

DeFuniak Springs City Council
Regular Meeting Minutes
Community Center
September 14, 2020

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

Mayor Campbell called the meeting to order at 4:00 p.m. followed by the invocation and Pledge of Allegiance by Councilmember W. Graham.

3. PRESENTATION –

A. Walton Area Chamber – Consideration of a Resolution stating support for the Walton County Florida Tourist Development Tax

Megan Harrison, CEO, Walton County Chamber of Commerce. Thanked Councilmember K. Crystal for his work as an ex-officio member. She asked for support of the resolution for the Walton County Florida Tourist Development Tax which will appear on the November ballot. She said it will benefit the County north of the Bay, adding it is a tax the citizens do not have to pay. She mentioned the 2% tax will be used to collect over \$300,000 for the first two years. She said 23,000 jobs are created by tourism and 3.5 billion is spent in Walton County by tourists. She said 5.2 billion dollars is generated in total by the tourists in Walton County. She added 100% of marketing is funded by tourism tax that will benefit north Walton County. She added that a north Walton committee will be created that will assist the TDC and be made up of nine members after passage of the tax.

Councilmember K. Crystal asked if she is soliciting support for the tax, and M. Harrison replied that they are soliciting donations to offset the marketing cost through the Political Action Committee. Councilmember K. Crystal also asked what the marketing budget is for the city, and Deputy City Manager C. LeJeune said we do not have a budget. Councilmember K. Crystal added he fully supports the tax, as the money does not come out of taxpayer money.

City Attorney Clay Adkinson stated we cannot use local funds or resources to encourage voting for or against the ballot measures, so he will send an edit that is subject to legal conformity to Florida law. He added the benefits of the bed tax can be spelled out, however.

Motion by Councilmember T. Bierbaum and seconded by Councilmember K. Crystal to adopt a Resolution stating support for the Walton County Florida Tourist Development Tax, subject to legal conformity to Florida law.

Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye; Councilmember H. Ennis: Aye; Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

B. NWFSC Trade Programs and Walton Works – Jared Taylor

Jared Taylor came forward to talk about the introduction of the new building and increase of its footprint and presence in the area. Mr. Taylor mentioned that on October 29th, an outdoor workshop will be held at the college to showcase the Muddy Water Blues Erosion and Sediment Control program that assists in improving water quality during and after construction activities. He said with COVID 19, they were enabled to add more on-line registration. He mentioned Walton Works, which will add construction trades to the city. However, they need funding and support from business owners with agreements for employment. The jobs will yield a \$20 - \$25 rate once they graduate from the program. He displayed a site plan for the Chautauqua Center. He mentioned a water treatment simulator on-site stating it will be a self-sustaining model. He added it will be a research component to DeFuniak Springs. He distributed flyers for the program. He would like to add an agricultural component to the new addition.

Councilmember K. Crystal asked about the lifespan of the simulator, and Mr. Taylor said it would be twenty years.

4. CONSENT AGENDA

Additions/Deletions to the Consent Agenda

Approval of the 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 H. Ennis to approve the Consent Agenda.

Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye; Councilmember H. Ennis: Aye; Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

Approval of the Consent Agenda

A. Clerk

1. Minutes for approval: August 24, 2020 -Regular Minutes
2. Minutes for approval: August 17, 2020 – Special Minutes
3. Minutes for approval: August 18, 2020 - Budget Workshop Minutes
4. Minutes for approval: August 25, 2020 - Budget Workshop Minutes
5. Minutes for approval: September 8, 2020 – Special Budget Minutes

B. Administration - Reserved

C. Finance – Finance Supervisor Morgan Hulion - Bill Ratification – July and August 2020

5. Regular Agenda

Additions/Deletions to the Regular Agenda

Approval of the Regular Agenda

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

Motion by Councilmember T. Bierbaum and seconded by Councilmember K. Crystal to approve the Regular Agenda.

Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye; Councilmember H. Ennis: Aye; Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

6. ADMINISTRATION –

A. City Manager M. Smigielski – Holly Dincman, Labor Attorney – Motion to approve the PBA Agreement

Holly Dincman, Labor Attorney, came forward to present the agreement negotiations for consideration from their team. She mentioned the changes were strongly in favor of the city’s position. Some of the items negotiated were the modification of Article 5, Section 7 on internal investigations and disciplinary action, modification of the take-home vehicle policy in Article 14, removal of duplicate language, modification of the Field Training Officer provision, added the K-9 Officer position and the extension of the contract terms. She added the amendments will strengthen the city position.

Councilmember K. Crystal voiced concern about the take home vehicle policy, as he was concerned about the cars being worn out faster. He would prefer funding to go towards the expense of a new building.

Councilmember H. Ennis said when a law enforcement officer has to come back to the station on a call out, it extends response time. He added the police are paid lower, so it will benefit the officer.

Councilmember K. Crystal mentioned the other priorities with the new building and asked if the vote was for the entire document.

City Attorney Clay Adkinson said it is presented as one document.

Labor Attorney H. Dincman said it is presented as an up or down vote, so we would have to go back for negotiations. She added the changes are a big recruiting tool, as we do not pay as much as other agencies. It is also a benefit to morale. Not everyone would be at the twenty-mile radius, so it would be incremental. She added the take-home policy helps in responding to calls. You may want to consider it on balance and consider the big picture, as this will help with the day-to-day operation of the police department.

City Marshal J. Hurley said in today’s law enforcement profession, we have to be marketable. We pay \$38,000, so we have to market ourselves with good quality officers. The impact is not going to be as great as it sounds.

Councilmember W. Graham asked how it benefits the citizens. City Marshal J. Hurley said during a hurricane, officers are able to be on-call at a moment’s notice. He added if all the vehicles are in the same yard, inclement weather could wipe out the entire fleet. Since officers will be able to take home their vehicles, they will be cleaner.

In response to Councilmember T. Bierbaum, City Marshal J. Hurley replied if we have a traffic homicide, our officers have to handle it. It causes delay in responding, if the officers have to return to the station before responding.

Motion by Councilmember T. Bierbaum and seconded by Councilmember W. Graham to approve the Police Benevolent Association Agreement.

Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye; Councilmember H. Ennis: Aye; Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

Item 6B – City Manager M. Smigielski - Requests a motion to adopt the Mission/Vision/Values and Goals for the City Council.

City Manager M. Smigielski said the City Council had two sessions on Strategic Planning and came up with goals. He asked the Council if they would like any changes on the presented mission statement and goals. City Manager M. Smigielski said the original meeting had nine City Council goals, so they were pared down to four to reduce redundancy.

Motion by Councilmember H. Ennis and seconded by Councilmember T. Bierbaum to adopt the Mission/Vision/Values and Goals for the City Council.

Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye; Councilmember H. Ennis: Aye; Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

Item 6C – City Manager M. Smigielski –Requests approval of Recca Rene Youell, Attorney at Law, as the most qualified applicant and direct staff to bring back a contract for City Council review and approval.

City Manager M. Smigielski said the Special Magistrate Request for Qualifications were received, but we only received one. The submittal was reviewed and was determined to be qualified.

Motion by Councilmember T. Bierbaum and seconded by Councilmember H. Ennis to approve Recca Rene Youell, Attorney at Law, as the most qualified applicant and direct staff to bring back a contract for City Council for review and approval.

Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye; Councilmember H. Ennis: Aye; Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

Attorney Rene Youell came forward to introduce herself stating she looks forward to working with the city.

Item 6D. Deputy City Manager Carisse LeJeune – Requests a motion to approve the Resolution Authorizing the Mayor to execute a contract with TPC for Professional Planning Services.

Deputy City Manager C. LeJeune explained the review committee ranked the two submittals and brought forth the recommendation for TPC. She added staff negotiated the contract, and she asked for approval.

Motion by Councilmember K. Crystal and seconded by Councilmember H. Ennis to approve the **Resolution** Authorizing the Mayor to execute a contract with TPC for Professional Planning Services.

Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye; Councilmember H. Ennis: Aye; Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

Item 6E - Deputy City Manager Carisse LeJeune – Requests a motion to approve the Resolution in Support for the Chautauqua Hall of Brotherhood Foundation, Inc., fundraising efforts during the Annual Festival of Trees event.

Deputy City Manager C. LeJeune introduced the resolution stating the Council had formalized an agreement with the Chautauqua Hall of Brotherhood Foundation. The resolution supports the fundraising to purchase kitchen equipment.

Motion by Councilmember W. Graham and seconded by Councilmember K. Crystal to approve the Resolution in Support for the Chautauqua Hall of Brotherhood Foundation, Inc., fundraising efforts during the Annual Festival of Trees event.

Councilmember T. Bierbaum asked about the kitchen equipment, and Deputy City Manager C. LeJeune said we preferred a catering kitchen, as we did not want cooking in the building. They are looking at purchasing an industrial stainless-steel sink with a warming tray, refrigerator cooling tray, ice maker and moveable preparation station.

Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye; Councilmember H. Ennis: Aye; Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

Item 6F - Kara Chilcutt, Grant Coordinator – Acceptance of St. Joe Community Foundation Grant from Chautauqua Hall of Brotherhood Foundation, Inc. to purchase A/V equipment for the Chautauqua Hall of Brotherhood.

Kara Chilcutt came forward and introduced the members of the Chautauqua Hall of Brotherhood that were present for the acceptance of the check from the St. Joe Community Foundation. Shirley Carroll presented the check to Mayor Campbell and the City Council.

Item 6G - Kara Chilcutt, Grant Coordinator – Acceptance of the FEMA COVID-19 Grant Award Agreement.

K. Chilcutt said the city has received a FEMA COVID contract. The activities are still on-going, so we do not have an end date yet. We have \$10,108 on materials, such as sanitation supplies and other mitigation. She also said it includes \$5,904 through contracts and labor that was provided by staff which is at \$3,080 incurred so far. She asked for acceptance of the agreement.

Motion by Councilmember K. Crystal and seconded by Councilmember H. Ennis to accept the grant award agreement. All ayes. Motion carried.

7. CITIZEN COMMENTS

A. General Comments from the audience.

Bruce Butts, citizen, came forward and thanked Council for the open support of our police department.

8. REQUEST TO BE ON THE AGENDA – Dan Cosson – Appeal of the Certificate of Appropriateness Disapproval by the Planning Director

Dan Cosson said he started the application to erect a fence over nine months ago. However, two hours ago, he found that he has a resolution to his problem. He would like to defer the appeal request for a later meeting to ensure the issue is resolved and asked that he not be required to complete another application.

City Manager M. Smigielski said he could bring the agenda item back, if needed.

City Attorney Clay Adkinson said he is not being denied, so another application will not be necessary.

Dan Cosson said the rules the Planning Department work under are antiquated.

In response to Councilmember K. Crystal and his request to consider a creation of a committee to create standards, so all decision-making authority is not in one spot, historic standards, and clarity and direction, City Manager M. Smigielski said staff brought a solution for standards previously. He said Professor Hylton from the University of Florida has offered his services, and we just employed a planning group that has experience in historic standards.

Councilmember T. Bierbaum asked if the person is the same as the one who wrote the original plan and City Manager M. Smigielski replied he is not the same person.

9. EXECUTIVE REQUESTS –

A. Councilmember T. Bierbaum – Unanticipated Funds from Walton CI Contract – Direct staff on a course of action for the expenditure of unanticipated funds received

Councilmember T. Bierbaum said we should vote on the use of the unanticipated funds to contract with a landscaping firms to spruce up the area and get everything back up to par. He would like a two-week deadline.

In response to Councilmember K. Crystal, City Manager M. Smigielski said the funds were about \$16,000. He added that he did not know if ARC was still in the landscaping business.

Discussion ensued on whether a batwing mower should be purchased or whether a landscaper should be employed to get the mowing caught up.

Public Works Director Craig Drake said the batwing is 15 - feet wide, so it could do the job with one swipe compared to three. He thinks the shoulders could be knocked out in two or three days. It cost about \$17,000.

Councilmember T. Bierbaum asked about the medians. Public Works Director C. Drake said the medians will have to be done with zero turns, but with the batwing, the shoulders will be able to be done quicker.

In response to the Mayor, Public Works Director C. Drake responded he has had to pay overtime. Airport Director M. Overton added he has had to get help from Public Works.

Councilmember K. Crystal said another piece of equipment will not help us get caught up. He added this is money we were not expecting, so we should get caught up.

Public Works Director C. Drake said the piece of equipment will free up two employees.

Councilmember T. Bierbaum said it is a standing policy that funds are brought to Council for expenditure. He added the money was allocated in the budget to purchase the batwing.

Motion by Councilmember T. Bierbaum and seconded by Councilmember H. Ennis to direct staff to spend the funds on a third-party contract to help us get caught up.

In response to Councilmember T. Bierbaum, City Manager M. Smigielski said we do not have the money for the batwing purchase until we receive tax monies, and the unanticipated money has not been spent.

Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye; Councilmember H. Ennis: Aye; Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

- B. Councilmember T. Bierbaum – Restructuring Existing Debt Service – Direct staff to bring back recommendations on restructuring existing debt service in the next sixty days

Motion by Councilmember T. Bierbaum and seconded by Councilmember K. Crystal to direct staff to bring back recommendations on restructuring existing debt service in the next sixty days.

Councilmember T. Bierbaum said we should think about how to apply the savings. He added we also have significant projects, so we need to get the debt service paid down. He said the rates are historically low right now.

Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye; Councilmember H. Ennis: Aye; Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

- 10. **FINANCE** – Nothing brought forward.
- 11. **PUBLIC WORKS** – Nothing brought forward.
- 12. **PLANNING** –

A. Planning Director Kelly Schultz – Public Hearing on the Abandonment request from Andrea Q. Miley for the ROW Adjacent to 444 Dorsey Avenue

Planning Director Kelly Schultz said Andrea Miley is the owner and has requested the Right of Way (ROW) that is west of his property be abandoned. Ms. K. Schultz mentioned Mr. Miley wants to build a carport and is already parking at the site. She added the ROW has never been open, and the ditch is active. She mentioned both Mr. Miley and the adjoining property owner assumed it was on their property line. Ms. K. Schultz said the other property owner that is directly on Dorsey is deceased, but one of her daughter's is in favor of the abandonment, as long as the ditch is kept clean. Mr. Miley has maintained the ditch over the years. The daughter of the deceased owner asked for the documents that would convey their half of the ROW, if granted.

Ms. K. Schultz directed the Council to an aerial picture of the property. Ms. K. Schultz said the daughter who represents the other heirs lives in south Florida. Ms. K. Schultz mentioned Mr. Wiggs was present and represents the property owner. She also mentioned other property owners on the south side who provided a letter stating they did not want to abandon the property. They were noticed about tonight's Public Hearing, but she has not heard back from them. The ROW was created in 1913.

Mayor Campbell mentioned there are three access points on the east and west of the property, as well as north, center and south, thus stating the access to utilities is mute.

Planning Director Kelly Schultz said the biggest concern of Mr. Drake is the drainage area.

Motion by Councilmember W. Graham and seconded by Councilmember T. Bierbaum to approve the Abandonment request from Andrea Q. Miley for the ROW Adjacent to 444 Dorsey Avenue and the city maintain the right to the drainage.

Councilmember K. Crystal asked about the restrictions with the abandonment.

City Attorney Clay Adkinson mentioned the issue of the abandonment would be a fifty-fifty to the adjoining property owners. The drainage ditch is fully on the property line. He added the question is whether it was part of our stormwater management system. If it is, it would not be something the city would want to abandon. He added for the question regarding restrictions, we could reserve the right to the utilities. He voiced concern about city liability and suggested the request should be denied.

Councilmember H. Ennis stated he was not in favor of the abandonment because it creates too many problems.

In response to Councilmembers K. Crystal and T. Bierbaum about the additional information that has been added since the Council first heard of the issue, and Public Works Director C. Drake replied that they only thought of utilities and not the stormwater situation. After he rode out to the site, however, he realized that we had drainage and that it was part of the stormwater system.

Councilmember T. Bierbaum said it is not fair to the citizen, as he has spent money and come before us several times.

Planning Director Kelly Schultz passed around a picture of the ditch in question.

City Manager M. Smigielski said if there have been expenses to Mr. Miley, he should be reimbursed for the expenses he has incurred.

In response to Councilmember T. Bierbaum's statement that the other property owner could fill in the ditch, City Attorney Clay Adkinson replied the owner or city could subject themselves to liability that they do not currently have. He added the property owner or neighbor would have every right to pave or develop the property, if we abandon it.

City Attorney Clay Adkinson said the liability could come back on the city, if stormwater problems occur with development of the ROW. He added it is no different than abandoning a roadway. He cautioned the Council would have to make a decision on whether the city does not have use of the right of way and will not have a need for it in the future.

Mr. Miley said he has over twenty years in environmental engineering experience. He suggested a culvert could be added to help with the drainage.

Councilmember K. Crystal asked about the survey. Planning Director K. Schultz replied Mr. Miley had said he would get the survey, if the abandonment was approved.

City Attorney Clay Adkinson said the former Council did away with a requirement that a survey be done. Councilmember K. Crystal asked if Mr. Miley could take the liability, and City Attorney Clay Adkinson said no because the neighbor would get the other half of the ditch and would also take on liability.

Councilmember K. Crystal said the problem could impact someone down the road or across the street. M. Miley said the property owners need the drainage, as well.

Mayor Campbell mentioned Mr. Wiggs and his concern and liability of the stormwater, but City Attorney Clay Adkinson said Mr. Wiggs could not comment on any other issue as he is only present to represent the owners' position. He added to Mr. Miley's point, a culvert could be effective, but we do not have an engineer present to comment, as the engineer only addressed the utilities.

Councilmember T. Bierbaum said he would rescind his second and table the discussion for more information.

Councilmember K. Crystal said he cannot support the abandonment because of the liability.

Motion by Councilmember T. Bierbaum and seconded by Councilmember W. Graham to table the request until the next meeting until more information is received.

City Attorney Clay Adkinson said our engineering team will need to find out whether it was part of a stormwater management system, and whether it can be preserved if it is abandoned.

Councilmember T. Bierbaum asked Mr. Miley to ask the other property owner to determine whether they will take on responsibility for the other half of the ditch.

Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye; Councilmember H. Ennis: Aye; Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

13. **POLICE** – Nothing brought forward.

14. **CITY ATTORNEY**

- A. City Attorney Clay Adkinson - Requests a motion to adopt on 2nd Reading, An Ordinance of the City of DeFuniak Springs, Florida, Calling for a Special Election with a Referendum Question to be Placed before the Qualified Electors of the City of DeFuniak Springs, Florida On January 26, 2021; Providing a Charter Referendum Question Determining Whether to Adopt the Proposed 2020 City Charter Which Would Replace the Current City Charter; Providing for the Full Text of the Proposed 2020 Charter; Providing Findings; Providing for an Effective Date if the Proposed 2020 Charter is Approved; Providing for the Filing of the Ordinance With the Walton County Supervisor of Elections; Providing for Publication of the Text of the Proposed 2020 Charter; Providing for Filing with the Florida Department of State if the Proposed 2020 Charter is Approved; Providing for Conflicts; Providing for Severability; and Providing an Effective Date

City Attorney Clay Adkinson introduced the referendum ordinance and said we needed to open the Public Hearing. Mayor Campbell opened the Public Hearing at 5:45 p.m. for the Charter and referendum.

Citizen Dan Cosson came forward and said he read the Charter multiple times and recommended that it go forward. The Charter has met all of the requirements of the Grand Jury and takes the Mayor's responsibility to focus and be able to communicate with the Council, it breaks down our city government and the legislative branches, and the issue with the City Marshal has been resolved. He said the original Charter was created over 117 years ago. He commended Mr. Redwine for overseeing the process. He also commended Councilmembers R. McKnight and T. Bierbaum, and the city attorney who oversee the project to completion.

Motion by Councilmember T. Bierbaum and Councilmember H. Ennis to hold a Public Hearing and adopt the Ordinance on 2nd reading.

Mayor Campbell closed the Public Hearing at 5:48 p.m.

Vote: Councilmember T. Bierbaum: Aye; Councilmember K. Crystal: Aye; Councilmember H. Ennis: Aye; Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

City Attorney Clay Adkinson read Ordinance 910 by title. He added the Referendum will be put forth to the public in a Special Election on a single-issue question on January 26, 2021- stating,

“Shall the proposed 2020 Charter as set forth in this Ordinance to be adopted to replace the current City Charter be replaced in its entirety, with a Yes or No for adoption, and the majority vote prevails.”

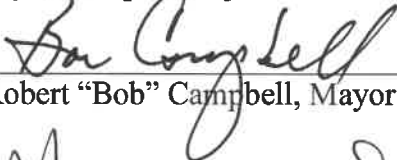
15. STAFF REPORTS – City Manager M. Smigielski mentioned he will bring the Waste Management contract back at the next meeting. He also stated should we work quickly on the Special Magistrate contract, he will have that back, as well. He said the Capital Improvements Plan may also come forward. He also spoke about compiling the fee schedule stating Lisa Gierlinski provided the research, and we have found several areas to update and increase. He said that item will come to the Council, as well.

16. COUNCIL COMMENTS – No other comments.


17. MAYOR COMMENTS – No other comments.

18. ADJOURNMENT

Mayor Campbell adjourned the meeting at 5:53 p.m.



Robert “Bob” Campbell, Mayor



Minutes taken by Maryanne Schrader, City Clerk
Proper notice having been duly given

