

October 3, 2016
6:00 p.m.
Regular Board Meeting
Ripley City Courtroom

Mayor Pavletic presiding

Aldermen present: Alston, Beard, Chipman, Davis, Hankins and Treadway

Aldermen absent: None

Also present: Donna Buckner, Attorney Jackson, Johnie Ford, Chief Worlds, Chief Baltimore, and Randy Danley

Visitors: Dean Morrow, Scott Hartman, Syvelia Winbush, Amanda Adkinson, Kaye Jordan and Tommy R. Sanders

Scott Hartman, pastor of 3 Methodist churches, opened the meeting with prayer.

Mayor Pavletic led Pledge of Allegiance.

1. Motion by Alderwoman Alston and second by Alderman Hankins to approve September 6, 2016 minutes as printed and delivered in agenda package. All aye
2. Motion by Alderwoman Treadway and second by Alderman Chipman to approve September 2016 financial statement as printed and delivered in agenda package. All aye
 - Thank you from Burnie & Kathryn Norman
 - 2016 CDBG application approval in the amount of \$315,000 for fire protection project
 - American Way Industrial Park designated as AT & T fiber ready
3. Motion by Alderwoman Alston and second by Alderman Hankins to approve bid for purchase of four (4) self-contained breathing apparatus (SCBA) \$23,999.04. All aye
4. Motion by Alderwoman Treadway and second by Alderman Beard to approve Scruggs Equipment Co. bid for purchase of 23 cubic yard refuse packer and 33,000 GVW truck cab & chassis complete \$219,574.00. All aye
5. Motion by Alderman Chipman and second by Alderman Davis to approve TDOT Kellar Avenue bridge project supplemental agreement and/or request for construction change order request #1 to increase contract time by 45 calendar days. All aye
6. Motion by Alderwoman Treadway and second by Alderman Beard to approve grant contract between City of Ripley and Tennessee Highway Safety Office for project Governor's Highway Safety Office 2017 in the amount of \$10,000.00. All aye including mayor
7. Motion by Alderman Beard and second by Alderman Chipman to approve lease agreement between City of Ripley and Northwest Tennessee Headstart/Early Head Start for term August 1, 2016 and terminating June 30, 2017. All aye
8. Motion by Alderwoman Treadway and second by Alderwoman Alston to approve request by SBA Communications Corporation for a lease extension of 20 years with five (5) year renewal period beginning March 21, 2030 when current lease expires.

Attorney Jackson stated this request would be an agurate of over forty (40) years and would violate Tennessee state law.

9. Motion by Alderwoman Treadway and second by Alderwoman Alston to withdraw motion. All aye
10. Motion by Alderman Davis and second by Alderwoman Alston to refuse request by SBA Communications Corporation for a lease extension of 20 years with five (5) year renewal period beginning March 21, 2030 when current lease expires. All aye

11. Motion by Alderman Beard and second by Alderman Chipman to approve and authorize city attorney to file an action in Chancery Court to have Trustees appointed to oversee Rice Park and Cleveland Street Park.

Attorney Jackson gave report of status on Rice Park and Cleveland Street Park.

Attorney Jackson stated that Ms. Debra Tyus and board of WGL Rice Park Corporation came to City Hall about a month ago with requests for assistance in logistics in the park during the holidays and with maintenance and mowing. Over the last several years the City of Ripley has given funds from the budget to the corporation as a non-profit. When these requests were made Attorney Jackson began looking into the issue of Rice Park. Rice Park was established as a result of the estate of W.G.L. Rice. Mr. Rice conveyed in trust both Rice Park and Cleveland Street Park. Thus, Rice Park does not exist alone. The will provided that the trust be established and named trustees who were James T. Haynes, Roy Burgess and Norfleet Anthony, Sr. These parks were conveyed in trust and at the end of three years the court determined that the trust had been properly established to set up these two parks. In making that finding the court went further to award the parks in trust to those three men as trustees. Nothing has ever changed about that. After reviewing documents at court house Rice Park and Cleveland Street Park are owned by a trust. It isn't city property and the fact that they are parks that lie within the city boundaries does not and cannot make them city parks. The same three trustees were established for both parks and the eventual court order make them the owners as trustees to own and manage these two trust properties. For a period of time there haven't been any active trustees which has created problems. Over time there have been persons that have stepped in to take the role of trustee and manage but there has never been anything formal that has happened in court. Typically, the trustees would go to court every year to make an annual accounting of the trust assets, money made, expenses incurred and a balance of assets and money going forward. This should happen every year and it doesn't appear that it has. Attorney Jackson stated she previously relayed to Ms. Tyus that the park is just existing. There aren't any active trustees. However, just because the park is simply existing doesn't make it city property or private property. Various parties have acted and tried to manage Rice Park but it's not just Rice Park. Cleveland Street Park also exist in that trust. Whoever the trustees ultimately appoint will oversee, theoretically, both parks. Attorney Jackson stated she has been asked what has to be done for this park to take its rightful place under Ripley Parks & Recreation Department. She doesn't think that can happen because it's privately owned trust property and as such, even if the city was the only beneficiary of the trust the property couldn't just be made a city park. When a person establishes something in a trust or a will that is their intent. The point in which that intent can't be honored, typically, the property reverts to the testator's heirs. The city is not the only beneficiary. The trust was established for the benefit of both the city and its children and the county and its children. The order is signed by both the city and the county attorneys. The city as a beneficiary can go to Chancery Court and ask the court to establish trustees for the trust. The people will have responsibilities and duties, not only the city and county as beneficiaries, but to the court to manage the property and making reports. They have no obligation to put any monies of their own in it but they do have an obligation to manage it and report to the court annually. If the city wants the parks to be managed properly, the city needs to discuss filing an action in Chancery Court asking new trustees be appointed. She would suggest strongly the board consider, before any filing, who it would want to serve as trustees. The court will not independently put out an appeal to the public for trustees. When you file an action with the court you also propose to the court who you want to act as trustees. The county can either be a co-petitioner with the city or it can be made a defendant only because they are an additional beneficiary and are a necessary party and entitle to notice and participation in the proceeding. County Mayor Gaines was put on notice of the request in August and that there is a possibility the city may be filing action.

Alderman Davis asked if when asking the court to appoint trustees, the trustees could be appointed by title and not by name.

Attorney Jackson stated yes. Trustees can be persons designated by the board but it would be up to the court to grant or deny request. There would not be a board. Trustees will be obligated to do the work of the parks.

Attorney Jackson stated there have been many with concerns of the disposition of Rice Park and by association Cleveland Street Park. She stated she previously conveyed to Ms. Tyus that it would be appropriate for those to come tonight and hear firsthand what her understanding of ownership of the parks and her recommendation to the board is. Attorney Jackson suggested the board consider a public hearing with a question and answer format. Stressed again, that anyone interested in Rice Park will have to be just as interested in Cleveland Street Park.

Alderman Beard asked for clarification of the county's involvement.

Attorney Jackson stated the county has the same standing that the city does. They are one of the two beneficiaries of the trust. They will have to be party to any action the city files whether they are a co-petitioner or a defendant.

Alderman Hankins asked if the city should wait for a response from the county or schedule a public hearing.

Attorney Jackson stated it would be prudent to go ahead and schedule a public hearing to find out who is interested. Whether it be persons interested in acting as trustee step forward or if there aren't if there are persons interested in accepting responsibility for accountings and have those kinds of fiduciary duties to the court. Or to know if it's best to have designees instead of individuals. Invite county officials.

Mr. Samuel Lee was asked to address the board.

Mr. Lee asked if there were anywhere in the documents referenced by Attorney Jackson where Mr. W.G.L. Rice deeded that property to the black citizens of Ripley and Lauderdale County.

Attorney Jackson stated the actual terminology in the deed conveying it to the trustees reads, "It is therefore ordered, adjudged and decreed by the court that more than sufficient effort work expenditures of monies planning and energy has been spent to meet fulfill and carry out all of the provisions of Item 4 of said will of the late W.G.L. Rice and that said trustees James T. Haynes, Roy Burgess, Norfleet Anthony are vested in fee simple as trustee and trust for the use and benefit of the white children of Ripley and Lauderdale County of Tennessee a tract of land known as the Burk's lot (Cleveland Street Park) of some thirty acres more or less the same being devised to said trustees for the purpose of creating a park or recreation center and playground for the white children of Ripley and Lauderdale County of Tennessee. It is further ordered and decreed that more than sufficient effort work expenditures of monies planning and energy has been spent to meet fulfill and carry out all of the provisions of Item 5 of said will of the late W.G.L. Rice and that said trustees James T. Haynes, Roy Burgess, Norfleet Anthony are vested in fee simple as trustee and trust for the use and benefit of the Negroes or the colored people of Ripley and Lauderdale County of Tennessee a tract of land known as the old Henry Farm (Rice Park) that is all that part of tract of land lying east of the railroad containing 50 acres more or less the same being devised to said trustees for the purpose of creating a park or recreation center and playground for the use and benefit of the Negroes or colored people of Ripley and Lauderdale County of Tennessee". Essentially Cleveland Street Park, by his vision, was established for the white children. This was a time before integration. Rice Park was established for the African-American children.

Mr. Lee stated when got the news about the park it was suggested that we would be required to re-develop the park. Cut down trees and everything. Had people from all over the county, from Nutbush to Orysa to Fort Pillow bringing mules, hoes and saws to clean that place up. After over a year we had gotten a pretty nice space. We were told we had a sufficient amount of work for the black folks to claim it as their park. Rice Park was supposed to be black owned park at that point based on all the work we had done. We had carried out all the orders according to the trustees. They were supposed to turn it over to us at that point. It belonged to the black folks of Ripley and Lauderdale County and we continue to work and develop it. The city would help us from time to time. We didn't have electricity or water. He dug the hole for first women's bathroom and Harold Winbush dug the hole for the first men's bathroom. That feeling and understanding was prevalent among us that the park belongs to the black citizens of Ripley and Lauderdale County. Do your records care anything about that?

Attorney Jackson stated the will which established the trust was probated in 1949 and there are two provisions of the will establishing the trust and naming those same three trustees. The will gives them three years to develop those parks. In order for the parks to remain outside or owned by someone other than the Rice Park estate the parks had to be constructed within three years. But they were always intended to be trust properties. There is nothing in the will that indicates that at the end of those three years that the property be conveyed to the city or to any individuals. At the point at which the trust intent you can only infer from the document that creates a trust the intent by looking at the document. The point in which the trust doesn't honor the document then the trust lapses. They had three years to accomplish this. At the end of the three years there is a court order that divest it from the Rice estate and vest it to the trustees to be held and managed as trust. There's nothing else after that.

Mr. Lee stated that we were told that once we did the work and got the park up to the level it was supposed to be after three years it would become theirs. People from all over the county came to help to make sure we got it done. At the end of that period of three years, we were told we had done enough to claim it. Their understanding was that it was supposed to be piece of land donated by W.G.L. Rice to the black citizens of Ripley and Lauderdale County. Never got anything different until now.

Ms. Debra Tyus thanked the city and asked to move forward to a public meeting to discuss matter further and would like to put trustees in place.

12. Motion by Alderman Davis and second by Alderman Hankins to table previous motion on floor to allow for further discussion and research.

Alderman Beard ask who has been keeping up Cleveland Street Park.

Alderman Chipman stated the city.

Alderman Beard ask why didn't the city keep up the other park.

Attorney Jackson stated the city has been in some degree. When there hasn't been people from the Rice Park community to mow and maintain, the city has given its assistance.

Alderman Davis stated that in 1976 the city paid Mr. Holman (who lived next door to Cleveland Street Park) to keep it mowed. Not sure what happened after that.

Attorney Jackson stated the City of Ripley has made a contribution every year to the W.G.L. Corporation. They incorporated themselves. They named themselves this because of their interest in Rice Park. However, it does not give them any ownership or rights to manage. But they have done that for several years. The city's contribution to Rice Park was to assist with expenses, maintenance and mowing. The city has not done that for Cleveland Street Park.

All voted aye including the mayor.

13. Motion by Alderman Chipman and second by Alderwoman Alston to set meeting November 7, 2016 5:00 p.m. to 6:00 p.m. Ripley City Court Room. All aye

Attorney Jackson recommended to delay action on the City of Ripley resolution adopting amended disciplinary proceeding provisions.

14. Motion by Alderman Hankins and second by Alderwoman Treadway to pursue SRG Global request to make Quality Cove a private roadway with exclusive use to the city, its contractors and the industries/landowners with road frontage. All aye

15. Motion by Alderman Hankins and second by Alderman Chipman to amend last month's motion regarding SRG Global easement to only include monitoring well. All aye

Department Reports:

Ripley Parks & Recreation: Alderman Chipman gave monthly report.

Ripley Public Works & Codes Departments: Alderwoman Treadway gave monthly report.

Ripley Police Department: Alderman Hankins gave monthly report.

Ripley Fire Department: Alderwoman Alston gave monthly report.

Ripley Housing Authority: Alderwoman Alston gave monthly report.

Ripley Gas, Water & Wastewater Department: Alderman Davis gave monthly report.

Ripley Power & Light Department: Alderman Beard gave monthly report.

Meeting adjourned at 7:40 p.m.

Donna Buckner, Recorder

Jon Pavletic, Mayor