

MINUTES OF THE REGULAR COUNCIL MEETING, CITY OF SKY VALLEY, GEORGIA HELD ON SEPTEMBER 26, 2017, TUESDAY AT 10:00 AM, CBC (OLD LODGE), 696 SKY VALLEY WAY

MEMBERS PRESENT: Mayor Goodgame, Council President Lively, Councilors Durpo, Larsen, Lively, MacNair and Steil
STAFF PRESENT: City Manager Lapeyrouse, City Clerk Fast, Police Chief Estes
SPECIAL GUEST: City Attorney Perry

1. Call to Order

Mayor Goodgame called the meeting to order.

2. Invocation/Pledge of Allegiance

Jane Lively gave the Invocation. Mayor Goodgame led the Pledge of Allegiance. Reuel Hamilton led everyone in the National Anthem.

3. Approval of Minutes

August 15, 2017

Councilor Steil made a motion to approve the minutes. Councilor Larsen seconded the motion and passed unanimously.

4. Adoption of Agenda-

Councilor Lively made a motion to approve agenda. Councilor Steil seconded the motion and passed unanimously.

5. Mayor's Remarks- 1) A lot of people to thank for all the help with the storm recovery including the Public Works Department & Police Department which was very active with communication.

Grass cutting is behind due to the storm debris clean-up.

2) Fall Decorations are looking great & Fall Fest is October 21st.

3) Visitor center – 121 for the month of September – 2016/2241 & 2017/1362 thru 8 months

4) Home Sales- 2015/34, 2016/40 & 2017/32 thru 8 months and club memberships have been transferred to new property owners

5) Understand that it is an election cycle but there seems to be a lack of knowledge of how things work. We have a Mayor/Council form of government. The Council is responsible for approving a budget and amending it as needed. Ordinances/policies/minutes are online & approved by Council.

My term is almost up with 2 more meetings.

Budget and budget amendments are passed by Council and most times are unanimously approved.

Mayor/City Manager are charged with responsibility for implementation of policies & procedures developed by Council.

Items outside the budget must come to Council for approval.

6) City Park and how it took place

October 2016 a Council workshop was held for the city park outlining the survey results.

It was agreed that it should be done with as much in-house labor as we could

Saving 25% to 30% by being our own general contractor

We bid out the pickleball court and the pavilion

City agreed to expand the existing walking path, and Steve Mason had agreed to allow his staff to work for the city some during their off season, however that did not work out City staff was asked to perform the work afterhours but they had too much going on

Looking for other options, our landscaper, Jim Wells, agreed to do it for the same price as was figured using temporary labor.

Three drainage ditches were eroding into the creek and we had someone drive off into the ditch during Fallfest last year. Our Public Works Director recommended we insert piping and cover up with dirt, grass and mulch. We decided instead to cover with gravel for additional parking

The park is complete except for finishing up the restrooms & the bridge to get across the creek and hopefully Council will get that done sometime soon

6. Council Remarks

MacNair – thanked everyone for attending and thanked the Mayor for his explanation

Durpo- thanked everyone attending and thanked the Mayor for update – also stated real estate market is moving forward and driving market values up

Steil-remember all our neighbors that were affected by storms

Lively- thanked everyone for being here and for getting involved by using their talent

Larsen-thanked the city employees for all their work during & after the storm
also thanked the candidates for stepping up

7. City Manager & Department Reports – Exceptions and Questions-presented report

NEW BUSINESS

8. Consider Proclamation for Red Ribbon Week- October 23-31, 2017

Councilor MacNair made a motion to approve Proclamation for Red Ribbon Week.

Councilor Steil seconded the motion and passed unanimously. Councilor Larsen volunteered to make the red ribbons and solicited help from the audience.

9. Consider Approval of Intergovernmental Contract Between Rabun County and City of Sky Valley Providing for Use of Rabun County Detention Center by Municipal Prisoners

Councilor Steil made a motion to approve. Councilor MacNair seconded the motion and passed unanimously.

10. Ratify Quit Claim Deed to Clear Title on Barbara Bottner – Ridgepole Area, Part 2, Lot 178A, 0.04 acres-

Councilor Steil made a motion to ratify vote previously approved by email vote. Councilor Lively seconded the motion and passed unanimously.

11. Consider Appeal for Tree Application for Allen N. McLeroy 55 Appalachian Point-

Councilor Larsen made a motion to consider grant of appeal. Councilor Steil seconded the motion and passed unanimously.

12. Consider Appeal for Tree Application for Keith A. Graham 299 Winding Ridge Dr #315

Councilor Larsen made a motion to consider grant of appeal. Councilor Steil seconded the motion and passed unanimously.

13. Discussion of the City's Financial Policy

Mayor Goodgame stated that Councilor Durpo had sent out an e-mail to the community and in it he requested that we have the City attorney come and answer some questions that he had in his e-mail. City staff has spent a good bit of time gathering the information,

reviewing it, and sending it to the attorney. Mayor Goodgame then read each question individually for the attorney's response.

1) An opinion for our city attorney regarding the handling of the park project, and walking path project, individually and in whole, and if they were performed with the purchasing policy of the City of Sky Valley?

Attorney Perry: Based on everything we have reviewed and been provided and a review of the financial policy, we believe the park project and the walking path both comply with the City of Sky Valley's purchasing policy.

2) An opinion from our city attorney. Is "stacking" legal? If so, in what instances are they allowed, and are there instances where it is not allowed? Mayor Goodgame also asked Perry to explain what "stacking" might mean.

Attorney Perry: My understanding from Mr. Durpo's question is rather than "stacking", you are talking about subdividing a project into smaller pieces rather than doing the whole project as one. Councilor Durpo agreed stating taking a single project and dividing it into multiple smaller projects. With that definition of "stacking", Perry stated there are times the law does not allow a city to subdivide construction projects. It's controlled by a statute. The Georgia statute prevents a project that is \$100,000 or more from being subdivided into individual pieces and then being completed piece-meal. The city's financial policy does not have a similar "anti-stacking" provision (termed used for ease of discussion). There are times when "stacking" is illegal and times when "stacking" isn't illegal. The statute, even with the \$100,000 limit, still has a lot of exceptions to it. One exception is when a city is doing some of the work itself.

3) An opinion from our city attorney. Is the practice of "stacking" allowed and defined in the purchasing policy of the City of Sky Valley?

Councilor Durpo: If it is not addressed in the City's financial policy, does that make it allowed or disallowed?

Attorney Perry: "Stacking" is not addressed in the City's financial purchasing policy therefore we believe that it is acceptable in certain situations to subdivide projects. You can't violate Georgia law.

Councilor Durpo: It has to be addressed in the policy so we need to add something to the policy to disallow it in the future?

Mayor Goodgame: Did you say under the GA statute, if the city is planning to do part of the work itself, that is an exception to the \$100,000 statute?

Attorney Perry: Yes, that is an exception to the GA statute. When you are looking at these situations, it's easy to say, "Is "stacking" allowed or disallowed," but the truth of it is that it is a maybe answer. It depends on what you're looking at doing. If you use the park or the walking path project, we don't see those things as "stacking" that would any way violate because the city is entitled to have a long-term vision for something. Call the park project a long-term vision. There is nothing stating that the long-term vision has to be completed all at once immediately by a subcontractor. Is "stacking" saying that you can divide the walkway into 100 foot sections and do it that way? No. That is something we believe would be disallowed. But can do the walking path project as the walking path and as the bridge? Yes, we believe you can subdivide those things.

Councilor Durpo: Our purchasing policy clearly outlines \$25,000 or more must be bid. It was known at the time that the walking path was going to be \$30,000. Can the City just decide on every project that they want to divide it into much smaller projects? The other concern is timing. Doesn't see a problem with building a pavilion and six months later seeing that it is full all the time and people are using it and then deciding to add something to the park. The entire park was known exactly what they wanted to do. It seems the walking path would be in violation since it was clearly above the \$25,000 figure.

Mayor Goodgame stated that was totally incorrect. In the council workshop in October, 2016, the Council unanimously decided it would pursue the park in stages, incrementally to see how far we could go and see what we could do and what we couldn't do. We did everything we could in-house and put the rest out to bid.

4) An opinion from our city attorney. Is a project or purchase in which its timing, and/or a single decision that clearly indicates it is one project or one purchase allowed to deliberately divide and "stacked" into smaller single purchases?

Attorney Perry: It depends on the project. There was a question raised about the purchasing of the four police vehicles. That is something that is allowed to be looked at per unit cost and not a four police car total. Things like that are allowed to be purchased individually. It is consistent with the policy to look at those purchases individually.

Councilor MacNair: We had to buy the police cars individually so we didn't have to put them out for bid. It's in our rules and regulations that anything over \$25,000 has to go for bid. If we are going to have this and we can go around the corner and throw it out the window, what is the use in having it in our charter saying we can't go over \$25,000 without a bid? If it's there and we say we are going to buy four police cars at one time and yet you allow them to be purchased individually and yet we've spent money beyond that to re-wire, put in lights and add to the cost of the police cars. You can buy a car and later on add the wheels for it as long as you don't go over \$25,000.

Attorney Perry: Each car is an individual item. Based on the city's policy, that is how we interpret it as it is currently written. If the City Council wants to change that policy or make it clearer so that it is not open for interpretation, that is something that would need to be changed by City Council. That's the way we read the policy as it is currently drafted.

Mayor Goodgame: Asked if there was an example in the financial policy.

City Manager Lapeyrouse: Read directly from the policy whereby an example is given when multiple items of equipment are purchased together. "The City will recognize acquisition costs based on individual unit prices. Assets should not be grouped. For example, in acquiring equipment, if three personal computers (PC) were acquired simultaneously at \$2,000 each, this would not be an asset of \$6,000 consisting of 3 PCs. Instead, it would be 3 separate acquisitions of \$2,000. Each PC would be recorded as a separate controllable item." This is how we look at multiple items purchased together. Also, we did follow the informal bid process for the police cars and received 3 Subaru dealership quotes as well as 2 other type vehicle quotes.

Mayor Goodgame: I believe the cars were \$22,900.

Mike Commons: The unit price would be the \$22,900 plus the cost of the improvements. What was the total cost of each unit after the work was done to it? How much were the decals?

Mayor Goodgame: We did not ask for bids on completed police cars. We bought the cars and then added the equipment ourselves.

Bill Horton: The intent is that if we are close to the \$25,000 for the total project, it should put it out to bid. By the time they were police cars, they were over \$25,000. The same addition of cost on the visitor center. Paving of the parking lot was taken out of our paving budget. It wasn't in the project. The whole project is the cost you base what you are going forward with and whether you are going out to bid. That's not what is being adhered to. He said to the city attorney that he disagrees with some of what the attorney has said.

Mayor Goodgame: The city has always tried to save money by improving an asset after we got it by using as much of our own people's time as we can to improve it.

Neal Howard: He was on Council when we approved in general about the park. We all like the police cars we got. The problem was that it wasn't discussed in a workshop. We don't get these things together and get all these comments from the public before we move forward. That's what it looks like. There are a lot of great improvements. We need to be more together. Not a lawyer, but we implore the council to take more time to involve everybody.

Mayor Goodgame: We talked about the park for a long time, asked for community feedback and we had workshops and meetings. We did not have a workshop on the cars. Maybe we should have. We had a job to do, and we did it. Council approved everything that was done. He is in favor of anything that keeps people more involved.

5) An opinion from our city attorney. Is project or purchase stacking in the best interest of taxpayers, and should it be considered a best practice for the city to follow?

Attorney Perry: This is not a legal question. This is a question of each taxpayer.

6) An opinion from our city attorney. If stacking is legal and ethical, what purpose does the city's purchasing policy serve, and who determines when the purchasing policy should and should not be followed, and otherwise stacked?

Attorney Perry: The City's purchasing policy serves as a guide to the City Manager, the department heads and to the Council as to how purchases and projects should be handled. Ultimately it is up to the City Council to monitor purchases and projects to make sure the city's policies are being adhered to.

Councilor Durpo: So the purchasing policy is subjective to city management?

Attorney Perry: No, the city's financial policy is the city's financial policy. It serves as a guide to everybody so that they know what the rules are.

Councilor Durpo: Walking path was done piece-mill although it exceeded the \$25,000 but we put the pavilion out for bid. Why didn't we just buy a concrete slab, some trusses and a roof and turn that into something that we didn't have to vote on in the first place?

City Manager Lapeyrouse: The walking path was voted on by City Council. The city bought the materials and did as much of it as we could, only outsourcing the labor and now the bridge. When she makes a proposal to Council, the Council can redirect her to bid it out a different way. The Council ultimately votes on it. If the Council wants to see the park bid

as one complete project with a General Contractor handling all of the components of it, they could tell her to bid it out as one project. From the very beginning, the Council wanted to do it in pieces, as funds were available, not knowing how much it could do.

Mayor Goodgame: It was the feeling in that workshop, that we would save a lot of money doing it that way by not having all the add-ons of a General Contractor. We could also adapt to conditions and things that happen as you go along.

Mike Commons: When we put this project together, was the decision made immediately to parcel up funding or was the decision made to go get a total bid to see what the total package would cost? You can get bids and decide it is too expensive. Then you can do one at a time.

Mayor Goodgame: It was not that way. Council did not decide to pursue it that way.

Mike Commons: Who originated the project?

City Manager Lapeyrouse: It started with the community survey, then it went to a Community Activities Committee and then to Council workshop.

Mike Commons: What bothers most of us is the process.

City Manager Lapeyrouse: Read directly from the minutes from the workshop whereby it was decided to be done in pieces as funds are available and she was tasked with getting itemized pricing for each component.

Mayor Goodgame: It would have been nice to have more input at the workshop. Don't know anything to do to be more transparent. The park was not his brain-child. It was the community's and then the community activities committee made a recommendation to City Council.

7) An opinion from our city attorney. The parking lot by the pickleball courts was built for the purpose of a parking lot, but financially categorized in the city accounting as an erosion repair project. Is placing a project or purchase intended for one purpose, but accounted for completely different purpose legal, ethical, and/or allowed by the city's purchasing policy? In other words, park project expenses should be accounted for in the park budget category, and erosion control is solely for erosion control. If allowed, what purpose does a budget category serve?

Attorney Perry: It common for projects to have multiple benefits. It's not required that it be allocated between categories.

City Manager Lapeyrouse – our auditor's response was to categorize as a roads right-of-way repair project even though it served two purposes. Both departments are funded through the General Fund so it all comes from the same pot of money. It could be moved to the parks department if the Council wants it shown there, but the auditor's recommendation was to leave it in the Roads Department.

8) The Council and taxpayers of Sky Valley have been told the city is not required to follow the same building codes and/or ordinances as the taxpayers. I find this hard to believe. Is the city exempt from state and/or city building code(s)? If not exempt, who inspects city projects to ensure they follow building codes?

Attorney Perry- city is not exempt from city or state building codes, but the city inspector is perfectly fine to inspect city projects

9) Is the city exempt from following the same ordinances enforced upon its taxpayers? If exempt, how is it determined which, if any, ordinances the city must follow versus ordinance it is not required to follow?

Attorney Perry- this is another "it depends" answer. Some ordinances the city is required to follow and some are not required to follow – an example of ordinances the city is not required to follow is the zoning ordinance. Each ordinance would have to be looked at on an individual basis.

10) Is the city required to get a permit from itself for a project?

Attorney Perry: No, I don't think so.

Durpo stated that City Manager Lapeyrouse previously stated that the City did not have to follow building codes or its ordinances. Lapeyrouse stated that was not what she said. The City does have to follow building codes. That is a state law. She had been asked if the city would issue a permit to a private individual without a parking plan. She stated no, but the City did not have to follow those same (zoning) regulations. Durpo recalled the discussion and agreed that was the context of the discussion.

Attorney Perry did clarify that Councilors should recuse themselves from a vote if they have a direct financial interest.

OTHER BUSINESS

11) Public Forum and General Comments

Al Lee thanked the city police department for their assistance over the last 20 months in helping with his wife.

Reuel Hamilton asked for a short summary of the lease on the property from the Mayor. After Mayor Goodgame's summary provide a history of the property, Mr. Hamilton spoke about the issue of building on someone else's property and the possibility of having it taken away again the same way that was done to the POA.

Mayor Goodgame explained that everything except a small portion of the walking path has been on city property. The proposed bridge would be portable and could be moved or sold if the City was no longer under a lease for the park.

Milt Gillespie inquired about the children's playground-Mayor Goodgame responded the playground equipment would be portable

Mike Commons – previous POA chairman provided additional information on the history of the POA pavilion and the terms of the lease.

Susie Piontkowski requested Mayor and Council put forth a motion to terminate and to proceed with the park project with the proper and ethical way of presenting to the public a more understandable way.

Edd Dean expressed his disappointment with this community that he loves stating that we have spent two hours complaining about things that have already been done. If members of the council felt when they were voting that something was being done illegally, that was the time to bring it up and not after everything was done. This community continues to split itself with things that have been said today. He and his wife have decided to keep

their home in Sky Valley. We need to spend as much time working for the good of the community as we do trying to blame everything on somebody else. If you disagree, that's fine, but remains friends and makes this community what it should be.

Barbara Kobacker stated there has to be more communication so that exaggerations are not being made. Help us understand. Let us know what is in the works.

The Mayor stated that the playground was planned to be the last piece of the puzzle. We have money available in the capital projects budget if the Council wants to allocate the money for that. We also need park benches, swings, etc. and plan to do a fundraiser to purchase these items in memory of a loved one.

Barbara Kobacker suggested lunch at City Hall once a month. The Mayor said we are open to all ideas.

Councilor Larsen stated people need to read their e-mail

City Manager Lapeyrouse advised the audience that the meeting was being recorded to be placed on the City of Sky Valley website which will allow people to be more informed and to listen to the entire meeting to hear all of the things that are talked about each month since not all of the details make it into the minutes.

Freda Solomon has been in Sky Valley for about 35 years. She advised she never received the survey about the park. The majority of the taxpayers has no say and are disenfranchised. We can't say anything; we can't vote. You are making decisions for us and we have no say. She has been married for 61 years to an attorney. One piece of advice for Linda when asked all these questions. Answer with, "I don't know, but I'll find out. I'll ask an attorney." Where are we going to get all the children for the park?

Al Piontkowski- what he believes is that the Mayor & Council have fantastic intentions, but a lack of communication is apparent with the comments that are coming up. It's a big problem to communicate. What he is reading behind the scenes is that there is an appearance of impropriety in getting some of the projects that are well intentioned done. Most of the things we are dealing with are common sense and it's becoming almost convoluted to reach a goal. If we need the city attorney to weigh in on a project, maybe we are trying to skin the cat a little differently. Everybody here loves Sky Valley. We need to focus on the future based on what has happened in the past. Where do we want to go from this day forward learning from what we've done right and what we've done maybe not as good as we could have.

Mayor Goodgame said as far as impropriety, he doesn't feel that anyone thinks that anyone up here has the intent to do something wrong. That's the reason we have the attorney here today to answer the questions. Thankfully, I haven't heard him say we have done anything wrong. Linda runs the city. He meets with her once a week to go over what we want to accomplish that week. If the two of us can't 100% decide that what we are trying to do is the right thing to do, we do call the attorney. John Dickerson has represented the City for a long time and is probably the top municipal attorney in the state or at least one of them. We feel very comfortable calling him and asking him questions. We never want to do anything wrong and doesn't think we have.

Milt Gillespie asked about the City's form of government – Mayor Goodgame responded he wasn't sure of the technical term, but the council makes all the decisions on policy and budget, hiring and firing, and everything. The city manager implements those things. The Mayor works with her, communicating often. We have a great staff and a great manager that have been with us a long time. Every single employee would come out at midnight if called on. He appreciates how they have all worked with him over the last four years and know they will continue to work with the next Mayor and Council.

12) Adjournment-

Councilor Larsen made a motion to adjourn. Councilor Lively seconded the motion unanimously approved at 12:10 p.m.

There being no further business to come before Mayor and Council, the meeting was adjourned at 12:10 p.m.

Respectfully submitted,



Hughel Goodgame, Mayor



Ella Fast, City Clerk