

CATHERINE D. ROBINSON
MAYOR

JOHN ROGERS
VICE-MAYOR

DAN DAVIS
CITY MANAGER



Crossroads of Flagler County

COMMISSIONERS:

ELBERT TUCKER

BILL BAXLEY

JOHN SOWELL

BUNNELL CITY COMMISSION MINUTES

Monday, May 8, 2017

7:00 PM

201 West Moody Boulevard,
City Commission Chambers - Building 3
Bunnell, FL 32110

- A.** Call Meeting to Order and Pledge Allegiance to the Flag: Vice Mayor Rogers called the meeting to order at 7:00 PM and led the Pledge of Allegiance to the Flag.

Roll Call: Present: Vice Mayor Rogers, Commissioner Elbert Tucker, Commissioner Bill Baxley and Commissioner John Sowell, Attorney Wade Vose, City Manager Dan Davis and City Clerk Sandra Bolser.

Excused: Mayor Catherine D. Robinson.

Invocation for our Military Troops and National Leaders: Pastor Daisy Henry led the invocation.

- B.** Introductions, Commendations, Proclamations, and Presentations:

B.1. Introduction: Swearing in of Officer Michelle Wichman: Police Chief Foster introduced and performed the ordination of the Oath of Office to the City's newest Officer Michelle Wichman.

B.2. Introduction: Jameun Hamilton, Community Development Coordinator: Acting Community Development Director Kristen Bates introduced Jameun Hamilton.

B.3. Introduction: LeAnne Burke, Finance Department Employee; Finance Director Stella Gurnee introduced LeAnne Burke.

B.4. Introduction: Utility Department New Employees: Utility Department Manager Mike Baldwin introduced Dustin Vost and Nick Dewind. Loren Boren was not present.

B.5. Presentation: Commendations for Utility Department Licenses and Certificates: The following employees were recognized for their achievements: Jason Palmer- Water Treatment – Class "B" License; Randy Strickland-Waste Water Treatment Class "C" License; Matt Vaculik-Water Distribution License; and Billy Baker-Waste Water Collection License.

B.6. Proclamation: May 1-7 Municipal Clerks Week: Vice Mayor Rogers read the Proclamation.

- C.** Consent Agenda:

C.1. Approval of Warrant
a. 2017 05 08 Warrant

C.2. Approval of Minutes
a. 2017 04 24 City Commission Meeting Minutes

C.3. Request to appoint Carl Lilavois as a regular member of the Planning, Zoning and Appeals Board for a three-year term.

C.4. Request to award contract to Alliant Engineering for Engineering Services.

Motion: Approve Consent Agenda.

Motion by: Commissioner Baxley

Seconded by: Commissioner Sowell

Public Comments: None

Board Discussion: None

Vote: Motion carried unanimously.

D. Public Comments:

Comments regarding items not on the Agenda. Citizens are encouraged to speak; however, comments are limited to four (4) minutes.

County Commissioner Donald O'Brien stated there are (4) four appropriations that will effect the County and asked the Board and the citizens to contact the Governor's office to protect those appropriations. City Attorney Vose asked if it would be best for the commissioners and staff to contact the Governor's Office individually or would a resolution work better.

Daisy Henry advised the City needs to repair a sewer line cap at the corner of Bay and Elm. Also, there is a young man on a four-wheeler tearing up the grass on the Carver sports fields. She is pleased about seeing some movement on junk cars. She also stated the Mary Fullwood house will be demolished soon.

Justin White asked if there is any movement on the traffic signal he had requested on SR-100 at North and South Chapel Street. He also reported a drone was being flown over the neighborhood. He feels it is an invasion of privacy and asked if there is any regulation on the usage of such a device. He advised the City should regulate this type of activity. Attorney Vose asked how large the drone was. He further advised the size of the drone is what triggers whether it must be registered with the FAA.

Liz Williams, Flagler County Drug Court Foundation, asked the Commission to waive the \$50.00 application fee for a yard sale planned in the City of Bunnell to support this organization. Vice Mayor Rogers advised the Board is no longer allowed to waive fees but he offered to donate half the money, Commissioner Tucker offered to donate the other half.

Wayne Perry stated he is homeless and suffers from Autism and PTSD, he asked the Commission to direct the Bunnell Police Department to help him get in contact with the appropriate authorities because he is a victim of crime and would like to see justice done.

City Manager Davis explained that the traffic signal request was passed on to the FDOT and we will pass the information along as soon as the City has learned more. He also stated the City is making progress on the junk cars.

E. Ordinances: (Legislative):

E.1. Ordinance 2017-10: Amending Code of Ordinance Section 6-1 Consumption in public places – Second Reading: The City Attorney read the short title of the ordinance into the record.

Motion: Adopt Ordinance 2017-10: Amending Code of Ordinance Section 6-1 – Consumption in public places on second reading.

Motion by: Commissioner Baxley

Seconded by: Commissioner Tucker

Public Comments: None

Board Discussion: None

Vote: Motion carried unanimously.

E.2. Ordinance 2017-11: Amending the Capital Improvements Element of the Comprehensive Plan – First Reading: The City Attorney read the short title of the ordinance into the record.

Motion: Approve Ordinance 2017-11: Amending the Capital Improvements Element of the Comprehensive Plan on first reading.

Motion by: Commissioner Sowell

Seconded by: Commissioner Baxley

Public Comments: None

Board Discussion: None

Vote: Motion carried unanimously.

E.3. Ordinance 2017-12 Amending Code of Ordinance Chapter 34 Firefighter's Pension Plan. - First Reading. The City Attorney read the short title of the ordinance into the record. The Finance Director provided a brief overview of the ordinance and advised this is the first reading. Ms. Gurnee advised the new fire chief does not have the need of this pension plan and requested to opt out. The attorney for the pension board drafted this proposed ordinance to allow the Fire Chief to opt out of this plan.

Motion: Approve Ordinance 2017-12: Amending Code of Ordinance Chapter 34 Firefighter's Pension Plan on first reading.

Motion by: Commissioner Baxley

Seconded by: Commissioner Sowell

Public Comments: None

Board Discussion: Commissioner Sowell asked if the Fire Chief would be able to benefit from this pension plan.

Vote: Motion carried unanimously.

F. Resolutions: (Legislative): *None*

G. Old Business: *None*

H. New Business:

H.1. Request to cancel the Florida Department of Transportation (FDOT) traffic light repair and maintenance contract. City Manager Davis explained the reason the City requested to cancel this contract is because the City must rely on a company that is about one hour away and that is not always responsive. If the entire system was destroyed, the City would be responsible to replace it. Mr. Davis advised the City has already spoken with the FDOT and they are completely comfortable with everything. The City of Palm Coast is covering all the Cities in Flagler County, so the whole contract would go to Palm Coast.

Motion: Approve the request to cancel the Florida Department of Transportation (FDOT) traffic light repair and maintenance contract.

Motion by: Commissioner Sowell
Seconded by: Commissioner Tucker
Public Comments: None
Board Discussion: None
Vote: Motion carried unanimously.

H.2. Request Approval of the Polk County piggyback agreement with Asphalt Paving Systems Inc. Public Works Director Perry Mitrano and City Engineer Fred Griffith explained the request to piggyback with Polk County. Mr. Griffith advised this is the best application for consideration. City Manager Davis advised the City budgeted \$100,000 and this will only cover one City block. If we use this new application, it would provide about seven or eight times the coverage.

Motion: Approve the request to piggyback on the Polk County Agreement for Asphalt Paving Systems Inc.

Motion by: Commissioner Tucker
Seconded by: Commissioner Baxley

Public Comments: Daisy Henry asked the City to remember the unpaved area of Bay Street to Elm Avenue.

Board Discussion: None

Vote: Motion carried unanimously.

H.3. Flagler County School District (FCSD) and City of Bunnell (the City) interlocal agreement for garbage service. City Manager Davis gave a brief overview of the request. It is hard to determine if the contract is cost effective because of the wear and tear on the trucks. This contract almost forces the City to purchase a third truck. If we go back to the core of the City we will not have to purchase a third truck or cut staff. City staff is trying to live within its means which might include cutting back and just concentrating on the core of the City.

Motion: Approve the request to terminate the interlocal agreement for garbage service with the Flagler County School District (FCSD).

Motion by: Commissioner Baxley
Seconded by: Commissioner Tucker

Public Comments: None

Board Discussion: Commissioner Sowell asked when we should purchase the next truck and how much it would cost. Mr. Mitrano stated it would cost \$300,000 and it needs to be included in next year's budget. Commissioner Sowell asked how much does the School Board save with our contract. Mr. Mitrano stated they saved \$38,000 just for signing with the City because the City does not charge a fuel surcharge. Commissioner Sowell stated his first consideration is to the City of Bunnell. He feels what we have is a pricing problem and should also be considering the wear and tear on the trucks. Since we are at the place where we can do a 90-day notice, we should also be able to renegotiate the price. Commissioner Baxley asked Finance Director Gurnee about the costs considering the wear and tear on the trucks, the tires, and fuel compared to the amount of money we are charging. Ms. Gurnee advised that it looks like the City is making a few thousand dollars if we are just looking at direct costs. She reminded the Board of the auditor's comments in the FY 2015 audit about the City not charging administrative service fees to the Solid Waste fund. This means the general fund has been supplementing the Solid Waste fund for a long time. Solid Waste has not been paying for any administrative support. If we add these indirect costs, it is doubtful that the outcome would be positive. This fund has a severe cash flow problem. The general fund has had to consistently loan money to the Solid Waste fund just to make operating expenses. The auditors will tell us again in the 2016 audit that the Solid Waste fund is struggling. Commissioner Baxley asked if the City could raise the rate to fund the total cost of the contract and Ms. Gurnee advised, if we do keep the contract we are going to need new garbage trucks; one for the City and one for the School Board Contract.

Vote: Motion carried 3-1 with Commissioner Sowell voting no.

The following motion and vote was after there was already a motion and second on the floor. Due to the amount of discussion, no one realized this second motion was entered.

Motion: Table the item until it could be discussed further at a workshop.

Motion by: Commissioner Sowell

Seconded by: Commissioner Tucker

Vote. Motion died 2-2. Summary Vote: Yes: Commissioner Sowell and Commissioner Tucker; No: Vice Mayor Rogers and Commissioner Baxley.

H.4. Espanola Lodge request for additional Payment Plan. Finance Director Gurnee explained the request. Her recommendation is to require the customer to pay a new deposit for water, sewer, and for solid waste and to enter into a 3-month payment agreement for the past due amount of \$975.20. The City will record a lien against the property until the account is brought current.

Motion: Approve the request for additional payment plan with the Espanola Lodge.

Motion by: Commissioner Sowell

Seconded by: Commissioner Tucker

Public Comments: None

Board Discussion: Commissioner Baxley how far does the City go before the account is turned off. Ms. Gurnee advised it takes approximately 2-months because the City bills behind.

Vote: Motion carried unanimously.

H.5. Proposal of Draft Bingo Ordinance by Chiumento Selis Dwyer Law Firm authorizing "Instant Bingo Machines" within City of Bunnell: City Attorney Vose explained this agenda item relates to a draft ordinance proposed by the law firm of Chiumento Selis Dwyer.

Staff strongly recommends that the City Commission not entertain the passage of this ordinance as currently drafted, or any ordinance purporting to legalize "Instant Bingo Machines" in-light-of current State laws. The City Attorney concurs with staff's recommendation. Attorney Vose referenced the agenda attachments wherein he provided detail on the background of the actions taken by City staff. Michael Chiumento explained his understanding of the background and handed out an information sheet (see attached).

Motion: Send the proposed ordinance to the office of Florida Attorney General Pam Bondi, to have an Attorney General's Opinion rendered as to the validity and legality, as well as whether the proposed Electronic Instant Bingo provisions of the ordinance conflict with F.S. 849.15, 849.16 or any other statute relative to gaming or gambling in our fair state. Also, does the City have the authority to not allow Bingo if the Attorney General says it's legal.

Motion by: Commissioner Tucker

Seconded by: Vice Mayor Rogers passed the gavel and seconded the motion

Public Comments: None

Board Discussion: Commissioner Sowell asked who licenses these machines and what protections does the consumer have that the machines are not rigged or faulty. He also asked about the paper card that is serial numbered on site so that the consumer could challenge the validity of the machine. Commissioner Sowell also asked if the City has the authority not to allow this activity even if it is found to be legal. Commissioner Baxley advised he depends on Attorney Vose to provide the Commission with legal advice and Attorney Vose has advised this Board the electronic bingo being discussed here is illegal. City Manager Davis advised the FDLE agents involved in this case were specifically trained and knew what to look for. They were a task force for enforcing illegal gambling operations in the state. Vice Mayor Rogers asked if these computer games are skill or chance. Attorney Vose asked Attorney Chiumento to provide him with their legal opinion and written materials within 3-weeks. Mr. Chiumento agreed.

Vote: Motion carried 3-1, **No:** Commissioner Baxley.

I. Reports:

- **City Clerk:** Thanked Vice Mayor Rogers for sponsoring the National Day of Prayer. He paid for the refreshments and did a wonderful job of outlining the speaker lineup and keeping the event on schedule.
- **City Attorney:** Nothing to Report.
- **City Manager:** Mr. Davis advised everything is on schedule for the City Commission Retreat.
- **Mayor and City Commissioners:**
 - **Vice Mayor Rogers:** Vice Mayor Rogers indicated he received a call about people dumping debris in the ditch on North Anderson. He also added the National Day of Prayer event was a good day.
 - **Commissioner Tucker:** Nothing to report.
 - **Commissioner Baxley:** Nothing to report.
 - **Commissioner Sowell:** Nothing to report.

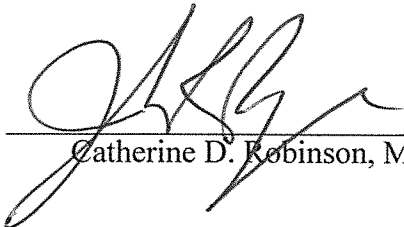
J. Call for Adjournment.

Motion: Adjourn the Meeting at 8:56 PM.

Motion by: Commissioner Baxley

Seconded by: Commissioner Tucker

Vote: Motion carried unanimously.



Catherine D. Robinson, Mayor

5-22-17

Date



Sandra Bolser, CMC, City Clerk

5/22/17

Date