

**THE FOLLOWING MINUTES WERE ADOPTED AT THE JUNE 9TH MEETING OF THE MANDEVILLE
CITY COUNCIL. MANDEVILLE CITY COUNCIL
MINUTES FOR THE SPECIAL MEETING OF MAY 31, 2016**

The special meeting of the Mandeville City Council was called to order by Chairman Madden at 6:00 p.m.

PRESENT: Clay Madden, Rick Danielson, David Ellis, Carla Buchholz, Ernest Burguieres

ALSO: Mayor Villere, David deGeneres, Louisette Kidd, Edward Deano, David Cressy, Kim Chatelain, Times Picayune; Faimon Roberts, Advocate

1. Discussion of Ordinance No. 15-17

Ordinance No. 15-17, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE WITH RESPECT TO ARPENT LOTS 14, 15, 16, 17, 18, 20, 21, A PORTION OF ARPENT LOT 19, (NOT INCLUDING THE SUBDIVIDED LOTS DESIGNATED AS LOTS 1-14, INCLUSIVE, FORMING THE SOUTHWEST CORNER OF KLEBER STREET AND MONROE STREET), PARCELS A AND B, AND A PORTION OF KLEBER STREET, LOCATED IN SECTIONS 46 & 47-T8S-R11E, CITY OF MANDEVILLE, ST. TAMMANY PARISH, LOUISIANA, MORE PARTICULARLY DESCRIBED ON THE PLAT AND SURVEY PREPARED BY KELLY J. MCHUGH & ASSOCIATES, INC., CIVIL ENGINEERS & LAND SURVEYORS, DATED 12/03/13, REVISED THROUGH JUNE 30, 2015, DWG. NO. 13-136-BS, CONTAINING 76.648 ACRES (THE "PRESTRESSED CONCRETE SITE"); AMENDING THE OFFICIAL ZONING MAP AND COMPREHENSIVE LAND USE REGULATION ORDINANCE (CLURO) OF THE CITY TO CLASSIFY THE FORMER PRESTRESSED CONCRETE SITE AS A PLANNED COMBINED USE DISTRICT ("PCUD"); APPROVING THE SITE PLAN, MASTER PLAN AND GUIDING PRINCIPLES PREPARED BY ARCHITECTS SOUTHWEST, INC., DATED JUNE 25, 2015, ENTITLED "PORT MARIGNY TND" (COLLECTIVELY THE "MASTER PLAN"); REQUIRING THAT THE MASTER PLAN AND ITS PROVISIONS, TOGETHER WITH THE RESTRICTIVE COVENANTS, BE COVENANTS RUNNING WITH THE LAND; APPROVING THE DEVELOPMENT OF THE PCUD IN ACCORDANCE WITH THE MASTER PLAN AND ACCOMPANYING SUBMITTALS; REVOKING CERTAIN CONSTRUCTION, DRAINAGE AND SEWERAGE SERVITUDE(S) AND GRANTING A SERVITUDE OF PASSAGE AND FOR UTILITIES; GRANTING VARIANCES AS NEEDED TO GIVE FULL EFFECT TO THE MASTER PLAN; ESTABLISHING PROCEDURES FOR ADMINISTERING THE MASTER PLAN; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH. (Offered by Carla Buchholz, Council District II).

Mrs. Scott presented a power point with a recap of Port Marigny from July 2015 to present. (See attached document) This included an outline of the planning process, discussion of the CLURO and comprehensive plan, new urbanism, the recommended resolution from P&Z, ordinance 15-17, addendums and a timeline summary (see attached presentation). Port Marigny is the city's first TND. The council is to review and evaluate the criteria and follow the criteria for its zoning regulations. Any changes that may be identified must be fact based and the council needs to look at the minimal solution to mitigate the issue. The council needs to state their reason, not opinion, for their decision on the record. If it has no basis in health, safety or general welfare then it is an arbitrary and capricious decision. Mrs. Scott reviewed the traffic findings, master plan & guiding principles, finding grading plan, developmental agreement, and recommendations. (See attached document).

After the presentation Mr. Madden asked if any Council members had any questions. With no questions as this time, Mr. Madden asked Mr. Cressy review the amendments he listed in his memo dated 5/12/2016. (See attached document). The proposed ordinance as it was introduced has nine sections and three "BE IT FURTHER ORDAINED" sections. The ordinance presented to the council has two new sections as well and an additional "BE IT FURTHER ORDAINED". Mr. Madden inquired if everything the council needs is listed in the May 12th memo, Mr. Cressy said yes. Mr. Madden asked since the council is use to dealing with ordinances, would it be better to start with the ordinance and do a few sections at a time. Mr. Cressy recommended the council start with the ordinance and work their way through each section which will lead to the developmental agreement because the track each other. The developmental agreement has more detail. Mr. Madden asked if there should be a stand-alone meeting for the developmental agreement. Mr. Cressy said yes, those

would be in the two new sections, 10 and 11 of the ordinance. He would like to get the developmental agreement in play so they can start the advertising. It has to be formally added, the council can move to amend the ordinance to add section 10 then the public notice can start. Mr. Madden asked if we can move to amend the ordinance to include sections 10 and 11 which include the developmental agreement. His second question would be the next PM meeting is June 27th but there are regular council meetings before that. What do we advertise as the June 9th? Mr. Cressy suggested the approval of the developmental agreement. It may not be approved, just a discussion. Under state law the developmental agreement must be specifically mentioned in the ad. Mr. Burguières stated the council should make no decision until they have a legal consultant, there is no need to rush, and it has not been advertised. Mr. Madden understands that if we amend the ordinance to include the developmental agreement we are doing it to advertise and put it in play. Mr. Burguières asked to put it on the agenda for the next council meeting. Mr. Cressy said the ordinance is on the table and you can amend the ordinance at any time if it is on the agenda. If you vote to accept the amendment you are just adding it to the ordinance to start discussion. Mrs. Buchholz asked Mr. Cressy if the council can discuss without adding this to the ordinance. Mr. Cressy said no, because it is not a part of the ordinance yet. Mr. Ellis said to wait a week until the next council meeting might just meet the comfort level for some people.

Mr. Madden asked if Mr. Cressy can go through the proposed amendments. Mr. Danielson is concerned about taking any action tonight. Mr. Cressy reviewed the first section which is really housekeeping issues. The big change is in section two which lays out the approval of certain uses. Table one shows what is laid out and splits the land uses into two requirements: permitted by right or requiring a special use permit by the zoning commission. Mr. Burguières said the special use permit only goes through the zoning board not the council. Mrs. Scott replied Yes. Mr. Burguières wanted to remind the council that the developmental agreement is just optional. Mr. Cressy stated this is the ordinance not the developmental agreement. Mrs. Scott commented they did not want this ordinance to approve everything which is why they have some uses going through another approval process required under the TND.

Mr. Cressy reviewed sections 3-8 and discussed the ratification of a street and sewerage servitude; there are no objections to this revocation as long as the water drains south. Section 9 discusses the state lease that includes sunset point and a triangle noted as parcel "C". The original description was modified and the city will have to go to the state to change the lease. This would leave about 1.7 acres of land which will be a public park; the Pittmans will still be liable for the lease. Mr. Burguières asked if it is a public property, why not lease the land to Port Marigny. Mr. Cressy stated the city does not own the land we will just maintain the park and the Pittmans will develop it. Mrs. Buchholz wanted to reiterate that the park will be public and not just for Port Marigny. Mrs. Scott confirmed yes, but also wanted to assure the council that the master plan has a requirement for open space and this park is not included in those numbers and the development still meets the open space requirement.

Mr. Cressy reviewed the two new sections 10 and 11 and the "Be it further ordained". Section 10 maps out what that development has to do to move forward. They still have to go through subdivision approvals for each phase. Section 11 is the development agreement which is a contract between the Pittmans and any owner of record. The development agreement tracts the ordinance and addresses the biggest concern, traffic.

Mr. Madden asked if the council had any questions. Mrs. Buchholz confirmed the development agreement stays with the property regardless who the owner is. Mr. Cressy stated "yes".

Mr. Burguières asked if the table for uses are set or could they be changed? Mrs. Cressy stated these are the recommendations from the P&Z board, they can be changed but it must be for a rational reason (health, safety, and welfare).

Mr. Danielson inquired if there is any environmental information and if so where can it be found. Mr. Cressy said this would be included in the subdivision application process. Mr. Madden stated he does not know of a bank that will lend money without an environmental study. Mrs. Scott replied that an environmental assessment is only required for subdivision applications and would be required for the first phase of the development. Mr. Danielson asked if it is done phase by phase. Mrs. Scott replied yes it is up to the planning commission. She is aware the developers have a study but it has not been submitted. Mr. Cressy said it is not required by the law. Mr. Richard Muller said he offered to make the study available and was advised to wait until the subdivision application. He said the site has nothing wrong with it and there is no evidence on the contrary. Mr. Madden asked if the council can add this to the requirement now. Mr. Cressy said the CLURO would have to be amended but the developers have already applied and no change the rules would be illegal. Mr. Burguières asked what the rules are if this is a conceptual plan. Mrs. Scott commented this is not part of the application requirement.

Mr. Danielson asked if we have a percentage for the civic space. Mrs. Scott stated it is all in the master plan and guiding

principles but she does have a breakdown and they do comply. She will distribute the actual numbers. Mr. Danielson said at some time we will vote and let us assume there is an approval, what is the next step? Mrs. Scott said then the developer will make a subdivision application and it will go through the P&Z process for that specific use and follow the developmental agreement approved. Mr. Danielson commented if the first phase does not meet the requirements, then the next phase cannot start. After this council votes, then the council's job is done? Mrs. Scott replied yes, it would all go to P&Z for review.

Mr. Madden stated when it is time he would like to vote on each amendment instead of as a whole. Mr. Burguières asked when the first subdivision makes their application, is the environmental study done for that phase or for the whole development. Mr. Muller commented there will be one study, no one will develop a phase if there is an issue, but none exists. Mr. Ellis commented the environmental study will be for the entire project not done by phases. Mr. Muller stated P&Z made the recommendation to do the environmental study at the time of the subdivision approval, that is in the ordinance. This is also to include a developmental agreement that was suggested by Mr. Bailey. The developmental agreement protects the city. Mr. Madden asked Mr. Cressy if the council can amend the ordinance to add that the first subdivision application include an environmental study for the entire property. Mr. Cressy replied yes and Mr. Muller stated they are happy to provide the report.

Mr. Madden asked Mr. Cressy what we need to advertise for the June 9th council meeting regarding Port Marigny. Mr. Cressy and Mr. Madden agreed to discuss sections 1 and 2 of the Port Marigny ordinance and that will be listed on the agenda. Mr. Muller stated under RS 33:4780.28 a public hearing on an application for a developmental agreement shall be held by the planning agency, which was done. Notice of intention to consider adoption of a developmental agreement shall be published at least three times in the official journal of the municipality or parish and at least ten days shall elapse between the first publication and the date of the hearing. The recommendation of Mr. Cressy to add to the ordinance to include the developmental agreement was an attempt to get it in play so you could advertise three times. His recommendation is that you advertise 3 times, the developmental agreement will be considered for adoption. This does not mean you have to adopt at the hearing, it will just be considered and you will meet the advertising requirements. Mr. Madden asked if we motion to amend to include the developmental agreement, we can advertise and keep discussing. Mr. Ellis said if we put this on the Thursday agenda, what happens with the advertising? Mr. Danielson stated these two sections to be included will still come back and be voted on. From a transparency standpoint, we need to be comfortable and also allow the public to comment and be comfortable. It is not a final vote, it's just the beginning. Mr. Madden stated this is not like our normal amendments where we can do it at a council meeting, it has special advertising requirements. Mr. Cressy stated the advertising requirements are not to amend, just consider, you can't consider it until it is amended first. Mr. Burguières does not feel there is a rush. Mr. Muller said it was officially received at the last council meeting. This is not amending an adopted ordinance, you are amending an ordinance that has been introduced, which can be done at any time. He does not see any problem with what has been proposed.

Mr. Madden wanted to take questions from the audience.

Mr. Ren Clark said the ordinance listed stated "granting variances as needed", think of who defines the need. The fill variance is granted by the P&Z not the council, be careful with variances. Mrs. Scott commented the wording is the original ordinance and that has been changed.

Mr. Brian Reinhart asked if Mrs. Scott's presentation will be posted on the web. Also, you cannot rely on the benefit of the doubt. If you relied on the benefit of doubt, the first traffic study said there was no mitigation required and we know that is not the case.

Mr. Philip Haas is concerned with traffic and there were two analyses done, one by the city and a second by the developer. He feels that is a conflict of interest and there should be an independent analysis conducted. Mrs. Scott commented the city did not do a study, they just analyzed the study provided by the developer. He also cannot believe that an environmental study does not exist and thinks one should be done. This is a manatee breeding ground and should be preserved.

Mr. Eugene Phillips commented the council needs a lawyer to represent them. Mrs. Buchholz agreed.

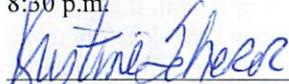
Mr. Michael Pulaski asked what the status of the lawyer is. Mr. Madden stated there are two avenues they have taken: an AG opinion was approved and secondly, Mr. Deano discussed with him 3 possible attorneys that will be provided to the council for review. Mrs. Buchholz commented she was not aware of three attorneys. The Mayor said he is not aware of three, and he is prepared to bring to the council an attorney for consideration on Thursday. Mr. Ellis asked why not three options because it is the council who will vote on this ordinance and they should choose. The mayor said he is following the charter, he picks the attorney and the council can approve or not. This is all about following procedures.

Mr. Charles Goodwin said first the developmental agreement assumes liability and the city should keep the liability. You should be very suspect of the generosity of the developer. Secondly, where the proof that there is no EPA problem, the burden is in the developmental agreement. He said using the word "consider" should be changed to guided or evaluated because it has proven to be abused. Lastly he heard if the developmental could not get 2ft of fill then the project was dead. Mr. Muller stated that was not true.

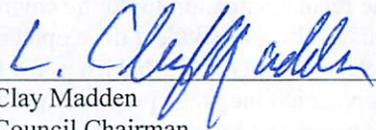
Mr. Madden reminded everyone of the budget hearing on Thursday night at 6pm and the next city council meeting will be on June 9th at 6pm and we will discuss those sections of Port Marigny.

ADJOURNMENT:

Mr. Burguieres made a motion to adjourn the meeting; this was seconded by Mr. Danielson, The meeting adjourned at 8:30 p.m.



Kristine Scherer
Council Clerk



Clay Madden
Council Chairman