

DeFuniak Springs City Council
Regular Meeting – Communications Media Technology
April 13, 2020

Mayor Campbell called the meeting to order remotely at 6:00 p.m. as the Zoom session host followed by the invocation and Pledge of Allegiance.

Mayor Bob Campbell asked City Manager M. Smigielski to conduct the Roll Call by stating their name as participants in the remote Zoom session: 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). All present and a quorum was declared present for the remote meeting utilizing Zoom as the meeting platform.

City Manager M. Smigielski asked the staff to also declare their participation for the meeting: Planning Director Kelly Schultz, City Clerk Maryanne Schrader, and Finance Director Debra Gibson.

Note: Staff present in the Chambers: Mayor Bob Campbell, Mell Smigielski, City Manager; Maryanne Schrader, City Clerk, and Jesse Deckard, IT Administrator.

City Manager M. Smigielski went over the ground rules and proper protocol regarding a remote meeting including disability information.

Mayor Campbell mentioned he would introduce the items on the agenda and asked everyone to speak clearly and mute their microphone when not speaking. He explained to the public procedures on how they could input comments which are limited to three minutes. He added all votes will be conducted by roll call and explained the opportunities to speak during the Public Hearings.

Mayor Campbell mentioned Clay Adkinson, City Attorney was also participating in the remote meeting.

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

Motion by Councilmember T. Bierbaum and seconded by Councilmember H. Ennis to approve the Consent Agenda, as presented.

ROLL CALL 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.

CONSENT AGENDA

Additions/Deletions to the Consent Agenda
Approval of the Consent Agenda

A. Clerk

1. Minutes for approval: March 9, 2020 -Regular Minutes
2. Minutes for approval: March 9, 2020-Workshop Minutes
3. Minutes for approval: March 16, 2020-Special Meeting Minutes
4. Minutes for approval: April 6, 2020 – Special Remote Meeting Minutes

B. Administration -

1. City Manager Mell Smigielski – Requests a motion to approve the renewal of the resolution of support that the Designation of Rural Area of Opportunity (RAO) continues to apply to the Northwest Florida Region incorporating areas within Walton County north of Choctawhatchee Bay and the Intracoastal Waterway
2. City Manager Mell Smigielski – Requests a motion to approve the annual agreement with Chelco for use of the Gene Hurley Sports Complex during major weather events
3. City Manager Mell Smigielski – Requests a motion to approve the agreement with Walton County Athletic League
4. Lacey Woodham, HR Director – Requests a motion to ratify the FMLA Leave Expansion and Emergency Paid Sick Leave Policy and Forms, as well as approval of temporary work rotation schedule and telework

C. Finance – Morgan Hulion, Finance Supervisor, requests a motion to approve the Bill Ratification for March 2020

4. **PUBLIC COMMENTS** – Mayor Campbell called for any comments regarding Regular Agenda Items. Hearing none, he went on to the next item.

5. REGULAR AGENDA

Additions/Deletions to the Regular Agenda
Approval of the Regular Agenda

Regular Agenda Mayor Campbell asked if there were any additions/deletions to the Regular Agenda. City Manager Mell Smigielski explained there was a request.

Councilmember R. McKnight asked to add an item related to whether we should consider allowing committees to meet under the Communications Media Technology format. City Manager Mell Smigielski said the item would go under 9A.

Councilmember T. Bierbaum asked that an item be added about public gatherings and permits, such as unintended consequence of previous actions. City Manager Mell Smigielski said the item would go under 9B.

City Attorney Clay Adkinson said the two items could be combined under further consideration of previous city actions. It was decided to combine the two under Item 9A.

Motion by Councilmember K. Crystal and seconded by Councilmember R. McKnight to approve the Regular Agenda, as amended.

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.

6. ADMINISTRATION

A. City Manager Mell Smigielski – Request approval to set the second meeting in May to Tuesday, May 26, 2020 because of the Memorial Day Observance

City Manager Mell Smigielski asked for discussion on the request.

Motion by Councilmember H. Ennis and seconded by Councilmember K. Crystal to approve setting the second meeting in May to Tuesday, May 26, 2020 because of the Memorial Day Observance.

ROLL CALL 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.

7. CITIZEN COMMENTS – Mayor Campbell asked the public if they had any general comments. Hearing none, he went on to the next item.

8. REQUEST TO BE ON THE AGENDA –

A. Request from Kim Wennerberg for Council to receive written approval for a variance of the 6-foot encroachment of an existing carport on the city Right-of-Way located at 47 East Live Oak Avenue to remain and be part of the closing documents of April 17, 2020

Kim Wennerberg explained the original owner built the carport over the right-of-way. In 2015, the new owner did not have a survey done before purchase. Now, the potential new buyer had a survey done and found the carport is encroaching onto the right-of-way. The new buyer requested a written approval from the city prior to closing on the property.

Mayor Campbell added we have had similar situations in the past, and the city clarified that if any sewer or other problems came up, the city would not rebuild anything that was encroaching on the right-of-way.

Planning Director K. Schultz spoke on the non-conforming use, adding the carport was built prior to the city having setbacks. In this instance, the property has a setback on East Live Oak and South 13th Street. The carport encroaches the right-of-way on South 13th Street. (Lost audio at 6:21 p.m., audio resumed at 6:23 p.m.) City Attorney Clay Adkinson said this situation falls under existing use; however, the owner would have to come to the city for any modifications. More importantly with the encroachment, if the city must do any work, the city does not have to replace the structure, as it is considered a non-conforming use. City Planner K. Schultz said there is no expansion and no jurisdiction with the Planning Board to address this issue at this time.

Councilmember R. McKnight stated the agenda form stated the buyer is requesting a variance. City Attorney Clay Adkinson explained a variance is not needed, as this is an issue of a non-conforming structure. He further explained the Council cannot act, so no action is needed. Because the encroachment has been brought to our attention now, if the city needs to tear the structure down for any work, we would not replace it.

Mayor Campbell explained that we lost audio for three solid minutes and did not hear the initial question or the response from K. Schultz and asked for clarification.

In response to the question asked by Councilmember T. Bierbaum, regarding whether the city would have to replace the non-conforming structure in the right-of-way if we had to tear down, City Attorney Clay Adkinson replied we have entertained similar situations in the past, but we would seek an exception from the Council under our use, if that were the case. Mayor Campbell added in the past we gave the homeowner permission, but informed them if work needed to be done, the structure would not be replaced.

City Attorney Clay Adkinson explained the issue before the Council is an exception to the non-conforming structure. It would be on their sole expense to replace but not in the right-of-way. In response to Councilmember K. Crystal, if we had to enter the right of way, we would give notice to the homeowner.

The final determination was no action was needed by Council.

9. EXECUTIVE REQUESTS – Item 9A

Councilmember R. McKnight brought up being able to conduct the meetings for Boards and Committees utilizing the Communications Media Technology. City Manager M. Smigielski replied that the Council will meet on the 27th and the Governor or Federal may have a response in two weeks. However, he was okay with the Boards and Committees using Communications Media Technology.

Debate ensued on the need for some meetings to move forward, as social distancing could be required through April or May. The Planning Board has a variance application, and the Veterans Crossing project may move forward, so notices need to be sent timely.

In response to Councilmember K. Crystal, City Attorney Clay Adkinson said Item 12A is rescheduled for May 26th, so it won't appear on the next Planning Board agenda.

Motion by Councilmember R. McKnight and seconded by Councilmember T. Bierbaum that those committees of the city that typically met face to face be able to begin to utilize the procedures of Communications Media Technology, at the time the members agree to do so.

Mayor Campbell agreed that both the Charter Review and Planning Board meetings need to meet.

Amended motion by Councilmember R. McKnight and seconded by Councilmember T. Bierbaum to move forward with using Communications Media Technology, at the time the committee members agree to use the technology and in consultation with the City Manager and Mayor, effective tomorrow.

ROLL CALL 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 Councilmember T. Bierbaum and seconded by Councilmember R. McKnight to allow the City Manager to approve certain outdoor events related to food trucks and farmer's markets to be excluded from our previous actions.

Discussion ensued on a food truck that is operating in the parking lot on the corner of Bruce and 331. According to K. Schultz, the food truck has a permit and has been operating on weekends, so they were unable to contact them.

In reply to Councilmember K. Crystal, City Attorney Clay Adkinson replied they would need to follow social distancing guidelines, as the State has provided. If they are selling food, they must be in conformance.

Discussion ensued on clarifying that the individual applies for a permit, they can sell their food goods, such as a food truck or peddlers. City Attorney Clay Adkinson said if that is the intent of the motion, it should be clarified.

Councilmember T. Bierbaum amended the motion to include other food services.

Motion Councilmember T. Bierbaum and seconded by Councilmember R. McKnight to allow the City Manager to approve certain outdoor events related to food trucks and farmer's markets to include other food services.

In reply to Councilmember K. Crystal, Planning Director K. Schultz replied applicants must apply on-line.

Councilmember W. Graham voiced concern that the Council should give it two weeks to get direction from the governor.

Councilmember R. McKnight stated the activities are being permitted in other cities, as food is an essential service. He added that part of the issue is the crowds in the supermarkets, so we could have better social distancing, if we have other methods for purchasing food.

City Marshal J. Hurley said the way they are operating, they are not doing it any different than a restaurant. In response to Mayor Campbell, he said the food trucks are doing what they can to ensure social distancing.

Councilmember H. Ennis agreed that we are decreasing their risks.

ROLL CALL Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye, Councilmember R. McKnight: Aye, Councilmember H. Ennis: Aye: Councilmember W. Graham: Nay. Ayes 4, Nays 1. Motion carried.

10. FINANCE- Reserved.

11. PUBLIC WORKS –

- A. Scott Jernigan/Stewart Duncan requests approval of the Change order to remove the purchase of a blower from Atlas Copco and issue a purchase order to Sulzer for the new equipment

Scott Jernigan, Jacobs Engineering, said we have requested a change to give us cost savings by purchasing directly from Sulzer for \$179,239 which will lower the cost for the blower by \$3,888 dollars.

Motion by Councilmember H. Ennis and seconded by Councilmember R. McKnight to approve the change order to remove the purchase of a blower from Atlas Copco and issue a purchase order to Sulzer for the new equipment.

ROLL CALL 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.

12. PLANNING –

- A. Planning Director, Kelly Schultz, requests a **motion** to reschedule a Public Hearing for May 26, 2020 at 6:00 p.m. CT (or soon as it can be heard) and authorize advertisement (to include those who signed the petition) for the Small Scale Amendment Application, #2019-SSA-05, from John Henderson for property located on Sheldon Avenue from Recreation to Medium Density Residential on 2nd Reading, entitled “Ordinance Adopting an Amendment to the City of DeFuniak Springs Future Land Use Map; Setting forth Authority for Adoption; Providing for Findings of Fact; Providing for Severability; and Providing for an Effective Date”

Planning Director K. Schultz explained the petitioner, Mr. Henderson, had requested the discussion be moved to the March 9th meeting, but the meeting was cancelled due to the COVID-19 cancellations. She requested the Public Hearing be heard on May 11th, and requested Council authorize to allow for notification to include those who signed the petition, provided she has an address for them. She asked to amend the motion to set the date on May 26th.

Motion by Councilmember K. Crystal and seconded by Councilmember T. Bierbaum to reschedule a Public Hearing for May 26, 2020 at 6:00 p.m. CT (or soon as it can be heard) and authorize advertisement (to include those who signed the petition) for the Small Scale Amendment Application, #2019-SSA-05, from John Henderson for property located on Sheldon Avenue from Recreation to Medium Density Residential on 2nd Reading, entitled “Ordinance

Adopting an Amendment to the City of DeFuniak Springs Future Land Use Map; Setting forth Authority for Adoption; Providing for Findings of Fact; Providing for Severability; and Providing for an Effective Date”.

In response to Councilmember R. McKnight’s question on the review by Dewberry which stated the Comprehensive Plan prohibits multi-family development along certain public streets, City Attorney Clay Adkinson replied that it is a small-scale amendment and will be heard at a quasi-judicial hearing. As he will have to swear the speakers in, he advised that the topic should not be discussed tonight. He suggested that Planning Director K. Schultz and he will update Councilmember R. McKnight via a telephone conference call later in the week.

ROLL CALL 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.

- B. Planning Director, Kelly Schultz, requests approval to hold a Public Hearing for the variance request from Donald Butts for a 20-foot front yard setback for property on Bay Avenue in order to build on an irregular shaped lot

Planning Director K. Schultz asked if Mr. Butts was present, and he replied he was available. She recapped the variance request stating the parcel is unique and directed Council to page 2 of the staff report to depict that the house will have a setback on all sides except south First Street. However, they have no intention of using the alley. They request a 20-foot variance and will treat that area as a side yard. The Planning Board approved it to come forward, and she has had only one phone call and the caller was in favor of it. In response to Councilmember H. Ennis, K. Schultz replied the petitioner is not requesting to build on the right-of-way.

Motion by Councilmember R. McKnight and seconded by Councilmember H. Ennis to approve the Public Hearing and approve the variance request from Donald Butts for a 20-foot front yard setback for property on Bay Avenue in order to build on an irregular shaped lot.

ROLL CALL 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.

- C. Planning Director, Kelly Schultz, requests a **motion** to conduct a Public Hearing and for 2nd Reading, Ordinance to Adopt an amendment of Section 1, Future Land Use Element, of the DFS Comprehensive Plan, providing for Adoption, providing for severability and providing for an effective date (Comprehensive Plan Text Amendment #2020-CP-01 creating a Future Land Use (FLU) Category to be known as Planned Development Zone

Planning Director K. Schultz explained that the action amends the Comprehensive Plan, by creating a new mixed-use future land use category allowing for more flexibility to be known as Planned Development. This category does not require a mix, so you could have either commercial or residential.

Motion by Councilmember K. Crystal and seconded by Councilmember H. Ennis to conduct a Public Hearing and allow for 2nd Reading, Ordinance for adoption of an amendment of Section 1, Future Land Use Element, of the DFS Comprehensive Plan, providing for Adoption, providing for severability and providing for an effective date (Comprehensive Plan Text Amendment #2020-CP-01 creating a Future Land Use (FLU) Category to be known as Planned Development Zone.

Mayor Campbell asked if there were any questions, but no one spoke.

ROLL CALL 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 explained further that the motion was to adopt the Ordinance with Public Hearing comments.

Planning Director K. Schultz stated for the record, it is Ordinance 907 and read by title stating today is the effective date.

- D. Planning Director, Kelly Schultz, requests a **motion** to conduct a Public Hearing and for 2nd Reading, Ordinance to Adopt 2020-LDC-02, an amendment to the Land Development Code Planned Development Zone

Planning Director, Kelly Schultz explained the amendment is part of the Land Development Code Planned Development Zoning District and is intended to provide areas for Planned Development Projects, with the project being at least 40 acres for this zoning district. The passage of this amendment ensures compliance with projects such as Veterans Lodge. The Planned Development concept is intended to provide for flexibility and large-scale planning relating to the location of land uses and density/intensity.

Motion by Councilmember T. Bierbaum and seconded by Councilmember R. McKnight to conduct a Public Hearing and for 2nd Reading, Ordinance to Adopt 2020-LDC-02, an amendment to the Land Development Code Planned Development Zone.

Mayor Campbell asked for any questions form the public and Council. No one spoke.

ROLL CALL 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.

Planning Director, Kelly Schultz stated it is Ordinance 907 and read it by title stating the effective date is April 13, 2020.

13. POLICE – Nothing brought forward.

14. CITY ATTORNEY – Nothing brought forward.

15. STAFF REPORTS – City Manager M. Smigielski reported that the IT Administrator, and the Deputy City Manager have started. The Planning Coordinator started today, and the new Fire Chief will start a week from today. They will be a tremendous help.

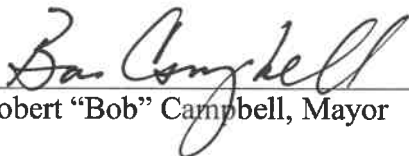
16. COUNCIL COMMENTS – Councilmember R. McKnight said the meeting went smoother than expected. He also commented that there is an increase in traffic at the Lakeyard and asked that restrooms at the amphitheater be opened. He added that there is no public facility for hand washing downtown, so we may want to examine a hand washing station and a second public toilet. We have some individuals that are unsheltered and do not have access to proper facilities. Councilmember H. Ennis agreed that was a good idea, if it could be worked out.


17. MAYOR COMMENTS – Mayor Campbell said we have everything closed, such as the parks, Community Center and Chautauqua building, so we will consider looking into whether we could concentrate outdoor labor to Chipley Park.

Mayor Campbell asked Deputy City Manager C. Lejeune if she had received any phone comments, and she had not.

18. ADJOURNMENT

Mayor Campbell adjourned the meeting at 7:22 p.m.


Robert "Bob" Campbell, Mayor


Maryanne Schrader, City Clerk
Proper notice having been duly given

