

**CITY OF JACKSONVILLE
REGULAR CITY COUNCIL MEETING
JULY 6, 2017
7:00 P.M. - 7:25 P.M.**

REGULAR CITY COUNCIL MEETING - CITY HALL - #1 MUNICIPAL DRIVE

The City Council of the City of Jacksonville, Arkansas met in regular session on July 6, 2017 at the regular meeting place of the City Council. Councilman Bolden delivered the invocation and Mayor Fletcher led a standing audience in the "Pledge of Allegiance" to the flag.

ROLL CALL: City Councilman: Elliott, Bolden, McCleary, Sansing, Ray, Mashburn, Traylor, Smith, and Collins answered ROLL CALL. Mayor Fletcher also answered ROLL CALL declaring a quorum. Councilman Twitty was absent. PRESENT NINE (9), ABSENT (1).

Others present for the meeting were: Fire Chief Alan Laughy, Director of Engineering Jay Whisker, Professional Administrative Consultant Geoffrey Herweg, IT Director Scott Rothlisberger, Human Resource Director Jill Ross, Director of Administration Jim Durham, Parks and Recreation Director Kevin House, CDBG Director Theresa Watson, Director of Public Works Jim Oakley, 911 Director Tabby Hughes, Executive Secretary Michelle Lewis, Accounts Receivable Specialist Nikki Wilmoth, Planning Commission Chairman Jim Moore, Planning Commissioner Patrick Thomas, Glenda Fletcher, Marie Fletcher, Judy Schuetzle, Robin Baker, Rick Kron, Jeannie Herweg, Lida Feller, Johnny Simpson, Dede and Larry Hibbs, Keith Weber, John Hardwick, Bob Johnson, Joy Kinman, Phillip Carlisle, Otis Stewart, interested citizens, and members of the press.

PRESENTATION OF MINUTES:

Mayor Fletcher presented the minutes of the regular City Council meeting of June 1, 2017 for approval and/or correction at the next regularly scheduled City Council meeting.

APPROVAL AND/OR CORRECTION OF MINUTES:

Councilman Ray moved, seconded by Councilman Bolden that the minutes of the regular City Council meeting of 4 May 2017 be APPROVED. MOTION CARRIED.

CONSENT AGENDA: REGULAR MONTHLY REPORT/POLICE DEPARTMENT

Councilman Ray moved, seconded by Councilman McCleary to approve the Regular Monthly Report for May 2017 regarding annual crime statistical comparisons.

Code Enforcement for May 2017

Assigned Calls	142		
<u>Self-Initiated Calls</u>	<u>661</u>		
Follow ups	936	Basketball Goals	7
Meetings/Court Hearings	9	Structures Inspected	1
Warnings Issued	95	Rental Properties Inspected	1
Notices/Letters Written	126	Properties Red Tagged	0
Vehicles Tagged	8	Search Warrants Served	0
Vehicles Towed	0	Structures Rehabbed	0
Lots posted	83	Structures Condemned	0

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Signs removed	70	Houses Demolished by City	0
Trash cans tagged	0	Houses Demolished by Owner	0
Parking Violations	95	Tickets Issued	0
Grass Letters	159	Grass Mowed	83

REGULAR MONTHLY REPORT/FIRE DEPARTMENT

Councilman Ray moved, seconded by Councilman McCleary to approve the regular monthly report for May 2017 from the Jacksonville Fire Department, reflecting a fire loss of \$188,500.00 and a savings total of \$271,500.00

REGULAR MONTHLY REPORT/ENGINEERING DEPARTMENT

Councilman Ray moved, seconded by Councilman McCleary to approve the regular monthly report for May and June 2017.

May 2017

PERMITS/LICENSE ISSUED

Building Permits	12
Business Licenses	6

INSPECTIONS PERFORMED

Building Inspections	25
Electrical	43
Plumbing	29
HVACR	21

June 2017

PERMITS/LICENSE ISSUED

Building Permits	19
Business Licenses	5

INSPECTIONS PERFORMED

Building Inspections	34
Electrical	40
Plumbing	23
HVACR	17

REGULAR MONTH REPORT/ANIMAL CONTROL

Councilman Ray moved, seconded by Councilman McCleary to approve the regular monthly report for May 2017.

ADOPTION FEES/FINES	\$1,660.00
CONTRIBUTIONS	0.00
TOTALS	\$1,660.00

ROLL CALL: Councilmen: Elliott, Bolden, McCleary, Sansing, Ray, Mashburn, Taylor, Smith, and Collins voted AYE. MOTION CARRIED.

- WATER DEPARTMENT:**
- WASTEWATER DEPARTMENTS:**
- FIRE DEPARTMENT:**
- POLICE DEPARTMENT:**
- STREET DEPARTMENT:**
- SANITATION DEPARTMENT:**
- PARKS & RECREATION:**
- PLANNING COMMISSION:**

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GENERAL: a. RESOLUTION 753 (#06-2017)

A RESOLUTION APPROVING AND GRANTING AUTHORIZATION TO MAYOR FLETCHER AND OTHER OFFICIALS FOR THE SALE OF CERTAIN REAL PROPERTY DESCRIBED HEREIN (GENERAL LOCATION: 2000 BLOCK OF WEST MAIN, CABOT, ARKANSAS); AND, FOR OTHER PURPOSES.

Councilman Ray moved, seconded by Councilman Bolden to read Resolution 753 (#06-2017). MOTION CARRIED. Whereupon City Attorney Bamburg read the heading of Resolution 753 (#6-2017).

City Attorney Bamburg advised that the City Council must approve any sale of property owned by the City. He stated that this is property that was owned by what was once the Hospital Board but is now the Board that runs the Jacksonville Medical Center, Inc. He related that the one-acre parcel is vacant and adjacent to the Clinic that is operated by Jacksonville Medical Center in Cabot. He added that the Board has already voted to approve the sale and is ready to close on the property with permission of the City Council.

Councilman Ray moved, seconded by Councilman Sansing to approve Resolution 753 (#06-2017) in its entirety. MOTION CARRIED.

b. RESOLUTION 754 (#07-2017)

A RESOLUTION SUPPORTING PASSAGE OF APPROPRIATE LEGISLATION TO ENCOURAGE PROPER ASSESSMENT AND COLLECTION OF SALES TAX FROM ALL INTERNET/ONLINE SALES TO CREATE A FAIR AND FREE MARKET FOR ALL BUSINESSES AND CONSUMERS REGARDLESS OF THE LOCATION OF SALES AND BUSINESS TRANSACTIONS; AND, FOR OTHER PURPOSES.

Councilman Ray moved, seconded by Councilman Bolden to read Resolution 754 (#07-2017).

Mayor Fletcher related that this is an action that has been encouraged by the Municipal League for all cities in an effort to have the Governor and Legislature come together in a special session to address this issue, which is so important to cities. He explained that municipalities are losing a lot of money that is needed to operate cities.

Representative Bob Johnson stated that this Bill is important to small businesses all over Arkansas. He then explained that there is a Supreme Court case, Quill vs. North Dakota, which could rule that the money has to be refunded. He stated that this would be devastating if the tax had been collected for a long time. He related that this was one of the problems with the Bill not being passed, adding that the other problem is the perception of this being a new tax. He stated that in 1948 it was passed that if goods are purchased out of state then sales tax is paid to the state the purchase originated. He reiterated that it is not a new tax, but the perception is that it is a new outflow for items purchased

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on the Internet that do not pay sales tax, adding that sales tax is suppose to be paid. He stated this Bill would help collect that sales tax. He related a rumor that the Governor is going to call a special session and noted that the vote was close, saying it was 43 votes, which is 8 votes short of the Bill becoming law, as it had already passed the Senate. He then stated he believes if the Governor called a special session the Bill would pass, adding that cities need to ask the Governor to have a special session. He related that he is on the tax reform task force and one objective is to lower the State income tax and make it easier. He encouraged everyone to contact their representatives to pass the Bill, which would improve revenues for cities.

In response to a question from Councilman Traylor, Representative Johnson clarified that the Bill defines an economic presence versus a brick and mortar presence. A brick and mortar presence is a building in Arkansas and an economic presence is 2 million dollars worth of online business or 200 individual transactions. He concurred that if an online company has an economic presence in Arkansas they would collect sales tax, adding that even today it is suppose to be collected. He explained that there is a line on tax returns that allow for reporting out of state purchases. He stated that if it is not addressed during a special session it will be addressed on the tax force but that will be a year and a half from now and a remedy is needed now. He concluded saying that he would appreciate the City Council's support for Resolution 754, saying this will let the Governor know the voice of Jacksonville City Council representing the voice of the people.

Mayor Fletcher acknowledged the Supreme Court case, saying that this needs to be a national law. He encouraged contact with Congressman French Hill to move this forward on the national level. He pointed out that currently there is a group of anti-tax people that the Congress is listening to. He stated it costs the everyday average citizen, noting there are jobs tied to this, saying it has been said that it is a tax on the poor, but it is the brick and mortar retail type businesses that will employ people with lower skills. He pointed out that Amazon is not going to support local little league baseball like local businesses. He acknowledged that technology and the Internet are changing a lot of things, which is mostly good but when it comes to retail it is hurting cities. He stated cities are having to dip into their reserves, noting that currently there is a campaign in North Little Rock to raise the sales tax, adding that Sherwood is also considering tax issues. He stated Jacksonville has been into its reserves for several reasons, and we have asked Directors to tighten their budgets and they have made cuts. He then added that later, he is going to ask the Finance Committee and some volunteers to look at long-term sustainable funding for City operations, saying that it is a serious deal and if legislators do not deal with this, then the City Council better find a new way to fund City operations, the sales tax is the only way it is working.

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He stated that he would also like to correct something on social media that has propagated regarding Jacksonville having a higher sales tax; acknowledging that Jacksonville does have a higher sales tax by one penny but 25 years ago when the Legislature passed a law that allows the people to vote for the sales tax, the City made a deal with citizens of Jacksonville that the 5 mills tax would be removed in trade for a sales tax. He stated that 25 years ago no one thought about how technology was going to change the landscape of how we operate. He pointed out that now it is starting to affect us, Black Friday was the biggest shopping day of the year, but has now been dropping the last 10 years and now Cyber Monday (Internet Sale Day) is doubling every three years.

Representative Johnson concurred, saying that it has to be dealt with now. He then noted that the problem with the US Congress is that some want it to be the point of sale instead of point of delivery. He related that all Amazon sales tax would go to Washington State, adding that that he supports the point of delivery for sales tax collected.

Mayor Fletcher noted that when the millage was removed from personal & real estate tax as money that supported the services for the City, and is no longer collected, thus while our sales tax is slightly higher, it is fair to remind everyone that we do not collect a personal or real estate tax. He stated that however 1 mill is paid toward police retirement, fire, and the Library but none of that money goes into the day to day operations of the City.

Representative Johnson stated that one of his duties on the tax force is to look at all taxes, but this issue cannot wait.

In response to a question from Councilman Collins, Mayor Fletcher stated that the Resolution is requesting a special session of the Legislature, noting that the City does not have the authorized to impose such a tax.

Councilman Elliott stated that he believes this affects the whole community's economy including the newspapers that do advertising for local brick and mortar stores.

MOTION CARRIED. Whereupon City Attorney Bamburg read the heading of Resolution 754 (#07-2017).

Councilman Elliott moved, seconded by Councilman Ray to approve Resolution 754 (#07-2017 in its entirety. **MOTION CARRIED.**

c. RESOLUTION 755 (#08-2017)

A RESOLUTION DIRECTING AND SUPPORTING AN APPEAL OF THE JUNE 29, 2017 ORDER IN THE MATTER OF SMITH V. CIT, ET.AL; DECLARING SUPPORT OF MAYOR FLETCHER, CITY CLERK DAVITT, AND CHIEF HERWEG; AND, FOR OTHER PURPOSES.

Councilman Ray moved, seconded by Councilman Bolden to read Resolution 755 (#08-2017).

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Mayor Fletcher explained that last week Judge Alice Gray ruled to remove Chief Herweg from his position as Police Chief; saying that he has asked that temporarily until the City has a hearing, he has asked City Attorney Bamburg to appeal this decision. He stated that it is obvious by the sponsorship of this Resolution that it is supported, adding that he appreciates the support.

At this time, MOTION CARRIED. Whereupon City Attorney Bamburg read the heading of Resolution 755 (#08-2017).

Councilman Bolden moved, seconded by Councilman McCleary to approve Resolution 755 (#08-2017) in its entirety.

Councilman Traylor questioned when the appeal would go before the Supreme Court.

City Attorney Bamburg answered that the appeal has to be filed in the Circuit Court that issued the order, we have request with a stay as well, this Court will make a determination on that and then the appeal would go to the Supreme Court because it is a case of "First Impression". Timeframe, normally it will get up there within 30 days, the difficulty is that transcripts have to be prepared and then the scheduling has to be set and that is all set by the Court.

City Attorney Bamburg then concurred with Councilman Traylor, he would represent the City as City Attorney in the case before the Supreme Court.

Councilman Traylor question if there is any additional costs.

City Attorney Bamburg responded that there would be the cost of the filing fee. He then answered Councilwoman Mashburn that with the Supreme Court, normally it is all done by paper; it is not necessarily done by oral argument, although oral argument can be requested.

Councilman Mashburn stated that her reason for asking is because she has a lot of concerned citizens in her ward that would like to be there to support Chief Herweg.

At this time MOTION CARRIED.

APPOINTMENTS:

ANNOUNCEMENTS: Mayor Fletcher announced that he had met with some of the leadership of the Police Department, adding that by the Constitution, he has the authority and is the chief law enforcement officer of the City of Jacksonville. He pointed out that he also has 9 other departments and so he has decided, since the Judge has removed Chief Herweg from his position temporarily, to create an administrative position. He stated

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that to run the day to day operations the Police Department has Captains, Lieutenants, Sergeants, and other personnel that do their jobs very well. He then thanked many Police personnel in attendance for their professionalism, adding he believes the entire City thanks them. He then stated the created administrative position is an interim Director of the Police Department, and he has appointed someone he has worked with for 20 plus years, that has a lot of knowledge and has worked with the Police, knows the policies, and knows the Department; announcing he has appointed City Attorney Bamburg. He stated that City Attorney Bamburg will perform the administrative part and the men and women who wear the uniform will continue to do their day to day jobs. He related his believe that it will be seamless and thanked City Attorney Bamburg for taking on the additional responsibility.

He then announced that Jeff Herweg is still part of the City's administration, saying that the City is going to take advantage of his Master's Degree in Public Administration. He related that Mr. Herweg is going to be his Professional Administrative Consultant, adding that he has a job description and honestly even though it is a temporary position, he put a lot into it. He stated that he has a grave concern and Mr. Herweg is going to be looking at a lot of the Departments, especially as he is having to deal with every single day and the worry he always has is the budget and the reduction of income that we have in the sales tax but also franchise fees and other such things. He related that they are trying to look at ways to redefine a lot of the responsibilities and how we can streamline things that continue to save taxpayers but at the same time he is very concerned, explaining he wants him in this focus because he believes Mr. Herweg's area of expertise is in the field of public safety. He stated he believes a lot of his effort will go toward public safety. He related his concern about what he sees happening in Little Rock and because Jacksonville is so close, he does not want to have a bleed over or ripple affect coming into the Jacksonville community. He related that he feels what is happening in Little Rock has an alarming affect for a lot of people. He said he has told Jeff Herweg that he would like for him to look at the areas of weaknesses that might help those opportunities grow here so we can combat them in a more productive way. He then added he feels part of this deals with housing and rentals. He related that the Renters' Association has approached him and they want to work with the City regarding this issue. He stated Jeff Herweg already has a full job ahead of him, adding he will also be working and helping running the Code Enforcement Department. He stated that both men have full plates, so they will need your prayers and support. He thanked the City Council for their patience as the City goes through this, saying that this too shall pass and we will be a stronger and better city. He reiterated his thanks.

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The Citizens Police Academy trap tournament fundraiser for the Police Department Saturday, July 8, 2017 Sign in at 8:00a.m. event begins at 9:00 a.m.

Councilwoman Mashburn announced that the Jacksonville Historical District is sponsoring a Annual Citizens of the Year Awards Banquet July 27th, ticket are on sell now for \$20.00. She related that this supports the Jacksonville Historical District's volunteers throughout last year.

ADJOURNMENT: Without objection, Mayor Fletcher adjourned the meeting at approximately 7:25 p.m. MOTION CARRIED.

Respectfully,

Susan L. Davitt
City Clerk-Treasurer

MAYOR GARY FLETCHER