

**MINUTES OF THE APRIL 18, 2017 REGULAR SESSION
GREEN COVE SPRINGS CITY COUNCIL**

Call to Order

The regular session of the Green Cove Springs City Council was called to order Tuesday, April 18, 2017, at 7:00 p.m. in the City Council Chambers, 321 Walnut Street, Green Cove Springs, Florida.

Invocation and Pledge of Allegiance to the Flag

The invocation was given by Council Member Royal followed by the Pledge of Allegiance to the Flag of the United States of America.

Roll Call

COUNCIL MEMBERS PRESENT:

Constance W. Butler
Steven Kelley
B. Van Royal
Roy M. Timberlake, Jr., Vice Mayor
Pamela J. Lewis, Mayor

STAFF MEMBERS PRESENT:

L. J. Arnold, III, City Attorney
Derek Asdot, Asst. Chief of Police
Julia W. Clevinger, City Clerk
Janis Fleet, Development Services Director
Marlena Guthrie, Finance Director
Danielle J. Judd, City Manager
Mary Jane Lundy, Interim Personnel Director
Mike Null, Asst. City Mgr. / Public Works Dir.
Kimberly Thomas, Exec. Asst. to the City Mgr.

**Mayor to call on members of the audience wishing to address
the Council on matters not on the Agenda.**

There were none.

AWARDS AND RECOGNITION

A MOTION WAS MADE BY VICE MAYOR TIMBERLAKE TO APPROVE THE PROCLAMATIONS FOR NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK AND RICHARD KNOFF. THE MOTION WAS SECONDED BY COUNCIL MEMBER BUTLER. THERE BEING NO FURTHER DISCUSSION, THE MOTION WAS APPROVED BY THE FOLLOWING ROLL CALL VOTE: AYES – COUNCIL MEMBERS CONSTANCE W. BUTLER, STEVEN R. KELLEY, B. VAN ROYAL, ROY M. TIMBERLAKE, JR., AND PAMELA J. LEWIS, MAYOR. NAYS – NONE.

1. Proclamation - National Public Safety Telecommunicators Week.

Mayor Lewis read the Proclamation into the record (see attachment marked Exhibit “A”). Communications Supervisor accepted on behalf of the Dispatchers and thanked the City Council for the recognition.

2. Proclamation - Richard L. Knoff.

Mayor Lewis announced that the Proclamation would be read at the Retirement Ceremony for Deputy Fire Chief Knoff on Saturday, April 22, 2017 (see attachment marked Exhibit “B”).

PUBLIC HEARINGS

1. First Reading and Public Hearing on Ordinance No. O-04-2017, an Ordinance amending City Code Section 110-5. “Exempt Signs”, to exempt certain City Council approved murals from the Sign Regulations and Land Development Code.

Mr. Arnold read the title of Ordinance No. O-04-2017 into the record as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, AMENDING CITY CODE SECTION 110-5. “EXEMPT SIGNS”, TO EXEMPT CERTAIN CITY COUNCIL APPROVED MURALS FROM THE SIGN REGULATIONS AND LAND DEVELOPMENT CODE; PROVIDING FOR REPEALER, SEVERABILITY, AND SETTING AN EFFECTIVE DATE.

Mayor Lewis opened the Public Hearing. There being no comments, the Public Hearing was closed.

A MOTION WAS MADE BY VICE MAYOR TIMBERLAKE TO APPROVE ORDINANCE NO. O-04-2017 ON FIRST READING AS TO FORM ONLY AND SET THE PUBLIC HEARING FOR THE SECOND AND FINAL READING OF THE ORDINANCE FOR MAY 16, 2017. THE MOTION WAS SECONDED BY COUNCIL MEMBER ROYAL. THERE BEING NO FURTHER DISCUSSION, THE MOTION WAS APPROVED BY THE FOLLOWING ROLL CALL VOTE: AYES – COUNCIL MEMBERS CONSTANCE W. BUTLER, STEVEN R. KELLEY, B. VAN ROYAL, ROY M. TIMBERLAKE, JR., AND PAMELA J. LEWIS, MAYOR. NAYS – NONE.

CONSENT AGENDA

- 1. City Council approval of the Minutes for the Regular Session on April 4, 2017.**
- 2. City Council approval of Pay Request No. 4 in the amount of \$4,078.50 to Skanska under \$32,628 Engagement for Construction Management Services for Spring Park Pool Capital Project.**

3. **City Council award of Bid No. 03-17-01, Right-of-Way Maintenance, to Sand Endeavors, Inc. effective April 18, 2017 to April 17, 2018 with the option to renew for an additional two (2) one-year terms and authorization for the Mayor to execute the Professional Services Agreement.**
4. **City Council approval of Pay Request No. 1 in the amount of \$34,238.75 to Hooper Corporation under \$526,750 4kV Electric Distribution System Conversion Capital Project.**
5. **City Council approval of a Purchase Order for Power Services, Inc. to design electrical system for construction of an asphalt plant to be located at 1921 Jersey Avenue.**
6. **City Council approval to construct an electrical utility extension for an asphalt plant at 1921 Jersey Avenue, including purchase orders for materials to various vendors and for labor and equipment to Hooper Corporation.**
7. **City Council approval of Pay Request No. 12 in the amount of \$383,772.83 to Core Construction, under New Contract Value of \$2,226,832.00 for the Historic Spring Park Pool & Interactive Water Feature Construction Project.**
8. **City Council approval of Pay Request No. 12 in the amount of \$3,590.95 to Matthews Design Group, Inc., under revised Contract Value of \$60,000, for the Historic Spring Park Pool & Interactive Water Feature Project Construction Inspection Services.**
9. **City Council approval of SRF Loan # 100401 Disbursement #3 and Mittauer & Associates Invoice # 17122 in the amount of \$60,000.00.**

A MOTION WAS MADE BY VICE MAYOR TIMBERLAKE TO APPROVE CONSENT AGENDA ITEMS 1 THROUGH 9 AS LISTED ABOVE. THE MOTION WAS SECONDED BY COUNCIL MEMBER ROYAL. THERE BEING NO FURTHER DISCUSSION, THE MOTION WAS APPROVED BY THE FOLLOWING ROLL CALL VOTE: AYES – COUNCIL MEMBERS CONSTANCE W. BUTLER, STEVEN R. KELLEY, B. VAN ROYAL, ROY M. TIMBERLAKE, JR., AND PAMELA J. LEWIS, MAYOR. NAYS – NONE.

COUNCIL BUSINESS

1. Spring Park – Large Pavilion Capital Improvements. *Judd*

Discussion ensued with the City Council regarding capital improvements to the Large Pavilion at Spring Park as presented by Ms. Judd. City crews would be handling the renovations. She estimated \$35,000 for the re-roof, removing the old paint to the metal and repainting to match the new amenities building, removing the old asphalt and laying new sod, and replacing the large grill.

Mayor Lewis recognized Joe Sobotta, 212 North Street, who expressed his opposition to the City spending any funds for a new grill as he believed no one used it. He was also believed the costs for the metal roof was too high.

Ms. Judd stated she understood from the previous recommendation from the City Council, the re-roof and painting of the Large Pavilion would complete this portion of the Spring Park project. Council Member Royal disagreed saying he felt it would be a temporary measure for 3-5 years and until funding for the new pavilion could be found. The remaining Council Members concurred that the renovations could last even longer and be revisited several years later.

A MOTION WAS MADE BY COUNCIL MEMBER KELLEY TO AUTHORIZE THE EXPENSE OF UP TO \$35,000 FOR THE VARIOUS ELEMENTS TO RENOVATE THE LARGE PAVILION IN SPRING PARK. THE MOTION WAS SECONDED BY COUNCIL MEMBER BUTLER. THERE BEING NO FURTHER DISCUSSION, THE MOTION WAS APPROVED BY THE FOLLOWING ROLL CALL VOTE: AYES – COUNCIL MEMBERS CONSTANCE W. BUTLER, STEVEN R. KELLEY, B. VAN ROYAL, ROY M. TIMBERLAKE, JR., AND PAMELA J. LEWIS, MAYOR. NAYS – NONE.

2. Augusta Savage Arts & Community Center – Library Building Capital Project. *Judd*

Discussion ensued with the City Council regarding capital improvements to the Library Building at the Augusta Savage Arts & Community Center as presented by Ms. Judd.

Mayor Lewis recognized Felecia Hampshire, 508 Franklin Street, Green Cove Springs, who expressed her thanks to the City Council for their support for the ASACC Library. She congratulated Mayor Lewis and Vice Mayor Timberlake on their successful re-election. Ms. Hampshire reminded the City Council of the fundraiser for the 2017 Soul Food Festival on September 2nd.

A MOTION WAS MADE BY VICE MAYOR TIMBERLAKE TO AUTHORIZE THE APPROVAL OF A TASK ORDER TO BHIDE & HALL IN THE AMOUNT OF \$30,425 FOR COMPLETION OF CONSTRUCTION DOCUMENTS FOR THE LIBRARY BUILDING AT THE ASACC CAMPUS. THE MOTION WAS SECONDED BY COUNCIL MEMBER BUTLER. THERE BEING NO FURTHER DISCUSSION, THE MOTION WAS APPROVED BY THE FOLLOWING ROLL CALL VOTE: AYES – COUNCIL MEMBERS CONSTANCE W. BUTLER, STEVEN R. KELLEY, B. VAN ROYAL, ROY M. TIMBERLAKE, JR., AND PAMELA J. LEWIS, MAYOR. NAYS – NONE.

3. City Council acceptance of the Official Results of the April 11, 2017 Municipal Election. *Clevinger*

Discussion ensued with the City Council regarding acceptance of the Official Results of the April 11, 2017 Municipal Election as presented by Ms. Clevinger.

Mr. Arnold expressed his appreciation to Chris Chambless for his expertise and the professionalism of his entire staff.

Vice Mayor Timberlake expressed how dismayed he was at the poor turnout of voters. He stated he would like to see larger publication of the election and for a candidate forum for the voters prior to the election.

A MOTION WAS MADE BY VICE MAYOR TIMBERLAKE TO:

DECLARE PAMELA J. LEWIS THE WINNER OF SEAT 1 AND MITCH TIMBERLAKE THE WINNER OF SEAT 2 ON THE GREEN COVE SPRINGS CITY COUNCIL AND DULY ELECTED TO A THREE-YEAR TERM OF OFFICE FROM MAY 16, 2017 THROUGH MAY 21, 2020.

ACCEPT THE ELECTION RESULTS FOR THE TWO (2) CHARTER AMENDMENTS AS DULY PASSED AND CERTIFIED BY THE CANVASSING BOARD AND THE CLAY COUNTY SUPERVISOR OF ELECTIONS.

THE MOTION WAS SECONDED BY COUNCIL MEMBER ROYAL. THERE BEING NO FURTHER DISCUSSION, THE MOTION WAS APPROVED BY THE FOLLOWING ROLL CALL VOTE: AYES – COUNCIL MEMBERS CONSTANCE W. BUTLER, STEVEN R. KELLEY, B. VAN ROYAL, ROY M. TIMBERLAKE, JR., AND PAMELA J. LEWIS, MAYOR. NAYS – NONE.

At this time, Mayor Lewis addressed the Supplemental Agenda.

CONSENT AGENDA

S.A.1 City Council approval of Pay Request No. 10 in the amount of \$3,500 to Cypress Management and Design LLC, under new contract value of \$35,000, for the Historic Spring Park Pool & Interactive Water Feature Owner's Representative Services.

Supplemental Consent Agenda Item No. 1 – Council Member Royal advised he would recuse himself from the vote.

A MOTION WAS MADE BY VICE MAYOR TIMBERLAKE TO APPROVE CONSENT AGENDA ITEM 1 ON THE SUPPLEMENTAL AGENDA AS LISTED ABOVE. THE MOTION WAS SECONDED BY COUNCIL MEMBER BUTLER. THERE BEING NO FURTHER DISCUSSION, THE MOTION WAS APPROVED BY THE FOLLOWING ROLL CALL VOTE: AYES – COUNCIL MEMBERS CONSTANCE W. BUTLER, STEVEN R. KELLEY, ROY M. TIMBERLAKE, JR., AND PAMELA J. LEWIS, MAYOR. NAYS – NONE. RECUSED – B. VAN ROYAL (SEE FORM 8B ATTACHED AS EXHIBIT “B”).

COUNCIL BUSINESS

S.A.1. Update on Historic Spring Park Pool Construction schedule. *Mike Null*

Discussion ensued with the City Council regarding the update on the Historic Spring Park Pool Construction schedule as presented by Mr. Null. He recapped the February 28th City Council special meeting when Mr. Chung had agreed to an extension of April 14th for all items except cap stone and hand rail/fencing, which were extended to April 28th. Mr. Null acknowledged an increased presence by the subcontractors. On April 17th, City Staff visited the site and reviewed the list of items not completed as of April 14th. For the record, he noted that Core had not claimed they had met substantial completion. Some items included sidewalk brick bands, landscape and irrigation, HVAC, stonework, grouting in the outfall, pool deck finish coating, pebbletek finish in the springhead, marcite in the pool, several electrical items, and various items in the interactive water feature. Based on this list, City Staff was recommending liquidated damages in the amount of \$500 per day per the extended agreement to be imposed on April 15th, exclusive of Sundays. He noted that Core had requested an additional two (2) day rain delay due to rain on April 4th. He advised that subcontractors were actually working on site and on the following day. He reminded that Core had stated they had rain delays built into their schedule when they accepted the agreement on February 28th. The straight fence would be done by April 21st. He had a low level of confidence that the spiral railings would be installed by May 5th as noted by Core.

Council Member Royal stated he had been by every day and seen the progress. He was inclined to accept the report and discuss and tally up at the end of the day. The liquidated damages were not going away and he did not want to get into some legal argument and slow the project down.

A MOTION WAS MADE BY COUNCIL MEMBER ROYAL TO ACCEPT THE REPORT, NOTED PICTURES AND HAVE THE DISCUSSIONS WITH CORE CONSTRUCTION WHEN THEY ARE LOOKING FOR THEIR FINAL 10% HOLD BACK AND DISCUSS IT THEN.

He believed that the City should accept the report and with the pictures taken by the City, and City Staff should have a discussion with Core.

In response to Council Member Butler's question, Mr. Arnold noted the liquidated damages started on April 15th per the contract. It would entail discussions and what was believed to be entitled by each side. He noted the City Council could vote to accept the report tonight and hold it (liquidated damages) in abeyance for two (2) weeks.

Ms. Judd advised that she would submit a final performance report as of April 28th on the May 2nd Agenda and a final report on May 16th or June 6th.

Vice Mayor Timberlake clarified, with Mr. Arnold's confirmation, that assuming the City was to go forward with the motion to begin the imposition of liquidated damages, the process is essentially alerting the contractor that the City would begin the process to determine if there were causals beyond their ability to control what they actually pay and then some decision by litigation or negotiation. Mr. Arnold confirmed that this would be a public statement to the contractor that liquidated damages were accruing as stated in the contract. He believed that rules without consequences was just conversation. To prevent future issues, he felt City Council had made a commitment to the citizens of Green Cove Springs after a very deliberate conversation with the contractor and it was the City Council's responsibility to go forward and let the contractor know the City intended to pursue liquidated damages.

Council Member Kelley also stated his support for imposing the liquidated damages at this point. However, he wondered if that energy should be deferred and speculated this deter would the contractor from completing the project. However, he was sensitive to possible posturing and distraction from the project by the contractor and inquired if the City should wait until the project was delivered successfully. Ms. Judd advised that she did not intend to send an invoice, only to assess the total liquidated damages in the final payment. Mr. Arnold noted that this did not give the contractor any legal excuse to stop working on the project.

Council Member Royal stated that the letter of the law would be handled by the lawyers. His goal was to get the park and pool open for Memorial Day. He strongly believed that Core was working and there was an end in sight. He was not disavowing the liquidated damages. Council Member Royal restated his prior motion:

A MOTION WAS MADE BY COUNCIL MEMBER ROYAL SUCH THAT THE CITY COUNCIL ACCEPT STAFF'S REPORT, AND ALL THE ITEMS ATTACHED AND THE PICTURES, AND UNDERSTAND THAT THE SUBSTANTIAL COMPLETION DATE WAS THE 14TH AND HERE WE ARE ON THE 18TH. WE WILL GET TO THIS MATTER WHEN IT COMES TIME. ACCEPT THE REPORT NOT GIVING AWAY ANY LEGAL STANCE THAT WE'VE GOT AND LET'S GET THIS PROJECT DONE. THE MOTION WAS SECONDED BY COUNCIL MEMBER KELLEY.

Vice Mayor Timberlake noted he could not support the motion and would vote against it. He felt the City Council was acting in the best interest of the contractor and not the City of Green Cove Springs. In addition, noting the project was supposed to have been completed in December, he felt had the contractor put forth as much effort in October, November, and December, the project would be finished. He did not feel the City had slowed the contractor down. The City Council had a responsibility to assure that the contracts negotiated are enforced and carried out to the letter of the contract.

Council Member Butler concurred regarding accepting the report and hold the contractor responsible. The issue would be addressed after the completion of the project. Ms. Judd concurred.

Mayor Lewis concurred that the City was expecting the contractor to honor the contract. Vice Mayor Timberlake also felt it was important to reiterate to the contractor that the City intended to pursue liquidated damages per the contract.

Vice Mayor Timberlake countered Council Member Royal's comment, and Mr. Arnold confirmed, stating that regardless of whether the language was included now or later, there would be some negotiations at the end. This did not obviate or prevent the contractor their right to present a case and argue their point.

Mayor Lewis recognized Scott Smith, 600 St. Johns Avenue, Green Cove Springs, who inquired about the City having everything being completed before Memorial Day. Ms. Judd stated there would be some sort of celebration or Grand Opening but she could not commit to any date at this time. Once the punch list was completed, the City would be able to select a date.

Responding to Council Member Royal's inquiry about pool staff and operations, Ms. Judd advised she would have a Staff Report on the May 16th Agenda. Council Member Royal requested it be ready for the May 2nd Agenda as he would like to have a "soft opening" on Memorial Day. Ms. Judd stated she did not feel confident in sending invitations to dignitaries at this time, opening the pool for Memorial Day, only to close it and have a Grand Opening at a later date. In addition, she was concerned about how the contractor would back out of the site and the City would go in and double check all punch list items as many were significant. She would do whatever the Council directed her to do.

Council Member Royal stated he accepted that the Grand Opening would not be possible prior to Memorial Day. However, he recalled a conversation with Ms. Judd and suggested the 4th of July as a possibility. He wanted to see a soft opening of the pool.

Mayor Lewis recognized Felecia Hampshire, 508 Franklin Street, Green Cove Springs, who inquired about a soft opening and the safety of opening the pool. She also understood the issue of opening it before the project was complete.

Mayor Lewis suggested an "Open House" concept without anyone in the pool.

Following this discussion and clarifying the motion once more, Council Member Kelley expressed his concerns about the enforcement of the contract. He did not want to invite any situation where the dates were due to the fault of the City. He felt it was important and the contract was very clear as stated in the Staff recommendation and withdrew his motion.

Council Member Royal reiterated his concerns and his motion stood to accept the report only.

Mr. Arnold confirmed that a letter in response to a letter from Core would be drafted and sent this week. Any liquidated damages would be deducted from the final payment.

THE MOTION WAS SECONDED BY COUNCIL MEMBER BUTLER.

Vice Mayor Timberlake reiterated that he would not support the motion because the City Council had a responsibility to say the City intended to pursue liquidated damages. Council Member Royal disagreed. He recalled that the City Attorney said there would be a reckoning day and he did not believe it was a positive position for the City to be in and the contractor would still be held accountable.

THERE BEING NO FURTHER DISCUSSION, THE MOTION FAILED BY THE FOLLOWING ROLL CALL VOTE: AYES – COUNCIL MEMBERS CONSTANCE W. BUTLER AND B. VAN ROYAL. NAYS – STEVEN R. KELLEY, ROY M. TIMBERLAKE, JR., AND PAMELA J. LEWIS, MAYOR.

A MOTION WAS MADE BY VICE MAYOR TIMBERLAKE TO ACCEPT THE REPORT AND BEGIN THE IMPOSITION OF LIQUIDATED DAMAGES IN THE AMOUNT OF \$500 PER DAY BEGINNING APRIL 15, 2017 ON CORE CONSTRUCTION ON THE HISTORIC SPRING PARK POOL CONSTRUCTION PROJECT. THE MOTION WAS SECONDED BY COUNCIL MEMBER KELLEY.

Council Royal stated he would not support this motion because he did not think the City had a position to take on the contract. Council Member Butler did not understand the difference in the motions. Vice Mayor Timberlake explained that his motion stated the City would enforce the existing contract.

THERE BEING NO FURTHER DISCUSSION, THE MOTION WAS APPROVED BY THE FOLLOWING ROLL CALL VOTE: AYES – COUNCIL MEMBERS CONSTANCE W. BUTLER, STEVEN R. KELLEY, ROY M. TIMBERLAKE, JR., AND PAMELA J. LEWIS, MAYOR. NAYS – B. VAN ROYAL.

Ms. Judd asked for legal clarification on the “substantial completion”. If the pool was not ready by Memorial Day and the City opened the pool, would substantial completion be considered as done? Mr. Arnold stated he would follow this and let Ms. Judd know.

Mr. Null advised that the marcite was due to be installed by the end of next week. Once the marcite was finished, water needed to be in it within 48 hours in order to cure correctly.

4. City Manager and City Attorney Reports and/or Correspondence.

a. Executive Summary Reports – March 2017.

The City Manager acknowledged the above reports provided to the City Council for information.

The City Manager and City Attorney made comments regarding various city activities, events, operations, and projects.

Ms. Judd recalled the request for an honorary street name request and expounded on the information she had found so far.

5. City Council Reports and/or Correspondence.

The City Council made comments regarding various city activities, events, operations, and projects.

AN EMERGENCY MOTION WAS MADE BY VICE MAYOR TIMBERLAKE TO MOVE FORWARD WITH USING A CEREMONIAL TYPE SIGN AND KEEPING THE EXISTING STREET NAME SO AS NOT TO INTERRUPT THE 911 SERVICE AND DIRECT THE CITY MANAGER TO COME BACK WITH A FORMAL POLICY FOR THE CITY COUNCIL TO APPROVE ON HOW WE GO FORWARD WITH NAMING STREETS. THE MOTION WAS SECONDED BY COUNCIL MEMBER BUTLER.

Mr. Arnold recalled sending the County policy to the City Council and it was their decision to make accordingly. Ms. Judd specified that she did not intend to put a sign at every intersection along West Street, only a ceremonial sign at the intersection of West Street and M.L.K. Blvd.

THE MOTION WAS SECONDED BY COUNCIL MEMBER ROYAL. THERE BEING NO FURTHER DISCUSSION, THE MOTION WAS APPROVED BY THE FOLLOWING ROLL CALL VOTE: AYES – COUNCIL MEMBERS CONSTANCE W. BUTLER, STEVEN R. KELLEY, B. VAN ROYAL, ROY M. TIMBERLAKE, JR., AND PAMELA J. LEWIS, MAYOR. NAYS – NONE.

Adjournment.

There being no further business to come before the City Council, the meeting was adjourned at 8:49 p.m.

CITY OF GREEN COVE SPRINGS, FLORIDA

Pamela J. Lewis, Mayor

Attest:

Julia W. Clevinger, City Clerk