

**CITY OF CHIPLEY
REGULAR COUNCIL MEETING
MINUTES**

January 8, 2019

6:00 p.m.

Attendees:

Ms. Tracy Andrews, Mayor
Mr. Kevin Russell, Council Member
Mr. Tommy Sasser, Council Member

Mr. Brett Butler, Mayor Pro-Tem
Mrs. Linda Cain, Council Member

Others Present Were:

Mr. Dan Miner, City Administrator
Mr. Scott Thompson, Police Chief

Mrs. Patrice Tanner, Asst. City Administrator/City Clerk
Mrs. Michelle Jordan, City Attorney

The data reflected in these proceedings constitute an extrapolation of information elicited from notes, observations, recording tapes, photographs, and/or videotapes. Comments reflected herein are sometimes paraphrased, condensed, and/or have been edited to reflect essential subject matter addressed during the meeting. Parties interested in receiving a verbatim account of the proceedings are responsible for coordinating with the City Administrator and providing their own representative and equipment pursuant to Chapters 119 and 283, Florida Statutes.

- A. **Call to Order.** The meeting was called to order by Mayor Andrews at 6:00 p.m.
- B. **Prayer and Pledge.** Prayer was given by Mr. Sasser and Mayor Andrews led the pledge to the American Flag.
- C. **Citizens Request.**
The City of Chipley welcomes you to this meeting. This is time set aside for the Citizens of Chipley to address the City Council. This is not a question and answer period, it is not a political forum, nor is it a time for personal accusations and derogatory remarks to/or about city personnel. If you would like to address the City Council please come to the podium, state your name and address for the record and limit your comments to not more than three (3) minutes per Florida Statute 286.0114. Your participation is welcomed and appreciated.
- No citizen requests. No further discussion.
- D. **Approval of Agenda.** Mayor Andrews added item #5 – Noise Ordinance; item #6 – Grant Writer discussion; item #7 – Resolution No. 19-17 – CDBG Agreement and we need to amend Resolution No. 19-18 into item #2. Mr. Miner requested adding item #8 – State of the Bultman Site for the attorney to go over with the Council. No further discussion.
- A motion was made by Council Member Cain and seconded by Council Member Sasser to approve the agenda with the additions/changes. The motion passed unanimously.
- E. **Presentation and Approval of Minutes.**
1. **Regular Council Meeting – December 11, 2018**
- A motion was made by Council Member Russell and seconded by Council Member Sasser to approve the minutes as presented. The motion passed unanimously.
- F. **Agenda Items.**
1. **Presentation of Christmas Parade Float Winners** – Tourist Development Council, Mrs. Heather Lopez. Mrs. Lopez thanked the Council for allowing this community event to continue and take place at such a devastating time in our community. Mrs. Lopez announced and presented the Christmas Parade Float Winners as follows:
 - 3rd Place – Poplar Springs Queens
 - 2nd Place – Chipley Woman’s Club
 - 1st Place – Mr. Henry CookMayor Andrews congratulated the winners. No further discussion.
 2. **Mongoven Building Strategy & Approval of Resolution No. 19-18** – Fuqua & Milton, P.A., Clay Milton. Mr. Miner explained that Mr. Clay Milton with Fuqua & Milton was present at the workshop last week and discussed options of disposing or doing whatever was decided with the Mongoven Building. The direction given was to put the building up

for surplus and sell it and this resolution does this. The next step is for the RFP to be designed by the attorney and it will be put out to bid. Discussion ensued.

A motion was made by Council Member Cain and seconded by Council Member Butler to approve Resolution No. 19-18. The motion passed unanimously.

3. **Approval of Professional Services Agreement** – Mott MacDonald, LLC. Mayor Andrews explained there were additional sheets provided for your review in reference to this agreement. Mr. Miner explained this is the EJCDC Engineers Joint Contract Documents Committee Agreement between the Owner and the Engineer for Professional Services for USDA funding. He explained the items that were missing were the American Iron & Steel which was added as Exhibit "L". Discussion ensued.

A motion was made by Council Member Sasser and seconded by Council Member Russell to approve the Professional Services Agreement with Mott MacDonald, LLC. The motion passed with four (4) ayes and one (1) nay. Council Member Cain opposed.

4. **Approval of Special Event Application** – Reis Show dba Lewis and Clark Circus. Mr. Miner explained the Lewis & Clark Circus rescheduled due to the hurricane and would like to hold the circus at Pals Park on March 27, 2019 from 5:00 p.m. to 9:30 p.m. He stated we can expect up to 200 people to attend. Discussion ensued.

A motion was made by Council Member Sasser and seconded by Council Member Cain to approve the Special Event Application for Reis Show dba Lewis and Clark Circus. The motion passed unanimously.

5. **Noise Ordinance.** Mrs. Jordan presented the Council with a very rough draft proposed ordinance which she would recommend amending Chapter 11 of the current nuisance code. She explained the draft ordinance basically follows the general outline of Callaway's ordinance. She asked that the Council review it, add to it or take away from it, and bring any comments back to the next workshop for further discussion. Mayor Andrews asked if Mrs. Jordan took into consideration how to measure the noise level. Mrs. Jordan explained the feasibility of the enforcement of this type of ordinance is in debate, so if you set a decibel level I would expect you to have your officers armed with meters and they have to be onsite on the scene. It is kind of like a radar for speeding, you have to have the ability to measure it objectively and not subjectively. Mr. Sasser stated loud enough to disturb the peace. Mrs. Jordan stated that is a very subjective statement but that doesn't mean it's not enforceable. The standard is disturbing the peace and quiet. If it disturbs the quiet, comfort or repose of reasonable persons. She explained there is not a measurable level for the noise other than this reasonable person's standard. Mr. Butler asked how that is enforceable if you cannot nail it down. Mrs. Jordan stated kind of like an obscenity, you know it when you see it. Mrs. Cain stated if it's a drunken party with hollering and cussing going on or loud music after a certain hour and the neighborhood is awakened by it. Mr. Russell asked if the officers have to physically see it taking place to be able to enforce it. Mrs. Jordan stated not with a subjective standard because they will base it on the neighbor's complaints. Mr. Sasser asked if this in any way addresses a vehicle with a loud radio going by your house and rattling the windows. Mrs. Jordan stated this would generally fall under section (a) (1) but the officer has to catch them. Mr. Butler stated so this is geared toward repetitive activity going on. Mayor Andrews stated she doesn't think you can do anything with loud music from a car. Chief Thompson stated there is a Florida Statute which addresses excessive music or noise coming from a vehicle and the Supreme Court struck it down as free speech. Mayor Andrews asked the Council to take it home and review it, add to it or take away from it, and we can discuss comments next month. Mr. Butler asked if the subjective measurability is easier to enforce than something that has a hard number like a distance or a decibel level. Mrs. Jordan stated yes, it is more difficult for the charged person to challenge when there is not a measurable standard. She explained an analogous would be someone being pulled over for suspected driving under the influence and they refuse to take a breathalyzer. It is more difficult to enforce driving under the influence when you don't have that data. Mr. Miner asked how you determine when a complaint is made and they canvas the area and get statements and they only have one or maybe two out of 20, is that enough to do something. Mrs. Jordan explained it leaves a lot of discretion in the hands of the officer as to whether it really disturbs the quiet of reasonable persons in the area. Mrs. Cain explained if they call the officer and he goes over there and sees it for himself. Mr. Miner stated that is key to anything, call when you see or hear anything so they can address it immediately. Mayor Andrews stated we will pick up on this next month. Discussion ensued.

6. **Grant Writer.** Mayor Andrews explained Mrs. Tanner is going to get us some materials to review before our next meeting in reference to our discussion for the need of a grant writer for the city. Mr. Sasser asked if we would put out an RFP if we decide to hire a

grant writer. Mayor Andrews stated yes we would put out an RFP. Mrs. Cain explained we need to look at getting a team that will get paid by the grant, not us hire somebody and put them in an office here. Mr. Sasser stated like a subcontractor. Mrs. Cain stated whoever does it needs to have finance, planning, funding, design and administration all in one team. Mayor Andrews explained that is what we are going to discuss at the workshop to try to focus around that portion of it. Discussion ensued.

7. **Resolution No. 19-17 – CDBG Agreement.** Mr. Miner explained we were approved for a \$700,000 grant and the city pledged \$50,000 so you may see it announced as a \$750,000 grant. The \$50,000 pledged was for resurfacing and that gave us points to help in getting the grant. The project addresses several water lines in various parts of the city where they were needed most. The Public Works Director and the engineer got together and looked at different lines that needed to be upgraded. This resolution is for the approval of the grant agreement. Mr. Sasser asked when we will have a good idea how far down the list we can go. Mr. Miner explained we will advertise for engineering services and the engineer will design the project. They know the going rates for installing water lines so when we advertise for construction there will be a minimum submittal of these water lines and the bid alternates for these other water lines and we will take it as far as the money will take us. Mr. Sasser stated so we really don't know at this time how far down the list we will go. Mr. Miner stated no we do not. He explained the engineer will determine a base bid of what we can build with the money we have and everything else will be bid alternates. We will not know that until the bids come in. Mr. Butler asked if the list is prioritized in any way. Mr. Miner stated yes it is. Mrs. Cain stated with the worst at the top. Discussion ensued.

A motion was made by Council Member Sasser and seconded by Council Member Butler to approve Resolution No. 19-17. The motion passed unanimously.

8. **State of the Bultman Site.** Mr. Jordan explained we encountered a hiccup in the purchase of the Bultman Property for use as a spray field. Last month they disclosed a farm lease which expired in November. However, the former tenant made a demand on the seller for access to the property and for the ability to remove the sod (it was being used as a sod farm) and that has morphed into, as of yesterday, the former tenant demanding \$640,000 or some other demands to acquire the sod. Mrs. Jordan explained she has to commend Mr. Miner because he has really gone above and beyond to try to negotiate and the tenant has not been reasonable. Mrs. Jordan stated her recommendation was for the seller to proceed with the sale and place the \$640,000 into escrow and the former tenant would release the city, and that was declined by the former tenant. Myself and the sellers attorney are in agreement that the lease expired by its own terms in November, but we have actual knowledge of this real demand made by the former tenant so I cannot recommend the city proceed without either a release from the tenant which they are not going to give, or the city file a lawsuit to ask the court to determine the parties rights under that lease. She explained she would also recommend that the city consider suing the former tenant for a tortious claim of intentional interference with a contract. Mr. Miner can explain some of the deadlines the city has to meet. Mrs. Jordan explained in order to utilize this property and I think this tenants claim is frivolous and the sellers attorney thinks the tenants claim is frivolous and by mucking this up it is putting a lot at risk, not just the closing but potentially some of your funding and the use of this property. She stated you have to be aggressive at this point. I am usually very, very conservative as far as expending public money on litigation, but there has been a lot of work to get the property to this point and you have invested a lot in this deal, and if you want to move forward with the purchase you are going to have to clear title and this is going to be the only way to do it. Mr. Russell stated it seems like he is trying to hold onto the property so he can keep using it. Mrs. Cain asked if there was a clause in the lease that stated he could continue using it or renew it. Mrs. Jordan said the actual document is not what she expected there are normally provisions in a farm lease that give the farmer the ability to get the crops, but there wasn't any. It was just a standard commercial lease and it expired and neither of them have given any evidence that there was an agreement to renew the lease. She explained while this is wholly the seller's responsibility to fix because they are obligated to provide clear title to the city, if you want to move forward with the deal, the city is going to have to take some aggressive action. Mayor Andrews stated she understands clearly. Mr. Sasser stated he would suggest we do whatever it takes to get this property even if we have to file a suit against the tenant. Mrs. Jordan explained it's going to be against both the seller and the tenant. The lawsuit against the seller is more of a friendly lawsuit saying to the courts we don't know what our rights are and we need you to tell us if this lease is valid or not; but as to the tenant their position is completely frivolous and they are interfering with a business deal and they do not have any right to. Mr. Butler stated he thinks we need to proceed because we have come too far down the road to start this process over. Mr. Sasser stated he thinks we need to proceed. Mr. Russell asked if the tenant was knowledgeable that we were pursuing the property before the actual lease went out. Mrs. Jordan stated that is why the tenant made these demands. Mrs. Cain asked how far back did the city

make a deal with this man. Mr. Miner stated several months ago the deal was made with the Bultman's. Mrs. Jordan stated the existence of the lease wasn't disclosed until after this became an issue. Mr. Miner explained when the Council approved the purchase of the property we didn't know about the lease. The only thing we knew about a lease was there was someone out there haying and we would have been more than glad to continue that, but he wants the sod. Mr. Butler stated if he knew we were talking to the landowner in September and his lease was expiring in November, it would be on him. Mr. Miner stated it is his understanding he did know. Mrs. Jordan stated his lease was for five years. Mrs. Cain asked if he planted the sod. Mr. Miner explained he may have over seeded it or planted it, he is unsure. He explained he can look at aerials back to 1994 and it was a grass field, probably for cattle or something. I cannot tell you what it was or if he improved it. I can look at aerials and tell it's been cut before but I do not know what kind of investment the tenant has in the property or what kind of money he has made off of the property. Mrs. Jordan explained we have proposed multiple options including allowing the tenant to come in and remove the sod. Mr. Butler asked if the offer to remove the sod over time was rejected as well and Mrs. Jordan stated yes. Mrs. Cain asked if there are no other alternatives for a spray field site. Mr. Sasser stated we have already invested a considerable amount in this property and testing. Mr. Miner explained he cannot tell you of another site that is going to be better or even close to this. Mrs. Cain asked about DOT discussions on spraying I-10. Mr. Miner explained that was looked at and the problem is that I-10 is no better than the rest of Chipley when it comes to soils and when it comes down to it I-10 has to go through Federal Highway Administration because it is a federal highway, it's not the States' highway. FDOT looked into it and seemed interested but it never gained any traction. Mr. Miner explained he really believes the way we would have to irrigate I-10 would be very maintenance intensive. Mrs. Cain stated she wished we had it where we could spray it in our yards. Mr. Russell stated so we do not have time from a funding standpoint to throw the dice and see what happens. Mrs. Cain stated a lawsuit isn't going to be quick. Mrs. Jordan stated a best case scenario we are 60-90 days in from getting on the courts calendar. Mr. Butler stated he does not see a faster alternative so he says go ahead and proceed. Mayor Andrews asked if there is any other discussion in regard to what was presented by Attorney Jordan. Mrs. Jordan asked if the Council would like for her to convey one more time to the tenant, either work it out or we are going to court. She stated she will prepare the complaint and send a copy with the letter and give a 48 hour response time. Discussion ensued.

A motion was made by Council Member Butler and seconded by Council Member Sasser for the attorney to notify the tenant and seller either work it out or we are going to court and give them 48 hours to respond, and if it is an unsatisfactory response then the attorney is to proceed with litigation. The motion passed unanimously.

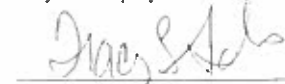
Other Matters:

Mrs. Cain stated she has had many calls that have asked when the city is going to pick up the smaller limbs and trash the big trucks are leaving. Mr. Miner explained we have not picked up because we are trying to get through the debris pick-up process first. They are 75% through the second pass. A complete pass has been made through Washington County where the debris could be picked up. There are downed lines still and in some places it cannot be picked up. Mayor Andrews asked that Mr. Miner get with Kevan Parker to see what the status is of the debris pick-up. Discussion ensued.

Mrs. Cain explained to Chief Thompson that she has been getting a lot of complaints about speeding on the side streets. They are saying they are not seeing police patrol these streets. She asked if we have a flashing sign for speeding. Chief Thompson said he will try to get his hands on a flashing sign. Discussion ensued.

A motion was made by Council Member Russell and seconded by Council Member Sasser to adjourn the meeting at 6:40 p.m.

City of Chipley



Tracy L. Andrews, Mayor

Attest:



Patrice A. Fanner.

Assistant City Administrator/City Clerk