

COMMISSION MEETING

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Mayor Nugent announced that if anyone in attendance wishes to speak regarding a motion he asked for them to stand or raise their hand and he will acknowledge them for their comment.

Mayor Nugent called the meeting to order. Present were Commissioner Tommy Chastain, Commissioner Wilbur Waters, Commissioner Travis Woods, City Clerk Ricky Thompson, Police Chief Jeff Johnson, City Manager Tom Ernharth, Fire Chief Tom Rowe, and City Attorney Dan Sikes. Commissioner Carolyn Spooner was absent.

Commissioner Waters gave the invocation and led the pledge of allegiance to the flag.

Mayor Nugent entertained a motion to adopt the minutes from the April 5, 2016 City Commission meeting.

Commissioner Chastain made the motion, second by Commissioner Woods; passed 4-0.

Mayor Nugent entertained a motion to adopt the minutes from the USDA Grant Special Hearing April 5, 2016 City Commission meeting.

Commissioner Waters made the motion to adopt the special hearing minutes, second by Commissioner Chastain; passed 4-0.

Mayor Nugent entertained a motion to adopt the minutes from the BCR Workshop April 5, 2016. Commissioner Woods made the motion to adopt the minutes, second by Commissioner Chastain; passed 4-0.

Clerk Thompson requested to add items to the agenda

Add 3A Attorney Don Nissan

Add 3B Law Enforcement Week Proclamation.

Add 9A Election for District 2

Attorney Sikes invited Attorney Nissan a board certified construction attorney to come and speak to the Commission at no charge to the City regarding BCR. He has reviewed the contract and can make some recommendations to the commission.

Attorney Donald Nissan, 4821 NW 13th Avenue, Gainesville FL; Attorney Sikes sent me a copy of the BCR Contract and ask me for my comments for a draft letter he is putting together.

Attorney Sikes related to Attorney Nissan that there are problems with the operation of the system.

He referenced page 5 of the contract under Termination and Breach; the City may unilaterally terminate the contract if any of these things happen. When you get to item 4 and 5 of the list it reads if the system is decommissioned and the next item or if the plant is closed. From reading the contract documents he got the impression that back in 2009 the company and its system was one of many ways available to take sludge from A to AA.

He suggested the City to consult the experts that run the plant; does the city still need this system, does it still need AA sludge? If the answer is no the contract appears to give the city the authority to fire these people at basically no cost and walk away from the deal even though it is a 20 year contract.

If the system is not needed you can stop using it and then have no further obligations to BCR if you terminate it properly.

Commissioner Chastain ask if we can answer that question; we need that system.

Attorney Sikes added the conversation held with Mr. Ernharth; this is A to AA and we have not been doing that throughout the terms of the contract. EPA had one set of standards and it has now changed. So the question has become can we dispose or is there another way of doing this without using the neutralizer system?

If the City can cancel the neutralizer system as Mr. Nissan has discussed we can terminate the contract. But what options do we have not to use the neutralizer system and not put the city in foul with EPA.

Commissioner Chastain added that is a \$2 million system sitting down there.

Attorney Nissan added the money that this company earned since 2009; the monthly invoices being paid, if the city doesn't need to use the system is one option.

If the city needs the AA sludge the other option is to look for a competitor. If there is no other company that can do this other than this company, you could walk away from this contract and enter into a new contract.

Under the terms of the existing contract the other consequence of termination is the generator involved in this process which remains the property of the other party.

It appears the city is free to terminate this contract and start a new contract with some other company to produce AA sludge or a system that works. These are the things that jumped out of the contract. If you don't need the sludge stop doing it if you do need it can you find a competitor that is more competent than the present company?

Attorney Nissan feels the wording unilateral terminate is strong language and a judge would interrupt in agreement with him that the City could do it and you can make the decision you don't need their help and need to prove breach.

There is a chance they would disagree with you and they would choose to sue for breach of contract. He believes they would eventually lose that and some of the advantages the contract gives you hometown venue, meaning right here in your county in circuit court.

Attorney Sikes added if they would sue for breach the City can counter sue for their material breach.

Clerk Thompson added when the system was purchased the city was producing class B sludge and hauling it to a landfill at a pretty large cost. The class AA permitted the city to spread it as fertilizer on playgrounds and now spread it on the sod farm with no cost to the city. With it not working we would be back where we were.

Attorney Sikes responded; according to Mr. Nissan unless you find a competitor to do this with and works and delivers the product as opposed to what the city has right now. With listening to everyone it hasn't and yet to deliver with accordance of the results.

If we can find a competitor to do this and actually deliver we have the grounds to terminate the contract and counter sue.

Commissioner Woods stated all he ever wanted is to get a plant that works and they have not done that. He doesn't want the city to get out of a contract, he would like strong word used to force them to do what they promised to do.

Commissioner Waters added the City followed behind Clay County on this system. We all thought it was the right thing to do to save the city money. Clay County is having the same issues we are having. It's time to do something.

Commissioner Chastain asks Clerk Thompson if BCR is the only company in the state of Florida that offers this process?

Clerk Thompson responded as far as he knows they are a sole source. The treatment process is made of chemicals, the press and the most critical is they own the software.

Mayor Nugent asked how much would it cost the city to do what we are doing producing and tell them we are not using their system?

Mr. Ernharth responded we can use the system but go back to hauling like you had done before at around \$100,000 per year.

There is a lot of cost to the plant from probes, software upgrade that hasn't been done at a cost of \$70,000. The press to fix it was quoted at \$6,000 and there are additional costs that keep coming up with maintenance along with the monthly fees.

Attorney Sikes suggested for the city to get someone that has the expertise to negotiate with BCR. He has spoken to Mr. Nissan and his charge is \$275 per hour. BCR is not going to care a local attorney contacting them but they will care about a board-certified attorney contacting them. It will carry more weight. He recommends if the city wants to talk with BCR about resolving these issues have someone to talk with them that have the certifications in the field.

Commissioner Waters suggested having a 30 minute workshop before the next meeting to discuss how we want to proceed and have it on the agenda for a vote.

Attorney Sikes read the proclamation for Law Enforcement Week

WHEREAS, the members of the law enforcement agencies in the City of Starke and Bradford County play an essential role in safeguarding the rights and freedoms of the citizens of Starke and Bradford County; and

WHEREAS, it is important that all citizens know and understand the duties, responsibilities, hazards and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

WHEREAS, the men and women of the law enforcement agencies of the City of Starke and Bradford County unceasingly provide a vital public service.

WE FURTHER CALL UPON ALL CITIZENS OF THE CITY OF STARKE AND BRADFORD COUNTY, to honor those law enforcement officers, who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

NOW, THEREFORE BE IT PROCLAIMED, by the Commission of the City of Starke, that the week of May 15th through 21st, 2016, to be

National Police Week

and call upon the citizens of Starke and Bradford County to observe the week with appropriate ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their community and, in so doing, have established for themselves an enviable and enduring reputation for the preservation of the rights and security of all citizens.

Adopted by the Starke City Commission in regular session at Starke, Florida on the 19th day of April, 2016.

CITY OF STARKE CITY COMMISSION

ATTEST: _____
Ricky Thompson, City Clerk

By: _____
Daniel Nugent, Mayor

Commissioners: Tommy Chastain
Carolyn B. Spooner
Wilbur L. Waters
Travis V. Woods

Commissioner Waters made the motion to accept the proclamation, second Commissioner Woods; passed 4-0.

Mr. John Bartow Lee was present to request from the commission permission to hold a gospel sing at the downtown square. He requested the City to assist with sponsorship for the event.

Commissioner Woods added the city charges a fee for events held and the city could wave the fee of \$200 for the event.

Mr. Ernharth added there are still funds available in the contribution fund.

Commissioner Woods added we can wave the fees for electric and water.

Mr. Lee added there are several organizations within the city that have donated to the event.

Commissioner Chastain asked if the city could fund port-a-potties for the event.

Mr. Ernharth responded yes there are enough funds.

Mayor Nugent asks the board if they wish to add the item to the agenda for a vote?

Commissioner Woods made a motion to declare this as an emergency due to the time frame, second by Commissioner Chastain; passed 4-0.

Commissioner Woods made the motion to allow the donation of water, sewer and a check for \$200 for the donation to the sing; second by Commissioner Chastain; passed 4-0.

Chief Rowe reported that the roof is not completed yet. The firefighters have placed the walls up and painted them in the bay area.

Mr. Ernharth added the contractor contacted him and told him the metal will be purchased this next week.

Chief Johnson reported Sheriff Smith contacted him on Monday and ask if we wanted to purchase a truck for our officer in the drug task force for an amount of \$5,000. He will take payments from the quarterly fine and forfeiture monies until

it's paid for. The value of the truck is \$12,000 and if we don't get any funds we will not pay him anything.

Chief Johnson reported he and Mr. Ernharth attended the CTST (Community Traffic Safety Team) there are a couple of things. 2015 Bradford County had 10 fatalities; so far this year we have one. Turned over issues with the traffic signals at Market Road and 144th Street. It has been fixed with a laser system. Another issue is the 301 corridor the timing it will never correct itself until they come and do the paving in 2017 – 2018.

The first bid was open on the truck route and Anderson Columbia received the bid. They should start at any time. They pulled the funds for Walnut and 100 due to the overpass. They are trying to move the money to Orange Street.

They are going to place a left hand turning lane on 100 East at Griffis Loop but will not do it until CSX repairs the crossing.

Mr. Ernharth received a request to waive rezoning fees. The last time the city rezoned we received an email from Susan Faulkner stating four properties have been miss zoned. She is asking to resubmit an application to have them corrected. The cost to apply is \$1,950 and Mrs. Faulkner is asking the city wave the fees for the four properties.

Mayor Nugent added; historically we have waved the fees due to the changes being done by mistake.

Commissioner Woods made the motion to wave the fees, second by Commissioner Chastain; passed 4-0.

Mr. Ernharth asked for an exemption for the mileage in the vehicle policy. The mileage is set at 20 miles from city hall. One of the employees Liston lives 20 ¼ miles out of the city. We need an exemption for him so when he is on call he can take a vehicle home.

Commissioner Waters made the motion to approve the ¼ variance for Liston, second by Commissioner Chastain; passed 4-0.

Mr. Ernharth informed the board that the city engineer Mittauer and Associates. Two years ago we entered into an agreement with them and it is open ended and we are to give a 60 notice to them if we are looking to go out for proposals to obtain another engineer.

He asks the commission if they were interested in going out for proposals or wanted to retain Mittauer as engineers?

Attorney Sikes added the city is not required to bid this because there are fees associated with doing so and most of the time there is a chance of being charged more with a new contract. It is up to the commission if you desire to re-bid and you

can if you think you will get a better deal otherwise you can elect to continue the current contract.

It was decided to stay as they currently are.

Mr. Ernharth asks to table his next item of BCR Sludge Hauling. We can discuss this at the workshop before the next meeting.

Commissioner Chastain asked for some research to be done regarding the cost to the budget. He asks to check with DuPont if they would be interested in taking some of the sludge.

Mr. Ernharth reviewed his Bi-Weekly report. On the consent order the \$250 fee was paid, we have taken care of the advertisements, provided the written estimate of the cost of corrective actions and submitted to the State DEP Office. The next deadline is the quarterly report and it is due at the end of the month.

The Firefighters contract will be up for discussion. We will be meeting on May 10 at 2:30.

The water line at Grant and Desue Street is completed. We are still going through the testing procedures due to some issues with chloroform to get it approved for domestic use.

The Mayor of Hampton contacted him regarding the nuisance ordinance. He will go and speak at their meeting on May 10.

He requested permission to go before the county commission to discuss this ordinance and see if he can get them on board to get agreements with the tax collector. The board agreed to permit him to go to the county commission.

We were hoping Pat Marlin would be completed but ran into some issues with the property owner.

Mayor Nugent called a 5 minute break.

Mayor Nugent called the meeting back to order.

Commissioner Chastain asked Mr. Ernharth what Mittauer Engineers are providing as estimates for the sewer.

Mr. Ernharth responded the SRF paperwork is in the process. Mittauer will do the smoke test and televise of the lines and cleaning of the lines. All that will be included within \$850,000 loan/grant. It is attached to the bi-monthly report.

The numbers are estimates and DEP is aware they are estimates. The ball park figure is \$600,000. The second sewer rehab construction cost will be \$7 million.

The CDBG will assist with the manhole rehab.

Clerk Thompson reported the Bond Trustees met along with Commissioner Chastain and recommended the bills be paid.

Commissioner Chastain made the motion to pay the bills, second by Commissioner Woods; passed 4-0.

He presented the PreDemo Asbestos Inspection quotes that were tabled at the last meeting to await recommendation from the city engineers.

The engineers reviewed all the proposals and recommended GLE in the amount of \$2,150 and utilize the 8 to 10 day turnaround.

Commissioner Waters made the motion to accept the recommendation and quote from GLE, second by Commissioner Chastain; 4-0.

Clerk Thompson gave updates on the CDBG; there was a revision and a change needs to be made is the reason for the cancelled hearing. There are some issues with the Call Street right of way. It is to be one for the next meeting.

The two USDA Grants have been submitted and awaiting signature from the USDA. There is an estimate of two weeks from last Friday to see the funding. It also includes the last submittal for the radios.

Attorney Sikes requested the commission to place on the next agenda on how they will proceed with the District 2 vacancy with Ms. Spooner's resignation.

There are three choices the commission can take.

1. Commission can choose to leave the seat open until the next election
2. Commission can choose to use the appointment method
3. Special Election

County Supervisor of Election Terry Vaughn suggested with a special election to be held on September 13th and qualifying week being held beginning at 12 Noon July 25 and ending at 12 Noon July 29th.

For Mr. Vaughn to handle the election he estimated the cost at \$3,500 for the one district.

This is a policy decision that is not made by one person but by the commission.

He recommended the commission set a hearing date and determine which choice they wish to take.

Commissioner Waters added when he ran he had to run for a one year term and then rerun the following year for the four year term. His opinion is for District 2 to have the choice that represents their district.

Commissioner Chastain asked Clerk Thompson if he would be interested holding the in-house election for this one district instead of holding it through Mr. Vaughn's office?

Clerk Thompson responded yes, if that is what the commission would like. It will be placed on the next agenda for a motion to select the method to hold the special election.

Commissioner Waters referenced Randall Street in District; at the dead end there additional homes that are to be built. He asked Commissioner Woods if he has given any thought to extending the street when it comes time to do paving. Commissioner Woods responded this is the first he has heard about it and he wouldn't mind spending his share of the paving funds to finish up Randall Street. Commissioner Woods added if someone is building additional housing it would be their responsibility to put the road there and the city would take it over and maintain.

Commissioner Woods reported the Beautification Committee held a meeting and discussed Arbor Day and will hold it Friday, April 29th at 10:00 AM.

Commissioner Chastain requested for Mr. Ernharth to provide a 12 month study of line loses.

Attorney Sikes reminded everyone of the Police Officers Memorial Service April 28th at the First Baptist Church 6:30 P.M.

Mayor Nugent asked if any additional information needed to be brought in front of the board. Hearing none he entertained a motion to adjourn.

Commissioner Waters made the motion to adjourn, second by Commissioner Chastain; passed 4-0.

Daniel Nugent, Mayor
Commissioner Tommy Chastain
Commissioner Carolyn B. Spooner
Commissioner Wilbur L. Waters
Commissioner Travis V. Woods

Attest: _____
Ricky Thompson, City Clerk