



City of Foley, AL

407 E. Laurel Avenue
Foley, AL 36535

Meeting Minutes - Final City Council

Monday, June 2, 2014

5:30 PM

Council Chambers

Council Meeting

Call to Order

Council President Wayne Trawick called the meeting to order at 5:30 p.m.

Roll Call

All Council Members were present. Also present: Mayor John Koniar, City Administrator Mike Thompson, Katy Taylor, Steve Smith, Joyce Hall, Jime Hall, Bryan Shutt, Joel Jenkins, Kipp Trawick, Thurston Bullock, Chad Brewer, Taylor Davis, Don Staley, Juanita Houston, Riley Houston Sr., press representatives Cathy Higgins (Onlooker) and Marc Anderson (Press Register/AL.com).

Present: 5 - President Wayne Trawick, Council Member Vera Quaites, Council Member Ralph Hellmich, Council Member Rick Blackwell and Council Member Charles Ebert III

Pledge of Allegiance

Additions/Removals

Council Member Ralph Hellmich made a motion to add items 14-0389, 14-0390 and 14-0332 to the agenda. The motion was seconded by Charles Ebert III and carried by an unanimous vote.

Approval of Minutes

[14-0369](#)

Work Session Minutes of May 16, 2014

Attachments: [05-16-2014 WS Meeting Minutes.pdf](#)

A motion was made by Council Member Rick Blackwell to approve the Work Session Minutes of May 16, 2014. The motion was seconded by Council Member Vera Quaites and carried by an unanimous vote.

[14-0371](#)

Council Meeting Minutes of May 16, 2014.

Attachments: [Council Meeting Minutes of May 16, 2014](#)

A motion was made by Council Member Ralph Hellmich to approve the Council Meeting Minutes of May 16, 2014. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

Ordinances, Resolutions and Other Business

[14-0214](#)

An Ordinance To Amend Ordinance No. 929-06 An Ordinance Prohibiting Smoking In Workplaces and Public Places To Include E-cigarettes. This Ordinance is too large for Legistar to print. The Ordinance is attached in its entirety as Exhibit A.

Attachments: [929-06 ORD](#)
 [No Smoking Including E-Cig.](#)
 [Clean Air Zone Sign](#)
 [No Vaping Signs](#)
 [Smoking Ordinance](#)

Council Member Vera Quaites made a motion to approve the first reading of an ordinance to amend Ordinance No. 929-06 An Ordinance Prohibiting Smoking In Workplaces and Public Places To Include E-cigarettes. The motion was seconded by Council Member Ralph Hellmich and carried by an unanimous vote.

Enactment No: 14-1017-ORD

[14-0348](#)

Sinkhole Repair on W. Peachtree Ave.

Attachments: [R&S Paving Quote Peachtree](#)

A motion was made by Council Member Charles Ebert III to approve R&S Paving's proposal in the amount of \$7,500.00 for the sinkhole repair on West Peachtree Avenue. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

Enactment No: 14-0202-RES

[14-0357](#)

Request a resolution approving a partnership with Foley High School Cross Country Team for the Corpse Crawl 5K at Graham Creek Nature Preserve

Attachments: [Corpse Crawl 2014](#)

A motion was made by Council Member Ralph Hellmich to approve partnering with the Foley High School Cross Country Team to host the Corpse Crawl at Graham Creek Nature Preserve on August 9, 2014; the City will receive all payments for the race participation and will pay all expenses for the race; Eighty (80%) percent of the profits from the Corpse Crawl event will be donated to the Foley High School Cross Country Team. The motion was seconded by Council Member Vera Quaites and carried by an unanimous vote.

Enactment No: 14-0203-RES

[14-0365](#)

Records Request Forms

Attachments: [Records Requests Form.pdf](#)

A motion was made by Council Member Rick Blackwell to approve the Request for Public Records policy to include associated fees that will be receipted to the Copy & Recovery Fees account. The motion was seconded by Council Member Charles Ebert III and carried by an unanimous vote.

Enactment No: 14-0204-RES

[14-0366](#)

Accepting Annexations by Legislative Act 2014-409

Attachments: [ACT 2014-409.PDF](#)

A motion was made by Council Member Ralph Hellmich to accept the annexations by Legislative Act 2014-409; City services to the area will be effective July 1, 2014 and the City's records shall indicate infrastructure as being maintained by the City in places that are deemed appropriate. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

Enactment No: 14-0205-RES

[14-0367](#)

Authorizing Agreement with Flat Rate Processing d/b/a GovtPortal to Provide Credit Card Payment Processing Services

Attachments: [DOC017.pdf](#)

A motion was made by Council Member Vera Quaite to authorize entering into an agreement with Flat Rate Processing d/b/a GovtPortal to provide credit card processing services; to authorize acceptance of Visa, Master Card and Discover Card as means of payment for certain funds due to the City and to authorize the Mayor to execute the agreement on behalf of the City. The motion was seconded by Council Member Ralph Hellmich and carried by an unanimous vote.

Enactment No: 14-0206-RES

[14-0368](#)

Amendment to Ordinance No. 1018-07 (Business License Ordinance) relating to half year license fees

Attachments: [DOC018.pdf](#)

A motion was made by Council Member Ralph Hellmich to approve the first reading of an ordinance to amend Ordinance No. 1018-07 (Business License Ordinance) relating to half year license fees. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

Enactment No: 14-1018-ORD

[14-0370](#)

Request to Contract with Powerman USA Duathlon

A motion was made by Council Member Ralph Hellmich to appropriate \$5,000

for the bid fee payable to Powerman USA Duathlon and to approve the expenditure of the same. Powerman USA Duathlon is a run-bike run event where participants run 6.2 miles, bike for 37.2 miles, then run again for 6.2 miles. This event will be held at Graham Creek Nature Preserve. The motion was seconded by Council Member Charles Ebert III and carried by an unanimous vote.

Enactment No: 14-0207-RES

[14-0372](#)

Rejects all Bids for Construction of an additional Fire Station and approves rebidding

A motion was made by Council Member Charles Ebert III to reject all bids for the construction of an additional Fire Station and to grant permission to rebid the project with revised specifications and to appropriate up to \$4,500 in bid and rebid related costs. The motion was seconded by Council Member Ralph Hellmich and carried by an unanimous vote.

Enactment No: 14-0208-RES

[14-0375](#)

Drainage Improvements at North Pine Street and West Fern Avenue

Attachments: [Resolution 14-0201](#)
[HMR - N. Pine & W. Fern Drainage](#)

A motion was made by Council Member Rick Blackwell to approve Hutchinson, Moore & Rauch LLC's proposal in the amount of \$46,000 for engineering services related to drainage improvements at North Pine Street and West Fern Avenue. The motion was seconded by Council Member Ralph Hellmich and carried by an unanimous vote.

Enactment No: 14-0209-RES

[14-0376](#)

Approval For The Gulf Coast Gospel Jubilee To Be Held Saturday, October 4, 2014 At The Foley Soccer Complex From 9:00 A.M. Until 5:00 P.M.

Attachments: [Gulf Coast Gospel Jubilee](#)

A motion was made by Council Member Vera Quaites to approve the Gulf Coast Jubilee to be held Saturday, October 4, 2014 at the Foley Soccer Complex from 9:00 a.m. until 5:00 p.m. All proceeds from this festival will go directly to the Lighthouse and CARE House. The motion was seconded by Council Member Ralph Hellmich and carried by an unanimous vote.

[14-0378](#)

Consider 050- Retail Beer (Off Premises Only) and 070- Retail Table Wine (Off Premises Only) ABC License transfer from Juniper Food Mart to HCL LLC under the trade name of HC and L Food Mart located at 515 E. Laurel Avenue, Foley, AL.

Attachments: [ABC - HC AND L FOOD MART](#)
[HC and L Food Mart Map](#)

A motion was made by Council Member Rick Blackwell to approve the ABC License transfer from Juniper Food Mart to HCL, LLC. under the trade name of HC and L Food Mart located at 515 E. Laurel Avenue. The motion was

seconded by Council Member Ralph Hellmich and carried by an unanimous vote.

[14-0379](#)

Approval For The Dia dela Raza Festival To Be Held Sunday, October 19, 2014 At The Foley Soccer Complex.

Attachments: [Dia de la Raza Festival](#)

A motion was made by Council Member Ralph Hellmich to approve the Dia dela Raza Festival in celebration of National Hispanic Heritage Month and Columbus Day to be held Sunday, October 19, 2014 at the Foley Soccer Complex. The motion was seconded by Council Member Charles Ebert III and carried by an unanimous vote.

[14-0380](#)

Drainage Improvements in Alley at South Alston St. and West Orange Ave.

Attachments: [DOC051214-05122014101238](#)

A motion was made by Council Member Ralph Hellmich to approve Hutchinson, Moore & Rauch, LLC's proposal in the amount of \$1,500.00 for engineering services related to drainage improvements within the alley at South Alston Street and West Orange Avenue. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

Enactment No: 14-0210-RES

[14-0381](#)

Resolution Authorizing Transfer of Funds in the Amount of \$5,000 for CDD Part-Time, Temporary Employee

Attachments: [Leslie Request for PT-Temp Employee](#)

A motion was made by Council Member Vera Quaite to authorize the transfer of \$5,000 from the CDD account to the CDD Personnel account to support hiring a temporary, part-time employee at \$14.92 per hour and not to exceed 300 hours for the remainder of this fiscal year. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

Enactment No: 14-0211-RES

[14-0386](#)

Amends Resolution # 14-0141

Attachments: [MCS Contracting Fan Quote.pdf](#)
 [14-0141 RES](#)

A motion was made by Council Member Hellmich to amend Resolution 14-0141 Section 1. that approved going to bid for three 10' ceiling fans and a solar shading system for the Coastal Alabama Farmers and Fishermens Market due to these items being found for a purchase price of \$14,975.00 from MCS Contracting, which is under the \$15,000 bid law amount. The motion was seconded by Council Member Blackwell and carried by the following vote: Council Member Vera Quaite, aye; Council Member Ralph Hellmich, aye; Council President Wayne Trawick, aye; Council Member Rick Blackwell, aye and Council Member Charles Ebert III, abstained. The vote passed by a majority vote.

Aye: 4 - President Trawick, Council Member Quaites, Council Member Hellmich and Council Member Blackwell

Abstain: 1 - Council Member Ebert III

Enactment No: 14-0212-RES

[14-0388](#)

A resolution to declare the recently replaced Civic Center stage lights as surplus and to authorize the disposal of the same.

A motion was made by Council Member Charles Ebert III to declare nine (9) recently replaced stage lights in the Foley Civic Center as surplus and to authorize the donation of six (6) of the replaced Ellipsoidal lights to Playhouse In The Park in Mobile, Alabama. The motion was seconded by Council Member Vera Quaites and carried by an unanimous vote.

Enactment No: 14-0213-RES

[14-0389](#)

Consider 050- Retail Beer (Off Premises Only) and 070- Retail Table Wine (Off Premises Only) ABC License location to location transfer from Dolgencorp LLC., applicant under the trade name of Dollar General Store 6815 previously located at 151 East Riviera Blvd. Foley, Alabama to Dolgencorp LLC., applicant under the trade name of Dollar General Store 6815 located at 1704 South McKenzie Street, Foley, Alabama.

Attachments: [DOLLAR GENERAL STORE 6815 ABC License](#)
 [DG 6815 Previous Location](#)
 [DG 6815 New Location](#)

A motion was made by Council Member Ralph Hellmich to approve the ABC License location to location transfer for Dolgencorp, LLC., under the trade name of Dollar General Store 6815 previously located at 151 East Riviera Blvd. to the new location at 1704 South McKenzie Street. The motion was seconded by Council Member Charles Ebert III and carried by an unanimous vote.

[14-0390](#)

Amend Resolution 14-0156 Regarding HT Barnes

Attachments: [Purchase Agreement HT Barnes.pdf](#)
 [HR Barnes photo.pdf](#)

A motion was made by Council Member Hellmich to amend Resolution 14-0156 Section 1. to reflect the correct purchase amount of \$350,000; to amend Section 2. to reflect the correct appropriation of \$350,000 under Account No. 12-665-7339 and to appropriate up to Fifty (50%) percent, not to exceed \$25,000 of the costs incurred by Vamonos for the dividing wall and closing costs. The motion was seconded by Council Member Blackwell and carried by the following vote: Council Member Vera Quaites, aye; Council Member Ralph Hellmich, aye; Council President Wayne Trawick, aye; Council Member Rick Blackwell, aye and Council Member Charles Ebert III, abstained. The vote passed by a majority vote.

Aye: 4 - President Trawick, Council Member Quaites, Council Member Hellmich and Council Member Blackwell

Abstain: 1 - Council Member Ebert III

Enactment No: 14-0214-RES

[14-0332](#)

Waive Rezoning Fees for Magnolia Land Company

A motion was made by Council Member Hellmich to approve waiving rezoning fees in the amount of \$1,460 for Magnolia Land Company as part of an agreement regarding the Fern Avenue Extension. The motion was seconded by Council Member Quaites and carried by the following vote: Council Member Vera Quaites, aye; Council Member Ralph Hellmich, aye; Council President Wayne Trawick, aye; Council Member Rick Blackwell, aye and Council Member Charles Ebert III, abstained. The vote passed by a majority vote.

Aye: 4 - President Trawick, Council Member Quaites, Council Member Hellmich and Council Member Blackwell

Abstain: 1 - Council Member Ebert III

Enactment No: 14-0215-RES

Mayor's Comments

Mayor Koniar had no comments.

Visitor's Comments

Jime Hall, who resides at 921 South Maple Street addressed the Council with his concerns of drainage on his property. There is an empty lot and woods near his property and the water is creating a mosquito and snake infested area. He reported that he has lived there for nineteen (19) years and there has only been drainage put in with rocks on one side of the street. Mr. Hall requested for someone to look at the drainage issue. Council Member Ralph Hellmich asked if his property is located East of Pecan Street and Mr. Hall confirmed that it is East of Pecan Street. Council Member Hellmich then reported that the City addressed the drainage issue in the areas West of Pecan Street but was unable to address the East side of Pecan due to not having a storm water easement or a right-of-way. He further reported that the City needs to have a right-of-way in order to address the issue. Council Member Vera Quaites reported that only one person was willing to give the City the right-of-way in the mobile home park in that area. Council Member Ralph Hellmich then reported that if the City can get the right-of-way or a storm water easement, the City will address the drainage issue. Council Member Hellmich asked Mr. Hall if he believed the other residents would be willing to give the City a storm water easement or right-of-way in that area and Mr. Hall reported that he would go door to door to get signatures. Council President Trawick reported that the City's Engineering Department could look at the area and advise Mr. Hall on which parcels he could focus on to get signatures. President Trawick asked Mr. Hall to give his contact information to Taylor Davis from the City's Engineering Department, who was present at the meeting.

Riley Houston, who resides at 720 East Jefferson Avenue addressed the Council with his concerns of drainage on his property. He reported that rain

water collects on the wooded property that is adjacent to his back yard. He reported that he has tried to find out who owns the property to no avail and there are too many snakes, frogs and mosquitoes. He reported that the property has no drainage and it causes water to run into his back yard. Council Member Quaites reported that City Planner Miriam Boutwell is researching the property to see if the wooded area is a jurisdictional wetland and to locate an owner and that she will make contact with Ms. Boutwell. Council Member Hellmich asked Mr. Houston to give his contact information to Taylor Davis from the City's Engineering Department as well. He further reported that once the City finds out whether the area is jurisdictional wetlands or not, they can proceed. The City cannot go onto private property without an easement from the owner.

Executive Session

Council President Wayne Trawick reported there was a need to go into executive session to discuss certain aspects regarding controversies that may lead to litigation. This exception does not allow the City Council members to deliberate on what action to take in an executive session.

The exception allows for the City to discuss in an executive session the legal ramifications of and legal options for pending litigation, controversies not yet being litigated or imminently likely to be litigated if the governmental body pursues a proposed course of action, or to meet or confer with a mediator or arbitrator with respect to any litigation or decision concerning matters within the jurisdiction of the governmental body involving another party, group, or body.

A motion was made by Council Member Ralph Hellmich to go into executive session. The motion was seconded by Council Member Rick Blackwell.

City Administrator Mike Thompson took the following roll call vote: Council Member Ralph Hellmich, aye; Council Member Vera Quaites, aye; Council President Wayne Trawick, aye; Council Member Rick Blackwell, aye and Council Member Charles Ebert III, aye. The vote was unanimous to go into executive session.

City Administrator Mike Thompson reported that the executive session would last 15-20 minutes and there was no need for Council to reconvene to vote.

The Council meeting recessed at 5:54 to go into Executive Session.

The Council meeting reconvened at 6:14 p.m.

All Council Member were present. Also present: Mayor John Koniar and City Administrator Mike Thompson.

Adjourn

There being no further business to conduct, a motion was made by Council Member Ralph Hellmich to adjourn the Executive Session. The motion was seconded by Charles Ebert III and carried by an unanimous vote.

The meeting was adjourned at 6:15 p.m.