



Meeting Minutes - Final

City Council

Monday, November 21, 2016

5:30 PM

Council Chambers

Council Meeting

Public Hearing

[16-0700](#)

Public Hearing to declare weeds to be a public nuisance and ordering its abatement at the common area/detention pond at Iberville Square subdivision.

Council President Wayne Trawick opened the public hearing to order at 5:30 pm. He reported that the property was a bated and no further action is required. He asked for comments from the public.

Ron Sherbak, who is a resident of Iberville Square subdivision reported the weeds at the detention pond has been cut but property has not been abated. He also reported he had plans he obtained from the City's Engineering Department showing how the detention pond is supposed to look. It is suppose to be free of weeds, trees and other vegetation. The residents are suppose to take over all the common areas of the subdivision once the HOA becomes effective. He reported the homeowners nor the City should be responsible for the cost of abating the property. He reported the Engineering Department and all City staff he has spoken with have been very helpful and responsive. According to tax records, Clarence Burk Jr. owns the common areas within Iberville Square. Mr. Sherbak asked why Mr. Burk did not maintain the areas. He suggested the City go after the owner and developers to put the detention pond back to its original state.

President Trawick reported if there is a HOA, the HOA is responsible for the maintenance of the common areas. The City is unaware of the outcome of Mr. Burk's bankruptcy.

Mr. Sherbak reported he had a copy of documents establishing a HOA by Mr. Burk. A few month ago, DR Horton attempted to have a meeting regarding a HOA but they did not have much information. They sent out a letter to all the home owners asking who would be interested in establishing a HOA. DR Horton nor Adams Home Builders told residents there ever was a HOA established by Mr. Burk in 2005 under an LLC.

Councilman Ebert asked if the residents were told at the closing on their properties that there was an HOA. Mr. Sherbak reported he was informed but never received any documents. After the closing of his property, he called Adams Homes and asked for a copy of the covenants.

President Trawick reported this is an issue between Iberville Square residents and the developers because it is private property. Mr. Sherbak reported the issue is between the City, the developers and the owner, Mr. Burk because it was not maintained.

President Trawick explained the City must follow strict State laws for the weed abatement process.

Mr. Sherbak requested to have the Environmental Manager inspect the detention pond. If she says it is not abated, the City should make sure it is done properly.

President Trawick reported the detention pond was abated to put it in compliance with the City's weed ordinance. It may not be in the condition the residents want but for the City's ordinance, it is now in compliance. He also reported the City's Environmental Manager will go to the site again and inspect it.

Council Member Vera Quaite, who is the representative of District 2 reported she will come to the site as well.

City Planner Miriam Boutwell reported the covenants of an HOA is not enforced by the City it is a private document. She also reported there is not a simple answer to this issue since it is not known with any certainty what happened to the property in Mr. Burk's bankruptcy and what the covenants are.

Councilman Hellmich reported the City Engineer and the Environmental Manager will give some direction to DR Horton as to what needs to be done with the detention pond.

Councilman Ebert, III reported it is possible that after Mr. Burk's bankruptcy, the developer, DR Horton or Adam's Homes if they bought the lots and the common areas, did not go back and have a reassessment and that is why the owner of record is still listed as Mr. Burk.

Ms. Boutwell made a recommendation to the home owners to contact the Revenue Commissioner Teddy Faust and to ask him what happens if a lien is put on the property since it is not taxable.

After further discussions, President Trawick requested that if any of the residents had any further comments to submit them in writing to the City of Foley.

Hearing no further comments, he closed the public hearing.

Call to Order

President Trawick called the meeting to order at 6:27 pm.

Roll Call

All Council Members were present. Also present: Mayor John Koniar, Katy Taylor, Darryl Clevenger, Joey Darby, David Wilson, Chad Christian, LaDonna

Hinesley, Miriam Boutwell, Kate Embry, Ron Sherbak, Peter Taylor, Andrew Newton, Rick Johnson, Mary Johnson, Frank Gajewski, Kitty Gajewski, Ralph Fain, Denis Stargel, Jeanne Rep, Paula Costello, Theresa Carson, Milan Kocitny, Debrorah Boyer, Frances Johnson, Lisa Strickland and Bill Swanson.

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

Pledge Of Allegiance

Presentation

[16-0694](#)

Presentation of Checks for Money Raised by the 3rd Annual Gulf Coast Gospel Jubilee Community Event.

Police Officer Richard Humphrey and Pastor Joe Aldrete presented the Light House and the Care House with checks from the proceeds of the Gulf Coast Gospel Jubilee Community Event.

Additions/Removals

There were no additions or removals.

Departmental Reports

[16-0684](#)

October 2016 Bid Awards

Attachments: [October 2016 Bid Awards.pdf](#)

The October 2016 Bid Awards were presented.

[16-0686](#)

Sales, Lodging and Rental Tax Report

Attachments: [Tax Report](#)

The Sales, Lodging and Rental Tax Report was presented and is attached as back up to the minutes.

[16-0680](#)

Marketing Department Quarterly Report - July, August and September 2016

Marketing Director LaDonna Hinesley gave a synopsis of the Marketing Department Quarterly Report, which is attached as back up to the minutes.

[16-0681](#)

October 2016 CDD Report

Attachments: [October 2016 CDD Report for Council.pdf](#)

City Planner Miriam Boutwell gave a synopsis of the October 2016 CDD Report, which is attached as back up to the minutes.

[16-0695](#)

Fire Department Monthly Report October 2016

Attachments: [Council October 16 11-16](#)

Fire Chief Joey Darby gave a synopsis of the October 2016 Fire Department Report, which is attached as back up to the minutes.

[16-0675](#)

October 2016 Foley Police Monthly Report

Attachments: [20161109153230526](#)

Police Chief David Wilson gave a synopsis of the October 2016 Police Department Report, which is attached as back up to the minutes.

Approval of the Minutes

[16-0687](#)

Organizational Meeting Minutes of November 7, 2016.

Attachments: [11-07-16 Organizational Meeting Minutes](#)

A motion was made by Council Member Ralph Hellmich to approve the Organizational Meeting Minutes from November 7, 2016. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

[16-0688](#)

Work Session Minutes of November 7, 2016.

Attachments: [11-07-16 Work Session Minutes](#)

A motion was made by Council Member Rick Blackwell to approve the Work Session Minutes of November 7, 2016. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

[16-0689](#)

Council Meeting Minutes of November 7, 2016.

Attachments: [11-07-16 Council Meeting Minutes](#)

A motion was made by Council Member Vera Quaites to approve the Council Meeting Minutes of November 7, 2016. The motion was seconded by Council Member Ralph Hellmich and carried by an unanimous vote.

Ordinances

[16-0683](#)

Ordinance to rescind Ordinance 13-1006 and Ordinance No. 798-04
Adopting Rules of Procedures for Council Meetings

Attachments: [ORD. 798-04](#)
 [ORD. 13-1006](#)

A motion was made by Council Member Charles Ebert, III to approve the first reading of an ordinance to rescind Ordinance 13-1006 and Ordinance 798-04. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

Enactment No: 16-2029-ORD

[16-0699](#)

AN ORDINANCE DECLARING CERTAIN REAL PROPERTY NOT PRESENTLY NEEDED FOR MUNICIPAL PURPOSES AND AUTHORIZING THE SALE OF THE SAME

Attachments: [CACTUS CAFE APPRAISAL.pdf](#)
 [Cactus Cafe RFP Revision 2 - Nov 10 2016](#)
 [Advertisement - Cactus Cafe \(1\)](#)

A motion was made by Council Member Hellmich to suspend the rules for the immediate adoption of this ordinance. The motion was seconded by Council Member Ebert, III and carried by the following roll call vote: Council Member Quaite, aye; Council Member Hellmich, aye; President Trawick, aye; Council Member Blackwell, aye and Council Member Ebert, III, aye. The vote passed unanimously.

A motion was made by Council Member Hellmich to adopt an ordinance declaring the Cactus Cafe building as surplus and to authorize its sale. The motion was seconded by Council Member Ebert, III and carried by the following vote: Council Member Quaite, aye; Council Member Hellmich, aye; President Trawick, aye; Council Member Blackwell, aye and Council Member Ebert, III, aye. The vote passed unanimously.

Aye: 5 - Trawick, Quaite, Hellmich, Blackwell and Ebert III

Enactment No: 16-2023-ORD

Resolutions

[16-0667](#)

Pride Drive Extension CE&I Contract Amendment

Attachments: [Volkert Contract](#)
 [CE&I Correction Letter from ALDOT](#)
 [Volkert Letter](#)

A motion was made by Council Member Ebert, III to approve a \$250,000 increase to the CE&I contract for the ATRIP Pride Drive Extension project. The motion was seconded by Council Member Blackwell and carried by the following vote: Council Member Quaite, aye; Council Member Hellmich, aye; President Trawick, abstained; Council Member Blackwell, aye and Council Member Ebert, III, aye. The vote passed by a majority vote.

Aye: 4 - Quaites, Hellmich, Blackwell and Ebert III

Abstain: 1 - Trawick

Enactment No: 16-1321-RES

16-0682

Facade Improvement Incentive Grant Request

Attachments: [John Foley Facade Grant for Council.pdf](#)

A motion was made by Council Member Quaites to approve up to \$7,500 in reimbursement to John Foley and/or his contractor upon meeting all the requirements in the Resolution and specifically in Section VI. Reimbursement Process. The motion was seconded by Council Member Hellmich and carried by the following vote: Council Member Quaites, aye; Council Member Hellmich, aye; President Trawick, aye; Council Member Blackwell, aye and Council Member Ebert, III, abstained. The vote passed by a majority vote.

Aye: 4 - Trawick, Quaites, Hellmich and Blackwell

Abstain: 1 - Ebert III

Enactment No: 16-1322-RES

16-0685

Set a public hearing for December 5, 2016 to consider revocation of a business license

A motion was made by Council Member Charles Ebert, III to approve setting a public hearing to consider the revocation of a business license for December 5, 2016 at 5:30 p.m. in the Council Chambers at City Hall. The motion was seconded by Council Member Ralph Hellmich and carried by an unanimous vote.

Enactment No: 16-1323-RES

16-0690

Resolution Amending Resolution 16-1306 Designating Certain Positions within the City's Pay Classification Plan Exempt and Non-Exempt While Continuing to Remain in Compliance with the new FLSA Requirements

Attachments: [16-1306.pdf](#)
[PAY CLASSIFICATION PLAN - PENDING EFFECTIVE 11-21-16.pdf](#)

A motion was made by Council Member Ralph Hellmich to amend Resolution 16-1306. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

Enactment No: 16-1324-RES

16-0691

Resolution Amending the Pay Classification Plan to Inactivate the Vacant Position of Street Maintenance Supervisor (G-15) and Reactivate the Position of Crew Leader/Equipment Operator III - Construction (G-12)

Attachments: [Crew Leader-Op III Construction Job Desc.pdf](#)
[PCP.pdf](#)

A motion was made by Council Member Rick Blackwell to approve inactivating the Street Maintenance Supervisor position and reactivating the Crew Leader/Equipment Operator III position in the City's Pay Classification Plan effective immediately. The motion was seconded by Council Member Vera Quaites and carried by an unanimous vote.

Enactment No: 16-1325-RES

[16-0693](#)

Request to Memorialize Application for CLG Historic Preservation Fund Grant

Attachments: [Historic Grant for Council.pdf](#)

A motion was made by Council Member Ralph Hellmich to memorialize the FY 16/17 Historic Preservation Fund Grant Application which was due in August 2016 and assigns \$3,000 to meet the 40% match. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

Enactment No: 16-1326-RES

[16-0696](#)

Resolution Approving Updates to the City's Substance Abuse Policy and Program

Attachments: [Substance Abuse Policy Updated 11-21-16.pdf](#)

A motion was made by Council Member Vera Quaites to approve the updated Substance Abuse Policy and Program. The motion was seconded by Council Member Ralph Hellmich and carried by an unanimous vote.

Enactment No: 16-1327-RES

[16-0697](#)

Amend Resolution 16-1301 Graham Creek Estates Streetlighting

Attachments: [Res. 16-1301](#)

A motion was made by Council Member Rick Blackwell to amend Resolution 16-1301. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

Enactment No: 16-1328-RES

[16-0698](#)

Resolution authorizing transfer of funds in the amount of \$1,500 to assist with the moving expenses of the Sports Tourism Marketing Communications Manager.

A motion was made by Council Member Ralph Hellmich to transfer funds to assist with moving expenses in the amount of \$1,500 as part of the hiring negotiations for the Sports Tourism Marketing Communications Manager. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

Enactment No: 16-1329-RES

Mayor's Comments

The Mayor had no comments to report.

Visitor Comments

There were no comments to report.

Adjournment

A motion was made by Council Member Ralph Hellmich to adjourn the meeting. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

The meeting was adjourned at 6:59 pm.