



City of Foley, AL

407 E. Laurel Avenue
Foley, AL 36535

Meeting Minutes - Draft City Council

Monday, October 19, 2015

5:30 PM

Council Chambers

Council Meeting

Public Hearing

[15-0630](#)

A public hearing to declare weeds to be a nuisance and to declare its abatement at Meadow Run Detention Pond

Council President Wayne Trawick opened the public hearing at 5:30 p.m. to declare weeds to be a nuisance and to declare its abatement at the Meadow Run detention pond. President Trawick asked for comments from the public. Hearing no comments, he closed the public hearing.

[15-0631](#)

A public hearing to declare weeds to be a nuisance and to declare its abatement at Common Area Between Iberville Square and Parish Lakes Subdivision

President Trawick opened the public hearing at 5:31 p.m. to declare weeds to be a nuisance and to declare its abatement at the common area between Iberville Square and Parish Lakes. President Trawick asked for comments from the public. Hearing no comments, he closed the public hearing.

Call to Order

President Trawick called the meeting to order at 5:32 p.m.

Roll Call

All Council Members were present. Also present: Mayor John Koniar, City Administrator Mike Thompson, City Clerk Vickey Southern, Katy Taylor, Steve Smith, Miriam Boutwell, Shawn Miller, Sal Muccio, Taylor Davis, Joey Darby, Bill Swanson, Nettie Norphleet, Randy Davis, Tom Abernathy, Erby Suits, Jerry Delmont, Gregg Knight, Dana Gifford, John Gifford, Wade Palmer, Amy Palmer and press representative Jay Sowers.

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

Mayor's Presentation

[15-0594](#)

Proclamation: National Medical Assistance Recognition Week

Attachments: [Proclamation](#)

Mayor Koniar presented the National Medical Assistance Recognition Week Proclamation to Nettie Norphleet from the Alabama State Society of American Medical Technologists.

Additions/Removals

A motion was made by Council Member Ralph Hellmich to add item 15-0622; to carry over items 15-0618, 15-0150, 15-0592, 15-0625 and 15-0632 and to remove items 15-0582 and 15-0610. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

Approval of the Minutes

[15-0633](#)

10-05-2015 Work Session Minutes

Attachments: [10-5-2015 Work Session Draft Minutes.pdf](#)

A motion was made by Council Member Ralph Hellmich to approve the Work Session Minutes of October 5, 2015. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

[15-0624](#)

Council Meeting Minutes of October 5, 2015.

Attachments: [10-05-15 Council Meeting Minutes](#)

A motion was made by Council Member Charles Ebert, III to approve the Council Meeting Minutes of October 5, 2015. The motion was seconded by Council Member Vera Quaite and carried by an unanimous vote.

Audit the Accounts

[15-0636](#)

Audit the Accounts of September, 2015.

A motion was made by Council Member Ralph Hellmich to audit the accounts of September 2015. The motion was seconded by Council Member Vera Quaite and carried by an unanimous vote.

Reports

[15-0637](#)

September 2015 Sales, Lodging and Rental Tax Reports

Attachments: [20151016135253634.pdf](#)

City Administrator Mike Thompson reported the September 2015 sales tax came in at 5.61%, Lodging tax came in at 12.03% and rental tax came in just about flat with last year's numbers. All three taxes came in over budget for the year. The City had a good year and we are slated for a good start this following year. We do project a budgeted sales tax and lodging tax to go up again this year.

[15-0625](#)

Marketing Department Quarterly Report - July, August and September 2015

A motion was made by Council Member Ralph Hellmich to carry the Marketing Department Quarterly Report over to the November 2, 2015 Council meeting due to Marketing Director LaDonna Hinesley being out of town. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

[15-0602](#)

September 2015 CDD Report

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

City Planner Miriam Boutwell gave a synopsis of the September 2015 CDD report, which is attached as back up to the minutes.

[15-0612](#)

CDD FY 2014_15 Annual Report

Attachments: [FY 2014_15 CDD Annual Report for Council.pdf](#)

City Planner Miriam Boutwell gave a synopsis of the CDD FY 2014-15 Annual Report, which is attached as back up to the minutes.

[15-0635](#)

Engineering Department Quarterly Report

Attachments: [Eng. Qtrly. Report - Project Status Report](#)
 [10-19-2015 Engineering_project.update.october.pdf](#)

Assistant City Engineer Taylor Davis reported he will answer any questions Council may have about the Engineering Report, which is attached as back up to the minutes.

Councilman Ebert, III asked when the asphalt is scheduled to be laid on Pecan Street. Mr. Davis reported it is scheduled for next week.

Councilman Blackwell asked when the bike path on Cedar Street will be paved. Mr. Davis reported he did not have a time frame for that yet. He reported it is his belief that the work is being completed in large sections while the weather conditions are good.

[15-0629](#)

Fire Department Monthly Report September 2015

Attachments: [Council September 15 10-15](#)

Fire Chief Joey Darby gave a synopsis of the Fire Department Monthly Report, which is attached as back up to the minutes. He also reported there were five structure fires, two of which were labeled as "other" fires because the actual building was not involved in the fire. One of these fires happened at Starr Textiles on Popular Street. This fire was primarily extinguished by the fire suppression system in the building. The cause of the fire is believed to have been spontaneous combustion of some of the materials that are used for cleaning, which is not uncommon for that type of facility. There was also some electrical in the area of the fire so the exact cause could not be determined. The fire is not considered to be suspicious, it occurred overnight but it did not effect the facilities operations the next day. The fire could have caused millions of dollars worth of damage to the equipment but it was contained to its area of origin and the Fire Department arrived shortly after the alarms went off and quickly finished extinguishing the fire.

There was a dryer fire in a condo on County Road 10. This fire was contained in the dryer and did not affect the structure but it did cause a lot of smoke damage causing the resident to be displaced.

There was an apartment fire at the Summerville Apartments on East Michigan Avenue. The fire was noticed in the early morning hours and was contained to the outside balcony area. The fire is not considered to be suspicious but an exact cause is undetermined.

Orange Beach Fire Department requested assistance for a major fire at the Island Dunes Condominium. Orange Beach requested Foley Fire Department's ladder truck but it was not needed upon arrival so the truck was put on standby but the crew helped with the fire and clean up.

There was a significant mobile home fire in the Dogwood Village Mobile Home Park off of South Juniper Street. The fire started from a vehicle fire that spread to the mobile home. Upon the Department's arrival, the mobile home was fully engulfed in flames and was threatening the surrounding homes. The Department successfully contained the fire to the vehicle and mobile home and prevented it from spreading any further. The mobile home and vehicle was a total loss displacing the family. Red Cross assisted the family.

[15-0626](#)

September 2015 Foley PD Monthly Report

Attachments: [20151012142427504](#)

Foley Police Officer Shawn Miller gave a synopsis of the Foley Police Department Monthly Report, which is attached as back up to the minutes.

[15-0622](#)

September 2015 Bid Activity

Attachments: [September 2015 Bid Awards.pdf](#)

The September 2015 Bid Activity Report was presented to Council for review. The report is attached as back to the minutes.

Ordinances, Resolutions and Other Business

[15-0150](#)

Vacation of right of ways on two separate areas of Beck Road.

Attachments: [Beck Road ROW Vacation Map](#)
[BC Foley, LLC. Declaration of Vacation](#)
[PASFCD Declaration of Vacation](#)
[Letters to Property Owners](#)

A motion was made by Council Member Ralph Hellmich to carry this item over to the November 16, 2015 Council meeting due to this being the date of the Public Hearing. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

[15-0582](#)

E-J Builders' Change Order No. 1 for Dog Park

Attachments: [Dog Pk E-J CO#1](#)

A motion was made by Council Member Ralph Hellmich to remove this item from the agenda. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

[15-0589](#)

Accepting Costs for Weed Abatement at South Hickory Street East of Crown Walk and Authorizing a Copy be Sent to the Baldwin County Tax Collector

Attachments: [NOTICE TO THE PUBLIC - Weed Costs](#)

A motion was made by Council Member Ralph Hellmich to accept the total costs in the amount of \$395.48 for the abatement of weeds at South Hickory Street East of Crown Walk and to authorize the City Clerk to forward a copy of the costs to the Baldwin County Tax Collector to be collected under the "Optional Method of Taxation" pursuant to Sections 11-51-40 through 11-51-74 Code of Alabama, 1975; whereupon it shall be the duty of said tax collector to add the amounts of the respective weed lien to the next regular bill for taxes levied against the respective parcel of land. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

Enactment No: 15-2332-RES

[15-0592](#)

A Resolution to accept donation of right of way by Castille Real Estate Co, LLC for the Beck Road vacation.

Attachments: [Castille Warranty Deed Change in Slide number](#)

A motion was made by Council Member Ralph Hellmich to carry this item over to the November 16, 2015 Council meeting due to this being the date of the Public Hearing for the vacation of Beck Road. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

[15-0593](#)

Set Public Hearing to consider Planning Commission's recommendation for Initial Zoning of R-3 (Residential Multi-Family) for 13.13+/- Acres

Being Annexed into the Corporate Limits. (MTSC)

Attachments: [Zoning Recommendation](#)

A motion was made by Council Member Rick Blackwell to set a Public Hearing to consider Planning Commission's recommendation for Initial Zoning of R-3 (Residential Multi-Family) for 13.13+/- acres being annexed into the Corporate Limits owned by MTSC. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

Enactment No: 15-2333-RES

[15-0595](#)

A Resolution to reappoint Becky Longshore to the Museum Archive Board.

Attachments: [Museum Brd. Member List](#)
 [Museum Board Email](#)

A motion was made by Council Member Ralph Hellmich to reappoint Becky Longshore to the Museum-Archives Board. The motion was seconded by Council Member Vera Quaites and carried by an unanimous vote.

Enactment No: 15-2334-RES

[15-0596](#)

A Resolution to reappoint Otis Gatlin and David Vosloh to the Fire Code of Appeals Board.

Attachments: [Fire Code of Appeals Member List](#)
 [Fire Code of Appeals Email](#)

A motion was made by Council Member Ralph Hellmich to reappoint Otis Gatlin and David Vosloh to the Fire Code of Appeals Board. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

Enactment No: 15-2335-RES

[15-0597](#)

Acceptance of ADCNR ACAMP Grant for an ADA Trail at Graham Creek

Attachments: [Pre-Project Checklist.GCNP ADA Trail](#)
 [Grant Acceptance Letter.ADA Trail](#)
 [FY16 ACAMP RFP Application.ADA Trail](#)

A motion was made by Council Member Charles Ebert, III to accept the ADCNR ACAMP Grant for the design and construction of the GCNP ADA Trail and to allocate the funds to the GCNP ADA Walking Trail account and \$50,000 to the ADCNR/ADA TRAIL/GCNP GRANT Revenue account. The motion was seconded by Council Member Ralph Hellmich and carried by an unanimous vote.

Enactment No: 15-2336-RES

[15-0610](#)

**A RESOLUTION SETTING A PUBLIC HEARING
DECLARING WEEDS TO BE A PUBLIC NUISANCE
AND ORDERING ITS ABATEMENT OFF OF SOUTH CEDAR**

STREET

Attachments: [S Cedar St @ 5th Ave Weed Abatement](#)

A motion was made by Council Member Ralph Hellmich to remove this item from the agenda due to the property being abated by the owner. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

[15-0616](#)

Trolley Route Survey and Engineering Services Contract

Attachments: [Trolley Route - Sawgrass Proposal](#)
 [Beck Rd Project Form](#)

A motion was made by Council Member Ralph Hellmich to approve Sawgrass Consulting, LLC's contract for survey and engineering services for the proposed Trolley Route in the amount of \$123,995.00. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

Enactment No: 15-2337-RES

[15-0620](#)

Request change order for Graham Creek Interpretive Center to add Alternatives 1 and 2

Attachments: [RFP #02 Site Concrete](#)

A motion was made by Council Member Rick Blackwell to approve the change order to add Alternates 1 and 2 for \$53,365.00, which are attached as back up to the minutes. The motion was seconded by Council Member Vera Quaites and carried by an unanimous vote.

Enactment No: 15-2338-RES

[15-0621](#)

ABC License: 020- Restaurant Retail Liquor for Grumpy's LLC, applicant operating under the trade name Grumpy's Eats and Sweets located at 214 W. Laurel Avenue.

Attachments: [ABC License Application](#)
 [Grump's Eats & Sweets Map](#)

Fire Chief Joey Darby and Police Officer Shawn Miller made a recommendation to move forward with the ABC License.

A motion was made by Council Member Blackwell to approve the ABC License Application for Grumpy's Eats and Sweets located at 214 W. Laurel Avenue. 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 - President Trawick, Council Member Quaites, Council Member Hellmich and Council Member Blackwell

Abstain: 1 - Council Member Ebert III

[15-0623](#)

Consider Bid Results for One Custom Pumper for the Foley Fire Department

Attachments: [NAFECO's Adjusted Proposal.pdf](#)
 [BID RESULTS - Custom Pumper.pdf](#)

A motion was made by Council Member Charles Ebert, III to accept NAFECO's adjusted proposal in the amount of \$437,939.50, including a \$15,983.00 discount for 100% prepay due and payable at the preconstruction meeting; and to approve a total apparatus and equipment cost not to exceed \$440,000 to be purchased using the Fire AdValorem Fund and as per the FY16 Budget, to transfer \$100,000 from the General Fund Account to the Fire AdValorem Fund. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

Enactment No: 15-2339-RES

[15-0627](#)

Approves Recreation to purchase a reel mower for field maintenance.

Attachments: [Reel Mower - John Deere](#)

A motion was made by Council Member Ralph Hellmich to approve the purchase of a reel mower from Deere & Company for \$52,878.38 through the NJPA 070313-DAC Contract as budgeted for \$57,000. The motion was seconded by Council Member Rick Blackwell and carried by an unanimous vote.

Enactment No: 15-2340-RES

[15-0628](#)

Consider resolution to waive or reduce building fees to the minimum for Foley United Methodist Church.

Attachments: [Foley United Methodist Church Letter](#)

A motion was made by Council Member Rick Blackwell to waive all but the minimum Community Development Department and Engineering fees relating to the roof replacement of the Foley United Methodist church located at 915 N. Pine Street in Foley, Alabama. The motion was seconded by Council Member Vera Quaite and carried by an unanimous vote.

Enactment No: 15-2341-RES

[15-0632](#)

Resolution authorizing employees to enter upon the property at the Meadow Run subdivision detention pond for the purpose of abating the public nuisance.

Attachments: [Meadow Run Detention Pond](#)

A motion was made by Council Member Ralph Hellmich to carry this item over to a future Council meeting once the City receives a legal opinion on the matter of property liens against detention ponds. The motion was seconded by Council Member Charles Ebert, III and carried by an unanimous vote.

[15-0634](#)

Approves Memorandum of Agreement Between The State of Alabama and The City of Foley Regarding Removal and Disposal of Debris

Attachments: [ALDOT MOA FOR REMOVAL & DISPOSAL STORM DEBRIS](#)

A motion was made by Council Member Ralph Hellmich to approve the Memorandum of Agreement between the State of Alabama and the City of Foley regarding removal and disposal of debris that is attached, as back up to the minutes. The motion was seconded by Council Member Vera Quaites and carried by an unanimous vote.

Enactment No: 15-2342-RES

Mayor's Comments

There were no comments to report.

Visitor's Comments

Bill Swanson, who resides at 1024 Summerton Drive, reported he and his wife moved to Foley from Madison Wisconsin. He reported his wife works from home doing computer work for a phone company in Madison Wisconsin. He asked Council if anyone is working on getting a better and faster internet service for the City.

Mayor Koniar reported Riviera Utilities has approved getting into the internet business. It will take approximately a year before an alternative will be available.

Councilman Hellmich reported that there will be a public hearing in November for Riviera Utilities to provide Internet services and the public is welcome to attend the public hearing.

Amy Palmer, who resides on Hickory Street in Ashford Park subdivision, reported Ashford Park is still having ongoing problems with a detention pond not being maintained, which has created a rat and snake infestation. Mrs. Palmer has addressed Council on this matter before. She reported their Home Owners Association has done nothing to rectify the problem. She asked if the Fire Department could do a control burn of the detention pond to get rid of the weeds. Fire Chief Joey Darby reported he has visited the area and has researched it and the Department could not do a control burn because there would be airborne particles they would not be able to control and they would not have access to the pond on all sides. He also reported that if the weeds were burned, they would grow back stronger and thicker.

Councilman Hellmich reported that in the past, Mrs. Palmer asked about spraying the weeds and that appears to be the best solution. He reported that she and her neighbors need to continue to press the Home Owners Association to maintain all the common areas. He reported he attended an HOA meeting and he advised them that the HOA has to maintain the areas because they own it and are liable for it, it is their responsibility and the City does not maintain detention ponds. The Home Owners Associations collect a lot of money in dues and should be able to come up with solutions to these problems. He reported that the other detention ponds in Ashford Park appear to be in good condition and maintained it is just the southwestern detention pond that is in need of maintenance.

Mrs. Palmer reported the HOA sent out letters inviting them to a meeting regarding the detention pond but sent them to only members who live near the pond.

Dana Gifford, who resides at 631 Fulton Loop in Ashford Park Subdivision, reported she does not live near the detention pond. She reported that some people who did receive the letter were instructed by the HOA Board to not discuss the letter or the meeting with others because it was none of their business. She asked Council if they could help all the home owners of Ashford Park because they are unsure of what actions to take. She reported people are not permitted to speak at the HOA meetings and she can not address her concerns to them via email. She reported if she wanted to sell her home, it would not sell because people hear about how bad the HOA is. Council Member Quaites asked if paying dues to the HOA permits them to voice their concerns and opinions. Mrs. Palmer reported with the current board members, they pick and choose who they allow to speak at the meetings. Councilman Hellmich reported the City does not interfere with a subdivision's covenants, there is a law prohibiting Cities from doing so. The City will support Home Owners Associations and Citizens to help resolve issues as much as the law will allow. He reported the City has done everything they can to help and have sent the HOA nuisance letters telling them they have to abate the nuisances at the detention pond.

Tom Abernathy, who resides at 580 Vestige Mews in Ashford Park Subdivision, report he received the letter and it explained the plans to dig out four to six feet of the hardpan to create a lake. Mr. Abernathy expressed his concern that the hardpan is supposed to be nine feet deep and there are areas at are four feet deep and if they break through the hardpan, they will be in the sand, which may get the EPA involved in the situation.

President Trawick reported that getting into the sand in some areas will allow some of the water to seep out so there will no longer be standing water. He further reported that the residents of Ashford Park has to deal with their HOA Board to resolve this issue.

Jerry Delmont, who resides at 600 Vestige Mews in Ashford Park asked if the Supreme Court made a ruling on the bylaws when they ruled on covenants. Councilman Hellmich reported bylaws can be changed using the proper procedures. Mr. Suits reported the current board members assumed their board positions without being elected according to the bylaws. City Administrator Mike Thompson reported that if the board members did not follow the bylaws in order to obtain their positions on the board, the members may have a civil cause of action against the HOA.

Mr. Suits reported he brought this to the attention of the community and he is now being sued by the HOA.

Mrs. Palmer reported there are three people the HOA President is suing and there is a rumor that he is going to sue the City of Foley.

Erby Suits, who resides at 579 Park Avenue in Ashford Park, reported there are only two months left before the HOA Board elections and the only thing residents of Ashford Park can do is try to stop the current board from getting proxy votes that would vote them back in. They need people to volunteer to be on the board.

Councilman Blackwell asked if they had an annual HOA meeting. Mrs. Palmer reported their annual meeting is in January.

Mr. Suits reported the HOA President has security at the meeting and he will not let people speak. If anyone speaks without permission, he has them thrown out of the meeting. If anyone has a question or concern, they must submit it to

the HOA two weeks prior to the meeting to allow them time to prepare an answer before it can brought up in the meeting. The board can also vote to not answer the question or concern at all.

Adjourn

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 adjourned at 6:35 p.m.