



City of Foley, AL

407 E. Laurel Avenue
Foley, AL 36535

Meeting Minutes - Final

City Council

Monday, March 2, 2020

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, City Clerk Katy Taylor, Andy Forsythe, Joey Darby, Kevin Carnley, Jamie Smith, Christopher Conte, Ryan Frolik, Carl Davis, Ken Montgomery, Andy Ruten and LaDonna Hinesley.

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

Approval of the Minutes

[20-0102](#)

Special Called Council Meeting/Audit Reading Minutes of February 17, 2020

Attachments: [02-17-2020 Special Called Meeting-Audit Reading Minutes](#)

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Charles Ebert, III, to approve the Special Called Council Meeting/Audit Reading Minutes of February 17, 2020. The motion carried by an unanimous vote.

[20-0103](#)

Work Session Minutes of February 17, 2020

Attachments: [02-17-2020 Work Session Minutes](#)

A motion was made by Council Member Vera Quaites, seconded by Council Member Rick Blackwell, to approve the Work Session Minutes of February 17, 2020. The motion carried by an unanimous vote.

[20-0104](#)

Council Meeting Minutes of February 17, 2020

Attachments: [02-17-2020 Council Meeting Minutes](#)

A motion was made by Council Member Charles Ebert, III, seconded by Council Member Ralph Hellmich, to approve the Council Meeting Minutes of February 17, 2020. The motion carried by an unanimous vote.

Additions/Removals

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Charles Ebert, III, to remove item 20-0037 and to add items 20-0123 and 20-0119. The motion carried by an unanimous vote.

Ordinances

[20-0037](#)

(Second Reading) An Ordinance to Amend The Zoning Ordinance

Attachments: [Zoning Amend Recommendation](#)
 [Amendment to B2](#)

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Charles Ebert, III, that this Ordinance be removed. The motion carried by an unanimous vote.

[20-0070](#)

An Ordinance Adopting the 2018 International Building (ICC) Codes and Supplemental Provisions. This Ordinance is too large for Legistar to print. The Ordinance is attached in its entirety as Exhibit A.

Attachments: [2018 Code Ordinance draft copy](#)
 [2018 Code Ordinance clean copy](#)

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Rick Blackwell, that this Ordinance be approved on first reading. The motion carried by an unanimous vote.

Enactment No: 20-2005-ORD

[20-0101](#)

AN ORDINANCE REZONING PROPERTY OWNED BY MICHAEL ESTEP & DONNA COOK FROM R1B TO B1

Attachments: [Estep Cook Rezoning](#)

A motion was made by Council Member Charles Ebert, III, seconded by Council Member Ralph Hellmich, that this Ordinance be approved on first reading. The motion carried by an unanimous vote.

Enactment No: 20-2006-ORD

[20-0114](#)

AN ORDINANCE TO AMEND THE SINGLE MEMBER VOTING DISTRICTS OF THE CITY OF FOLEY, ALABAMA

Attachments: [City of Foley AL Proposed Voting Districts 2020 Map - Portrait](#)
 [20200225110728624](#)

A motion was made by Council Member Rick Blackwell, seconded by Council Member Vera Quaites, that this Ordinance be approved on first reading. The motion carried by an unanimous vote.

Enactment No: 20-2007-ORD

Resolutions and Other Business

[20-0035](#)

A Resolution to Accept Volkert Inc.'s Supplemental Agreement No.1 for Engineering Services to Rehabilitate the North Apron at the Foley Municipal Airport.

Attachments: [Volkert Supplemental Agreement 1.pdf](#)
[Capital Project Worksheet - Feb 17 2020.pdf](#)

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Rick Blackwell, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1052-RES

[20-0071](#)

A Resolution Setting a Public Hearing to Consider Passage of an Ordinance Adopting the 2018 International Building (ICC) Codes and Supplemental Provisions.

A motion was made by Council Member Charles Ebert, III, seconded by Council Member Vera Quaites, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1053-RES

[20-0084](#)

A Resolution Declaring Surplus Lt. Otis Miller's Badge and Service Weapon

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Rick Blackwell, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1054-RES

[20-0085](#)

A Resolution Declaring Surplus Cpl. Dempsey Hunt's Badge and Service Weapon

A motion was made by Council Member Charles Ebert, III, seconded by Council Member Vera Quaites, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1055-RES

[20-0086](#)

A Resolution Approving Application for the FY2020 Walmart Community Grant Program

A motion was made by Council Member Vera Quaites, seconded by Council

Member Ralph Hellmich, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1056-RES

[20-0088](#)

Resolution to Increase Bon Secour Water Quality Project Budget and Purchase Property

Attachments: [Budget Increase for Bon Secour Headwaters Restoration.2.2020](#)
[Bengston Appraisal.2.14.20](#)
[67147 commitment 3](#)

A motion was made by Council Member Charles Ebert, III, seconded by Council Member Rick Blackwell, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1057-RES

[20-0089](#)

A Resolution to Purchase a Truck for the Environmental Department.

Attachments: [Envrionmental Capital Purchase - Capital Project Worksheet.Truck.2.2020](#)
[SKM_C250i20021010300](#)

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Vera Quaites, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1058-RES

[20-0090](#)

A Resolution to Accept the FY2020 Alabama Historic Commission NAPC Forum 2020 Grant

Attachments: [AL-19-10027 City of Foley NAPC Forum Grant Agreement](#)
[Budget Increase Form](#)
[Transfer Request Forms - NAPC Forum match](#)

A motion was made by Council Member Rick Blackwell, seconded by Council Member Ralph Hellmich, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1059-RES

[20-0091](#)

A Resolution to Transfer Funds and Purchase an Aquarium for the Nature Parks Department.

Attachments: [Aquarium Quote](#)
[Capital Purchase Request for Nature Parks Aquarium.2020](#)
[GCNP Budget Increase and Transfer Request Forms](#)

A motion was made by Council Member Charles Ebert, III, seconded by Council Member Vera Quaites, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1060-RES

[20-0093](#)

A Resolution Approving the Purchase of a Prisoner Transport Van

Attachments:

[Haynes Emergency Lighting](#)

[Copy of Budget Increase and Transfer Request Jail Van](#)

[Copy of PD Capital Purchase - Capital Project Worksheet - Jail Van](#)

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Rick Blackwell, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1061-RES

[20-0095](#)

A RESOLUTION ACCEPTING BASKERVILLE-DOVONAN INC.'S PROPOSAL FOR ENGINEERING DESIGN SERVICES FOR MIFLIN ROAD ACCESS MANAGEMENT PLAN PHASE 1

Attachments:

[Capital Project Budget Increase Miflin Rd](#)

[Miflin Rd Capital Project Worksheet](#)

[Baskerville-Donovan Proposal](#)

A motion was made by Council Member Charles Ebert, III, seconded by Council Member Vera Quaites, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1062-RES

[20-0096](#)

A Resolution Approving The Release Of Funds & Authorization To Bid on 2020 Sidewalk Projects

Attachments:

[Sidewalks Capital Project Worksheet.PDF](#)

[Re_Sidewalks-Darrell Russell](#)

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Rick Blackwell, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1063-RES

[20-0097](#)

A Resolution Amending Resolution 785-92, Resolution 1039-95 and Resolution 4120-10 and Updating Quorum Requirements for the Museum-Archives Advisory Board

Attachments:

[4120-10 RES](#)

A motion was made by Council Member Charles Ebert, III, seconded by Council Member Vera Quaites, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1064-RES

[20-0098](#)

A Resolution to Confirm Chairperson and Vice-Chairperson for the

Museum-Archives Advisory Board

Attachments: [4120-10 RES](#)
 [February 13, 2020 Museum Board Minutes](#)

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Rick Blackwell, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1065-RES

[20-0099](#)

RESOLUTION ADOPTING MODIFIED PERSONNEL SYSTEM POLICY (PSP)

Attachments: [PSP Update - Clean Copy 03-02-2020](#)
 [PSP Update - Marked Up Copy 03-02-2020](#)

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Vera Quaites, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1066-RES

[20-0100](#)

A Resolution Appropriating Funds in the Fire AdValorem Fund

A motion was made by Council Member Charles Ebert, III, seconded by Council Member Ralph Hellmich, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1067-RES

[20-0105](#)

A Resolution to Set a Public Hearing to Consider the Passage of an Ordinance to Amending Ordinance No. 387-87 Rezoning Property Owned by Michael Estep and Donna Cook From R-1B to B-1.

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Charles Ebert, III, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1068-RES

[20-0106](#)

A Resolution Approving the Purchase of a 2020 John Deere Gator TX for Street - Maintenance.

Attachments: [2020 JD Gator TX Quote.pdf](#)
 [2020 Gator TX Cap Purch Wrksht.pdf](#)

A motion was made by Council Member Rick Blackwell, seconded by Council Member Ralph Hellmich, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1069-RES

[20-0107](#)

A Resolution Approving the Purchase of Two 2020 John Deere 1575 Front Mount Mowers for Street - Maintenance.

Attachments: [2020 Mower-Deck Quote.pdf](#)
 [2020 Mower-Deck Cap Purch Wrksht.pdf](#)

A motion was made by Council Member Rick Blackwell, seconded by Council Member Ralph Hellmich, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1070-RES

[20-0109](#)

A Resolution appropriating funds for 2 (two) haulers for Foley Sports Tourism.

Attachments: [MikeWayne Approval - Haulers](#)

A motion was made by Council Member Charles Ebert, III, seconded by Council Member Vera Quaites, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1071-RES

[20-0110](#)

A Resolution Approving the Surplus & Disposal of Sanitation Truck #401055 (Old #1055).

A motion was made by Council Member Vera Quaites, seconded by Council Member Ralph Hellmich, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1072-RES

[20-0111](#)

A Resolution Approving the Surplus & Disposal of 11 passenger ADA Tram, one EZ GO Golf Cart, and one Toro MD Workman.

A motion was made by Council Member Rick Blackwell, seconded by Council Member Vera Quaites, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1073-RES

[20-0112](#)

RESOLUTION APPROVING CONVERSION OF ADMINISTRATIVE ASSISTANT I POSITION IN THE ENVIRONMENTAL DEPARTMENT FROM PERMANENT PART-TIME TO PERMANENT FULL-TIME.

A motion was made by Council Member Charles Ebert, III, seconded by Council Member Ralph Hellmich, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1074-RES

[20-0116](#)

A Resolution Setting a Public Hearing to Consider Passage of an Ordinance Amending the Single Member Voting Districts of the City of Foley

A motion was made by Council Member Charles Ebert, III, seconded by Council

Member Vera Quaites, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1075-RES

[20-0117](#)

A RESOLUTION AUTHORIZING THE NEGOTIATION OF A FRANCHISE AGREEMENT BETWEEN THE CITY OF FOLEY AND THE EAST CENTRAL BALDWIN WATER AUTHORITY

Attachments: [Email Request for Franchise Agreement](#)

President Trawick asked if there was anyone who wished to speak about this item.

Riviera Utilities Waste Water Services Chief Engineer Tommy Shackle reported Riviera utilities prides themselves not only on being a provider but a partner in the communities they serve. The City of Foley's constituents are Riviera's customers and they share a common goal of providing a quality service to the customers. Riviera will still provide the best service possible regardless of Council's decision regarding this resolution.

Ken Montgomery, who is one of the owners of the 1700 acre Woerner Properties tract of land reported he supports the East Central Baldwin Water Authority. He reported the property has very large water wells on it that they would be willing to give to East Central Baldwin Water Authority for additional water. Councilman Hellmich reported that the water wells located on the property can not be used for municipal purposes because ADEM will not allow it, but they could possibly be used for fire protection services.

Attorney Christopher Conte, who represents the City reported Section 1926 B of the U.S. Code, which authorizes federal loans for rural water authorities, has an exclusivity provision which prevents other water authorities and other franchises to be given to other providers in order to operate in the same area as long as that rural water provider still has federal loans that are outstanding. If East Central Baldwin Water Authority starts to move within the City of Foley, the franchise can expand into the entire municipality. This may create conflicts in other areas where other water providers want to go.

City Administrator Mike Thompson reported that what Mr. Conte was saying is that if Council approves the franchise agreement, they could be creating a protected area where only one provider can provide services. Mr. Conte reported that was correct and not only that, but the franchise will be City wide and once East Central Baldwin Water Authority has the franchise, they could expand out from the initial location.

Ryan Frolik, who represents East Central Baldwin Water Authority reported that the franchise agreement can be tailored to encompass only a specific location, which may alleviate some concerns.

Councilman Hellmich reported his understanding is if a franchise agreement is obtained, it could go City wide. Mr. Frolik reported if the agreement is tailored to a specific legal description it would not go City wide.

City Administrator Mike Thompson reported the city of Foley has never entered into a water franchise agreement before and the City has never entered into an exclusive franchise agreement either. He reported to Council that they can consider not only entering into a water franchise agreement but also an

exclusive franchise agreement.

Councilman Ebert, III. reported that doing so would prevent Riviera Utilities from servicing that area in the future.

Attorney Dan Blackburn, who represents FB Express, LLC, which is one of the land owners of the Woerner Properties reported this is a tremendous financial differential on his client in terms of getting water to the site to making it available for use in the development. It would cost approximately \$2.5 Million to get water to the site from Riviera Utilities and based on the information he was given by Mr. Frolik, it will cost approximately \$250,000 to get water from East Central Baldwin Water Authority. He also reported he believes that Council should not be deterred by the term exclusive franchise since the agreement can be tailored to a specific area.

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Vera Quaites, to not move forward with this resolution. The motion carried by an unanimous vote.

Enactment No: 20-1076-RES

[20-0123](#)

A RESOLUTION AUTHORIZING PRELIMINARY ACTION FOR, AND REMBURSEMENT OF QUALIFIED EXPENDITURES FROM, GENERAL OBLIGATION WARRANTS (FEDERALLY TAXABLE), SERIES 2020

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Charles Ebert, III, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1076-RES

[20-0119](#)

A RESOLUTION ACCEPTING RIVIERA UTILITIES' QUOTE FOR FERN AVENUE AND JUNIPER STREET LIGHTS

Attachments: [RU Quote](#) [Fern Ave and Juniper Lights](#)

[Map](#)

[Budget Increase Capital](#)

[Capital Project Worksheet](#)

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Rick Blackwell, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1077-RES

Mayor's Comments

There were no comments to report.

Visitor Comments

There were no visitor comments to report.

Executive Session

City Administrator Mike Thompson reported there was a need to go into Executive Session to discuss with the City's Attorney the legal ramifications of and legal options for a pending litigation. Mr. Thompson reported the executive session would last approximately 15-20 minutes. He also reported Council may choose to reconvene the Council Meeting for a vote.

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

The Council Meeting recessed at 6:05 p.m.

The Council Meeting reconvened at 6:20 p.m.

All Council Members were present. Also present: Mayor John Koniar, City Administrator Mike Thompson, City Clerk Katy Taylor, Andy Forsythe, Joey Darby and Andy Rutens.

[20-0124](#)

A Resolution Authorizing the Mayor to Negotiate a Settlement in Case No. 1:18-cv-00527-CG-B

A motion was made by Council Member Ralph Hellmich, seconded by Council Member Charles Ebert, III, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 20-1078-RES

Adjournment

A motion was made by Council Member Charles Ebert, III, seconded by Council Member Ralph Hellmich, to adjourn the meeting. The motion carried by an unanimous vote.

The meeting adjourned at 6:21 p.m.