

**DeFuniak Springs City Council  
Regular Meeting Minutes  
County Courthouse  
September 28, 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); 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 Campbell called the meeting to order at 9:00 a.m. followed by the invocation and Pledge of Allegiance led by Councilmember T. Bierbaum.

**3. CONSENT AGENDA**

**Additions/Deletions to the Consent Agenda**

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

**Motion** by Councilmember H. Ennis and seconded by Councilmember T. Bierbaum to approve the Consent Agenda.

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

**Approval of the Consent Agenda**

**A. Clerk**

1. Minutes for approval: September 14, 2020 -Regular Minutes

2. Minutes for approval: September 18, 2020 – Special Minutes

**B. Administration** – HR Director Lacey Woodham – Requests a motion to approve Florida Blue as the provider for Medical and Prescription Coverage, no additional impacts, rate hold and included in the 2020/21 budget

**C. Executive** - Approval of appointments to the DeFuniak Springs Housing Authority with the re-appointment of Roselyn McLeod to a term ending in 2024 and the appointment of Daniel Newsome to a term ending in 2023

**4. REGULAR AGENDA**

**Additions/Deletions to the Regular Agenda**

**Approval of the Regular Agenda**

Mayor Campbell mentioned that if the new Charter passes, after the end of each fiscal year the Mayor will be required to give the State of the City, as the new charter will mandate it. However, he will give one the end of October after all the financial numbers are in.

Mayor Pro-Tem R. McKnight explained on item 8A, he wanted to state his opinion, and asked to strike the word “disappointment”. He added it is not meant to duplicate or cast a shadow on what the Mayor will provide.

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

**Motion** by Councilmember T. Bierbaum and seconded by Councilmember H. Ennis to approve the Regular Agenda.

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

## 5. ADMINISTRATION –

- A. City Manager Mell Smigielski – Triumph Gulf Coast, Inc. requests approval to move forward with the Pre-Application process for the Phase 1 Runway Expansion at the Municipal Airport

Jennifer Green of Triumph Gulf Coast, Liberty Partners came forward and introduced Tim Parson and Katie Taft of Grants Management who were in attendance. J. Green said the airport has potential for growth and Triumph determined the first need was to extend the runway in order to bring in large planes. She mentioned the governor vetoed the large project earlier, but she believes that projects that support growth, as well as the ones that were vetoed, will be looked at again. She mentioned the Job Growth Grant Fund application has been in for some time, but that was vetoed too. This proposal will quantify the amount of jobs. She mentioned there is a provision in Statute regarding training programs. They approached the schools such as Northwest Florida College and Walton County High School to partner for a training programs such as drone training and aviation. Walton Works is another in classroom program piece.

T. Parson spoke about the educational partnership and have looked into the certification demands.

J. Green added they will also look into the in-kind contribution.

K. Taft stepped forward to speak on the certifications for unmanned aircraft system safety certification and the visual on-site operator. These are FAA certified. She believes the two projects will complement each other and improve economic and job growth.

J. Green asked for approval and commitment. She said the term sheet will be reviewed by the Council attorney. She said the partnership will help Council reach its goals.

City Attorney Clay Adkinson said it is premature to consider a match. For today, Council will need to have staff review and review the funding match.

Mayor Pro-Tem R. McKnight suggested looking at a regional partnership with the Alabama Aviation Technical College, who have had a successful Avionics product for 55 years.

In response to Councilmember K. Crystal about whether Eglin has blessed the application, J. Green replied they have not talked to Eglin on airspace. He asked about Cybersecurity and gave them a contact for Eglin.

Councilmember T. Bierbaum said tying cybersecurity to the drones will complement the mission of the military.

Mayor Pro-Tem R. McKnight suggested adding a sentence in the application that we have procured airspace, as the city has open space. Mayor Campbell said we have 360 acres, so we could use our sewer plant resources. Councilmember T. Bierbaum added it is in the Economic Opportunity zone.

**Motion** by Mayor Pro-Tem R. McKnight and seconded by Councilmember T. Bierbaum to approve Liberty Partners and Triumph moving forward with the Pre-Application process for the Phase 1 Runway Expansion at the Municipal Airport.

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

J. Green stated they will return with a completed application for approval and continue working on other projects.

B. City Manager Mell Smigielski – Motion to approve the Special Magistrate agreement with Reca Rene Youell for Special Magistrate Services

City Manager M. Smigielski said staff has met with the new Magistrate. The discussion included preparing the docket, as well as compensation started at \$200 for the first hour of the Hearing and \$150 for remaining hours. The compensation will also include \$200 per hour for extensive research on cases.

**Motion** by Mayor Pro-Tem R. McKnight and seconded by Councilmember H. Ennis to approve the Special Magistrate agreement with Reca Rene Youell for Special Magistrate Services, as presented.

City Manager M. Smigielski said the committee also discussed a point when another magistrate would be needed, so once the processes are complete, we will go out for a second magistrate to cover where there may be a case of a conflict.

City Attorney Clay Adkinson said he may attend some of the meetings, in case he has to defend the city's position, or if there is something that comes up with our code.

Councilmember K. Crystal asked about the date and time, and City Manager M. Smigielski said the Hearing will be at 2:00 p.m. the third Thursday of every month.

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

- C. City Manager Mell Smigielski – Motion to approve on 1<sup>st</sup> Reading, An Ordinance Adopting a Capital Improvements Schedule pursuant to the Community Planning Act of 2011, 2011-139, Laws of Florida, F.S. 163.3177 3. (b), Providing for Repeal of Conflicting Provisions, providing for a Short Title, Providing for Findings, Providing for Severability, and Providing for an Effective Date

City Manager M. Smigielski said the Old Spanish Trail and Baldwin Avenue were left out of the matrix. The downtown improvements were agreed on for Baldwin Avenue. They also added the police items such as the replacement gate and patrol and vehicle fleet. He added the CIP must be approved with the budget approval next year.

Mayor Campbell asked about the drain at Lake DeFuniak. It has taken two or three years to recede, and it did not take long after the last rain to come back up. He asked to have it added to our Capital Improvements. We also need to have circulation in the lake. Councilmember H. Ennis mentioned adding a drain has been discussed in the past. He added there used to be a walkway below the sidewalk.

Mayor Pro-Tem R. McKnight pointed out the roadway improvements, stating there is \$748,000 for various streets and wanted to ensure the CIP includes 20<sup>th</sup> from the new streetlight to Live Oak, as it is poor with potholes. He mentioned for sidewalks, we should add new sidewalks and ones in need of repair. In the CIP, all the sidewalks are clustered in one section of the city. We need to consider where walking and pedestrian travel is warranted. There are major problems with ADA compliance in several areas. He is concerned about the half million dollars in 2025 for renovation including the cemetery office. He mentioned there was request for a cover at the amphitheater for shade. He added he wants the plan to give us flexibility.

Councilmember T. Bierbaum said we should have a paving program that rates the streets and sidewalks to see which one is addressed that are in the worst condition.

Councilmember K. Crystal asked about a paving plan. City Manager M. Smigielski said he has asked Public Works to produce a plan, which is part of the bond. He agreed we need a rating system. He responded that we have thirteen square miles of streets with six miles being unpaved. City Manager M. Smigielski anticipates the plan should be ready by the second meeting in October.

Councilmember W. Graham voiced concern for the schools and sidewalks for safe passage. City Manager M. Smigielski said the Safe Streets program includes the sidewalks.

Councilmember T. Bierbaum said previous TPO meetings have talked about state funding which is available.

Councilmember K. Crystal added the plan should include the lighting issue.

H. Ennis suggested working with the County, as they have a good program.

Mayor Pro-Tem R. McKnight asked about generating a city map that displays our sidewalks and street lighting. City Manager M. Smigielski said the GIS Coordinator has left, so we are looking for another one. Mayor Pro-Tem R. McKnight suggested a location map for our public streetlights, so we could view which neighborhoods are disproportionately in need.

City Manager M. Smigielski said Public Works and the Police Department are also monitoring areas. Mayor Campbell said starting with the worst first is a good idea.

**Motion** by Mayor Pro-Tem R. McKnight and seconded by Councilmember T. Bierbaum to table the 1<sup>st</sup> Reading, or an Ordinance adopting a Capital Improvements schedule until we receive additional comments.

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

## 6. CITIZEN COMMENTS

### A. General Comments from the audience

Sara Comander came forward and agreed that the city should work with the County paving program, as they have criteria on the roads. She thanked the Mayor for attending the 4<sup>th</sup> of July and thanked Councilmember K. Crystal for helping bring them over the top for funding.

She said the DBPA decided not to have the Halloween celebration previously, but they have been bombarded by parents. The DBPA has decided they will hold Halloween Happening and have partnered with small businesses. They request the streets be blocked off on Saturday starting at 4 p.m. She added the booths will be distanced ten feet apart, and they all will need to wear a mask.

Planning Director K. Schultz came forward and said there is no conflict that day. She added there is a Special Event wedding coming before the next meeting, but we can work with them.

**Motion** by Councilmember K. Crystal and seconded by Councilmember H. Ennis to grant the Halloween Happening Special permit, as stated.

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

City Attorney Clay Adkinson mentioned the Governor has moved us into Phase III reopening status, which affects which businesses and organizations could do lawfully. The request is one basis for taking the issue up under its normal requirement.

## 7. REQUEST TO BE ON THE AGENDA – Nothing brought forward

## 8. EXECUTIVE REQUESTS –

### A. Councilmember R. McKnight – Opinion of key accomplishments for the current fiscal year

Councilmember R. McKnight mentioned this is the last meeting for this Fiscal year. He said in his opinion we have had a remarkable year. He said the largest accomplishment was the approval for a Referendum for the new Charter mentioning the ballots will go out after Christmas with the absentee ballots for overseas going out the 14th of December. He mentioned this is the end of the second full year of the same City Manager. We have added a Deputy City Manager, Fire Chief, Special Magistrate, IT Manager, Cemetery Coordinator, Code Enforcement Officer and a K-9 dog. We have the Live Oak improvements; the first floor of the Chautauqua Building is near completion with a review of our proposal showing no problems; we have posted the Mission, Vision and Values on the website and encouraged them to be posted at City Hall; the new sidewalk was installed at the Lake yard, we have improved performance evaluation policies, and we survived ZOOM as a Council.

Councilmember K. Crystal noted the accomplishments of Finance Director, Debra Gibson stating she has caught us up on our audits and even gets them in early. Debra said she will be here two years in December.

### B. Councilmember R. McKnight – Motion to develop an appropriate public education campaign to alert citizens of the upcoming changes in Code Enforcement and the new risk of fines

Mayor Pro-Tem R. McKnight said we have had no teeth, no fines, and no penalties. We now have a process where people will be summoned in front of a judge. He would like a public education campaign which will give people the opportunity to clean up their mess. He added one of the violators has been on the list since 2008.

**Motion** by Mayor Pro-Tem R. McKnight and seconded by Councilmember K. Crystal to develop an appropriate public education campaign to alert citizens of the upcoming changes in Code Enforcement and the new risk of fines.

Councilmember K. Crystal said he has spoken to the Matrix Executive Director and their committee would help the ones who are disabled or truly needy. This will go a long way in helping the situation. In reply to whether we have a list of the penalties, Planning Director K. Schultz said we have a list and will bring the list to the Council after Administration review. She has also spoken to the Matrix, Northwest Florida State College regarding construction, as well as several other groups to come up with a system to seek assistance.

T. Bierbaum commented that we have had discussion on pro-active code enforcement with anonymous complaints and to have it within 60 days for approval.

City Attorney Clay Adkinson asked the Council how long the education campaign will run, and if there are changes to delay the time for the first Special Magistrate meeting, as the ordinance has been advertised.

Council discussed the campaign advertisement and enforcement. Special Magistrate Rene Youell said the Hearing notice will only go out to the current violators by Statute. The new rules and fees will apply to new violators that do not comply.

City Attorney Clay Adkinson said the staff will go ahead with the campaign for the ones going forward and not for the ones in the backlog.

Councilmember K. Crystal voiced his concern for the need for our Code Enforcement Officer to carry a firearm and have a police officer attend the Hearings. Planning Director K. Schultz said Chief Hurley has arranged to have a police officer at the Hearing. Councilmember K. Crystal said we do not have metal detectors at our City Hall and you never know how angry someone could become.

In reply to Councilmember W. Graham and how the criteria will be measured for those who need assistance, Planning Director K. Schultz said the Matrix has a vetting process that they use, so we will bring it to council for review.

**Motion** by Councilmember T. Bierbaum and seconded by Mayor Pro-Tem R. McKnight to direct staff to bring back Ordinance changes related to proactive code enforcement and accepting anonymous Code Enforcement complaints no later than the November 9, 2020 meeting.

Mayor Pro-Tem R. McKnight said he received an email from Mr. Reynolds Henderson, developer, who indicated it had been seventy-five days since the Council first requested the Planning Department to make the ordinance change. Mr. Henderson also mentioned it at the last CRA meeting.

City Attorney Clay Adkinson said Mr. Henderson addressed similar concerns to him after the meeting on the natures of the revision. The Planning Department is researching the categories of blight. He said it will concern changes to Section 11.1 and 11.2 which were adopted in July, so he will update the sections and can have it ready for the next meeting. However, staff has indicated they want to add additional information. We will also need to identify categories of blight, so that proactive enforcement changes could be back within sixty days. He would like to have the proactive enforcement and the anonymous complaints be in affect before the first Special Magistrate Hearing. He asked the motion to be amended and have the full ordinance with categories of blight and fines, which he will have back to Council within sixty days.

**Motion** amended by Councilmember T. Bierbaum and seconded by Mayor Pro-Tem R. McKnight to bring back an Ordinance with a proactive code enforcement and the inclusion of anonymous complaints for the next meeting and fines and blight categories within sixty days.

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

Mayor Campbell announced he will need to leave at 11:00 a.m.

C. Councilmember T. Bierbaum – Resolution approving the Adoption and Implementation Policy for the Budget Process and Fiscal Management

Councilmember T. Bierbaum said he brought the resolution forward to expedite our budget process. He clarified that item #1 deals with end of year reporting, but this year he would like to give staff ninety days. Item #1 addresses fund balance which will provide us with a yearly reporting, Item #2, addresses the CIP, so he wants priorities and strategies done prior instead of at the budget meeting. Item #3 addresses how the transfers are being moved, so we can have a better understanding. He would like to see a report with the transfers and one without the transfers. This year 1.2 million was transferred. We need to know our expenditures going out five to ten years. He would like a budget comparison versus the actual and remaining funds. Also, there is a line item for charge back, so he wants to see the transfer out of the budget to get a clearer understanding. He added the end of year report will not consist of the audit ready numbers.

In reply to Councilmember K. Crystal regarding a cutoff date, Finance Director D. Gibson said we are in transition with Tyler, so she cannot provide a fund balance this September 30<sup>th</sup>. She added the audit ready report is not received until as late as February. Councilmember T. Bierbaum said suggested amending item #1 to state that it will be an agenda item to give Council discussion.

Mayor Pro-Tem R. McKnight stated a concern he had was the inconsistency of formatting from all the departments and asked if the resolution could be brought up at the next meeting. However, Councilmember T. Bierbaum said the resolution is an expression of policy and would like to take action.

**Motion** by Councilmember T. Bierbaum and seconded by Councilmember Mayor Pro-Tem R. McKnight to approve a Resolution approving the Adoption and Implementation Policy for the Budget Process and Fiscal Management as amended to include: Initially, within ninety (90) days of October 1<sup>st</sup> and then commencing hereafter, within sixty (60) calendar days of October 1<sup>st</sup>, City staff shall present to the City Council an agenda item for discussion.

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

City Attorney Clay Adkinson announced the Resolution is number 2020-23.

**9. FINANCE –**

- A. Finance Director Debra Gibson – Requests a motion to amend the Christmas Reflections budget by an increase of \$78,615 due to the major improvements to the lights and designs after the City took over the project

Finance Director Debra Gibson came forward stating after the city took over Christmas Reflections, the budget for FY 2019/2020 needed to be amended.

**Motion** by Councilmember K. Crystal and seconded by Councilmember H. Ennis to amend the Christmas Reflections budget by an increase of \$78,615 due to the major improvements to the lights and designs after the City took over the project.



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

Mayor Campbell passed the gavel to Mayor Pro Tem R. McKnight at 10:53 a.m. and left. Mayor Pro-Tem R. McKnight called for a recess for seven minutes. Council resumed the meeting at 11:00 a.m.

**10. PUBLIC WORKS –**

- A. Elissa Pettis, Dewberry, requests a motion to approve the Live Oak Wastewater Improvements Change Order #1 contract with RBM Contracting Services, LLC, as a gas main was encountered which resulted in an installation of a sanitary sewer line requiring additional paving and Change Order #2 in the amount of \$15,952.25, as well as approving the City Manager to execute the Change Order #1 and #2 (Funds are reimbursable through the CDBG Grant)

Elissa Pettis mentioned Change Order number one, stating a couple of weeks into the project an unknown gas main was discovered and needed to be shifted farther north. Sidewalks were increased, and they allowed the contractor to keep moving, so they did not have an interruption.

**Motion** by Councilmember W. Graham and seconded by Councilmember H. Ennis to approve the Live Oak Wastewater Improvements Change Order #1 contract with RBM Contracting Services, LLC, as a gas main was encountered which resulted in an installation of a sanitary sewer line.

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

Elissa Pettis went over Change Order #2, regarding the gas main shift which required additional paving, and added she deducted some laterals. She does not anticipate any more changes.

**Motion** by Councilmember H. Ennis and seconded by Councilmember T. Bierbaum to approve Change Order #2 in the amount of \$15,952.25.

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

- B. Craig Drake, Public Works Director, requests a motion to approve the use of budgeted funds of \$251,212 for the Live Oak Avenue Paving Project

Craig Drake, Public Works Director explained after speaking to E. Pettis, the previous amount of \$222,500 needed to be increased, however, once we get the bond, we will replace it in the budget.

**Motion** by Councilmember H. Ennis and seconded by Councilmember T. Bierbaum to approve the use of budgeted funds of \$251,212 for the Live Oak Avenue Paving Project, amended from the previous amount of \$222,500.

E. Pettis replied to Mayor Pro-Tem R. McKnight that the project should be completed sometime in December, however with the additional paving, it may be extended into March.

In response to Councilmember T. Bierbaum about the extension, Public Works Director C. Drake said it will extend from Live Oak through 26<sup>th</sup> street, which includes striping.

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

C. Craig Drake, Public Works Director, Right-of-Way Abandonment Request from Mr. Miley for property adjacent to 444 Dorsey Avenue

Craig Drake, Public Works Director, said at the time the request to abandon the ROW came in from Mr. Miley, he did not see the ditch. Initially, Engineer, Cliff Knauer, advised the city not to abandon the right-of-way because of the utility easement.

**Motion** by Councilmember H. Ennis to deny the Right-of-Way Abandonment Request from Mr. Miley for property adjacent to 444 Dorsey Avenue. Motion died for a lack of a second.

Mayor Pro-Tem R. McKnight called for a point of order. City Attorney Clay Adkinson said Mayor Pro-Tem R. McKnight can make a second for the purpose of discussion.

**Motion** by Councilmember H. Ennis and seconded by Mayor Pro-Tem R. McKnight to deny the Right-of-Way Abandonment Request from Mr. Miley for property adjacent to 444 Dorsey Avenue.

Councilmember H. Ennis said it will cause easement problems.

Councilmember T. Bierbaum asked Council to consider Mr. Miley's request with a compromise, as 50% goes to Mr. Miley and the other half to his neighbor. Mr. Miley has an agreement from the neighbor to deed his half back to the city, so we would retain the ditch. Councilmember H. Ennis asked that the agreement be added that the City maintain the utility easement.

City Manager M. Smigielski concurs with the city engineer on denying the abandonment request.

Discussion ensued on whether the city should abandon the easement or follow the engineer's advice. Council also voiced concern that Mr. Miley has come before them three times. They also discussed the agreement that Mr. Miley has with one of the neighbors.

City Attorney Clay Adkinson said there are three other adjacent property owners, so we would need agreements from them, as well. He mentioned stating the abandonment would be

contingent on the western half of the abandoned parcel being waived and remain in the city's ownership by virtue of all property owners of the western parcel and the portion abandoned would be subject to a utility easement. The resolution of abandonment would not be recorded until we received the agreements.

**Motion** amended by Councilmember H. Ennis and seconded by Councilmember K. Crystal that the abandonment be contingent upon the western side property owners ceding interest to that property and deeded and recorded back to the city and the eastern portion owned by Mr. Miley would remain subject to any utility easement.

Councilmember K. Crystal said no one has done a survey and requested a survey be done, so we know where the boundary lines are located. City Attorney Clay Adkinson asked if that would reflect all improvements of the stormwater ditch, tie-downs, power pole and require a survey.

Councilmember H. Ennis said we cannot know where the easement is without a survey.

**Motion** amended by Councilmember H. Ennis and seconded by Councilmember K. Crystal that the abandonment be contingent upon the western side property owners ceding interest to that property and deeded and recorded back to the city and the eastern portion owned by Mr. Miley would remain subject to any utility easement all improvements of the stormwater ditch, tie-downs, power pole and require a survey.

Mr. Andrea Miley said he wanted to wait for the abandonment to have a survey, as once it is divided, he will need to get another survey.

City Attorney Clay Adkinson explained the entire easement area on the western and eastern side can be done with one survey, so they will be able to divide for a Parcel A and Parcel B. City Attorney Clay Adkinson said we just need an easement that specifically shows the division. This ROW should be depicted as a parcel on the survey with a legal description with improvements, the ditch and showing a division of Parcel A and Parcel B.

Mr. Miley said the city should pay for the survey, however, Council stated he would need to pay for the survey of the ditch.

**Motion** voted on the amendment, as stated above.

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

City Attorney Clay Adkinson said we will bring a resolution forward to the Council after the survey by Mr. Miley is done.

- D. Craig Drake, Public Works Director, requests approval to use the Department of Corrections refund to pay staff overtime to get the ROW's and medians ground maintenance back on schedule

Craig Drake, Public Works Director said staff will sign up to come in late and on weekends to get caught up on the mowing. Councilmember T. Bierbaum asked about the batwing, and C. Drake said he has ordered the batwing after receiving the quotes.

**Motion** by Councilmember W. Graham and seconded by Councilmember T. Bierbaum to approve the use the Department of Corrections refund to pay staff overtime to get the ROW's and medians ground maintenance back on schedule.

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

11. **PLANNING** – Nothing brought forward.
12. **POLICE** – Nothing brought forward.
13. **CITY ATTORNEY** – City Attorney Clay Adkinson said he had an informational update regarding electoral activities on the Charter.

City Attorney Clay Adkinson stated he could address individual questions directly regarding conduct or acts covering electoral activities on the referendum in January on the Charter. A question was raised from a Councilmember R. McKnight as to what extent may Council get involved?

City Attorney Clay Adkinson stated that broadly Florida Law prohibits acts relating to the city as we cannot use city staff during working hours or require them to advocate for or against the referendum. It is inappropriate to ask the staff to print materials off. The staff cannot create lists, make copies, or make phone calls. Similarly, no one can give money to a PAC on government property or in a city building. You cannot solicit donations and no money can be used on political advertisements. So, no expenditures from public funds on political actions and electioneering. Electioneering applies to candidate races, and in Section F.S. 106.113, it deems to include electioneering communication. The question becomes, what can you spend money on? No money can be spent on drafting resolutions or publications. For political advertisements you cannot state to vote for, vote against, support or defeat. We can publish an informational brochure. It must be content neutral. We can state what we have done to get to this stage. We could look at an informational piece with factual material. We cannot advocate for or against adoption. We can give historical facts on why we started the amendment to the Charter. Council cannot use their official position to influence someone's vote per Section 104.31. However, you may offer an opinion on off-duty hours. He added, if you take a position for or against the City Charter, in public or media, Council should clarify that you are speaking as a citizen and not as a Councilmember. Specifically, regarding the authority of Councilmembers, on electioneering, it could be construed as an action by the Council as a whole. For a best practice, you could state

you are a citizen speaking on the subject. Make it clear you are not acting as a Councilmember. He stated it would be best to not go to any city employees asking to vote for or against the referendum because you are in a supervisor position. Also, do not use your time on the clock to take a position. He asked that the members contact him directly for specific questions.

Mayor Pro-Tem R. McKnight said the Supervisor of Elections said the mail-in ballots will be sent out the day after Christmas, and for those outside of the area, the ballots will be sent out about the 14<sup>th</sup> of December.

Mayor Pro-Tem R. McKnight asked for a verbatim transcript of what Mr. Adkinson said for the Council and Mayor. City Attorney Clay Adkinson will relay the information to the Mayor.

**14. STAFF REPORTS** – City Manager M. Smigielski mentioned he will bring the Waste Management contract back at the next meeting. The Chelco purchase will also come at the next meeting. The water tower lease for the Internet service from the County site provider will also come forward. He added a Project Management class is being offered to several staff members.

**15. COUNCIL COMMENTS** – Mayor Pro-Tem R. McKnight announced the next meeting, will be October 12<sup>th</sup> at 4 p.m. at the Courthouse.

Councilmember W. Graham asked about the Veterans Lodge project. City Manager M. Smigielski said the state wants additional time to review, so it will come forward the second meeting in October. City Attorney Clay Adkinson said because we did a text amendment simultaneously, the State has elected to take additional time to review both of the issues. He added the next meeting with Veterans Lodge is this week.

Councilmember K. Crystal said he is in real estate and wanted to let the public know that his company may potentially bid on the surplus properties that are for sale. He will recuse himself regarding anything dealing with it.

City Attorney Clay Adkinson said this is a sealed bid, so it falls under the exemption. There are status conflicts or voting conflicts, so he recommends that a Councilmember Crystal recuse himself of any vote. He pointed out in Section 112.313 under exemption 12b, regarding the exemption for best bidder. He said Mr. Crystal will not use his position to influence or persuade. We will also file an Ethics exemption with the Supervisor of Elections to combine all necessary exemptions. This requirement would also include the CRA or Planning Board members.

**16. MAYOR COMMENTS** – No other comments.

**17. ADJOURNMENT**

Mayor Pro-Tem McKnight adjourned the meeting at 11:42 p.m.

*Robert McKnight*

Robert McKnight, Mayor Pro-Tem

*Maryanne Schrader*

Minutes taken by Maryanne Schrader, City Clerk

*Proper notice having been duly given*

