bids. Melinda Henderson added she explained to the Historical Commission they were inexperienced and needed to return when they hired an architect.

Discussion went back and forth on who was told of the second grant award and not being informed when the governor signed the budget. Melinda Henderson said the Council did not sign the agreement until on the 1<sup>st</sup> of July. There was discussion on getting a new architect and changing plans. V. Bowman explained the first contracts were bid on the first grant, so all of it had to be re-bid. He added his calculations show the crew has only been working on the building for thirteen months with construction starting January of this year. John Parrish added plans for the first floor was changed before we could get started, and the County had to re- permit it.

Councilmember T. Bierbaum disagreed that the contractor changes for the first-floor revisions did not go on for months. He said after Council signed the contract, it was well known after the election that we would get the money and voiced his alarm that it took so long to start in January of 2020. Councilmember K. Crystal added the Council approved the contract in October 2019, and he confirmed that by listening to the meetings and reading the minutes prior to today's meeting. He added Councilmember T. Bierbaum questioned the project management during the October meeting. Councilmember K. Crystal had asked several times at the meetings in October and November if Mr. Bowman had enough money to finish the project and was told he did. He added we were supposed to have monthly updates, but that did not happen either. His main concern is Mr. Bowman said he needed another \$175,000, and the first floor is not finished, and we are four years into this project. Mr. Bowman replied they have not been working on the project that long. Councilmember K. Crystal said they have been paid over \$700,000 between the firm and construction costs, and the project is not finished. Councilmember K. Crystal went over the synopsis presented by Melinda Henderson on the timeline, and her statements have put the blame on the Council, and it is not the fault of the Council.

Mr. V. Bowman said that is not the intent of the memo from M. Henderson. He said the first time he mentioned he needed more money was at that Council meeting where he mentioned \$175,000, he thought we could finish the project up until that time. However, when John Parrish was finally able to put the money together after talking to the contractors and subcontractors in February, they knew they were short. They are working on time and materials and early on they could not get bids.

Councilmember K. Crystal said the reason you could not find contractors, there was not enough detail in the original specifications.

Councilmember R. McKnight said the request was on the consent agenda October 28th by J. Gierlinski. He added there is blame being mentioned and defended, but his concern is to look at the future, and asked if the project should be authorized. As he understands, there is one million in the budget with an 18% overrun. He explained the Chautauqua building is on the National Register of Historic places and must be designed per the guidelines. He would like to go forward with going toward a solution, and Councilmember H. Ennis agreed.

Melinda Henderson asked Council to put things in perspective, as the State likes a plan. She mentioned they are trying to give us 1.3 million dollars. She requested Chris Mitchell to write the grant and have it submitted between the 1<sup>st</sup> of April and 1<sup>st</sup> of June. We have one more year on the current grant and believes the third grant will be approved. She thinks the third phase could cover the second floor. Carol added the State is excited about the building. V. Bowman said they are starting to add insulation.

Mayor Campbell said he would like to get over the shortcomings. If we would start over, we will look just as silly as with our audits. Historic buildings are different, so we have done extremely well with the overrun. He asked for flexibility and to work as a team.

Councilmember K. Crystal said you must hold people accountable. He mentioned he has a background in project management. He wants to see it done, but he hears the same excuses. He asked V. Bowman if he stands by 1.3 million, but V. Bowman replied that is a 2017 number. V. Bowman added he is working on the 2017 budget, but we have \$230,000 remaining. He wants to apply for the grant, so we do not have a contingency we cannot cover. Councilmember K. Crystal asked if another architect could give some review of the project, and V. Bowman said he has no problem with someone offering suggestions.

Discussion ensued on the personal issues, options of firing Mr. Bowman, having Mr. Mitchell write a grant or placing money in the budget to pay for completion of the project.

Councilmember K. Crystal said each one of us has an opinion and stated questions are relevant to the project. He does not feel it is badgering, as asking questions is part of receiving government money.

In response to Councilmember W. Graham, Mr. Bowman said we received the grant, but explained materials have gone up, as there was a shortage of materials after the hurricane. He explained the money received from the city and from the grant is rapidly being used on a time and material basis, so he would rather ask for the extra grant while it may be available. He said they agreed to do the project for 5% for construction and added the norm for architectural is 10% but he has done it for less. Mr. Bowman asked the Council to approve a \$250,000 grant.

Councilmember R. McKnight stated he did not know if there will be grant money in the State budget because of the COVID-19 pandemic and added the safest way is to budget \$250,000 to finish the building. He voiced concern that if the grant is approved, we would not get the grant until 2021.

**Motion** Councilmember W. Graham and seconded by Councilmember H. Ennis to approve the City Manager to write a grant for \$250,000 to complete the project.

Discussion ensued on whether we can self-fund the completion of the project and later request reimbursement, but City Attorney Clay Adkinson replied that the city would not get reimbursed.

Melinda Henderson said if the city did not get the grant, you could apply again and compete with others. Councilmember T. Bierbaum said he wants it finished.

Councilmember K. Crystal went back to the construction costs, and mentioned under Art. 5, on the contractor fees, cost is 10% plus 5% profit. V. Bowman said you must have something to cover overhead.

Councilmember K. Crystal said we have other projects, so he does not think self-funding is his preference, as money is needed in the budget for other projects.

Mayor Campbell called for the vote.

Councilmember R. McKnight said there is no guarantee that the new grant submitted by the city will be funded because of the COVID-19 virus, so we may be looking at three years to finish it.

**Vote:** Councilmember T. Bierbaum: Nay; Councilmember K. Crystal: Aye, Councilmember R. McKnight: Nay, Councilmember H. Ennis: Aye: Councilmember W. Graham: Aye.  
Ayes: 3, Nays: 2. Motion carried.

Councilmember R. McKnight said City Hall could be sold.

**Motion** by Councilmember R. McKnight that the city should explore whether the city has ways for the completion of the Chautauqua Hall of Brotherhood building to be self-funded. Motion failed form lack of a second.

Discussion ensued on whether the Council had confidence in V. Bowman and whether there were personal issues between members of the Council and V. Bowman. In response to Councilmember R. McKnight, City Attorney Clay Adkinson said the contract with V. Bowman is good through 2021.

Councilmember R. McKnight made a motion to fire Mr. Bowman. Motion failed from a lack of a second.

Chris Mitchell stated he will start to work on the third grant for \$250,000. He added it could be a problem to get this funding because of the COVID – 19 pandemic.

Mayor Campbell adjourned the meeting at 6:14 p.m.

Approved:

  
Robert "Bob" Campbell

Attest:

  
Maryanne Schrader, City Clerk

