

**MANDEVILLE CITY COUNCIL MINUTES  
FOR THE MEETING OF MARCH 13, 2014**

The regular meeting of the Mandeville City Council was called to order by Mayor Pro Tem Madden. Following the call to order, a moment of silence was observed and the Pledge of Allegiance was recited.

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

**ABSENT:**

**ALSO PRESENT:** Mayor Villere, Kal Miazza, Police Department; Frank Oliveri, Finance Director; Louisette, Kidd, Planning Director; David deGeneres, Director of Public Works; Edward Deano, City Attorney; David deGeneres, Director of Public Works; Henry DiFranco, City Engineer; Polly Greene, St. Tammany Farmer, Kim Chatelain, Times Picayune; Faimon Roberts, The Advocate

**MINUTES:**

1. Adoption of the February 27, 2014 Regular Meeting Minutes

A motion was made by Mr. Ellis and seconded by Mr. Danielson for the adoption of the February 27, 2014 regular meeting minutes. The motion to adopt the minutes passed 5-0.

**REPORTS AND ANNOUNCEMENTS:**

1. H.R. 3370, the Homeowner Flood Insurance Affordability Act of 2014 which provides much needed relief from the effects of the Biggert-Waters Act of 2012 passed the United States Senate by a vote of 72-22. It now goes to the President for his signature which he is expected to sign shortly.
2. St. Tammany Parish wants to withdraw from the Southeast Flood Protection Authority and introduce legislation to create their own separate levee district taxing authority.
3. Leanne Truehart, MD, candidate for St. Tammany Parish Coroner, introduced herself to the Council.

**PUBLIC HEARINGS:**

1. Rule to show cause why structure located at 2201 Lakeshore Drive in Mandeville, Louisiana should not be condemned pursuant to LSA-R.S. 33:4761 et seq

Mr. Deano stated that this structure was in the process of being demolished. A motion was made by Mr. Danielson and seconded by Mr. Ellis to defer the rule to show why structure located at 2201 Lakeshore Drive in Mandeville, Louisiana should not be condemned pursuant to LSA-R.S. 33:4761 et seq. The motion to defer passed 5-0.

**OLD BUSINESS:**

1. Adoption of Ordinance No. 14-03, AN ORDINANCE: AMENDING THE COMPREHENSIVE LAND USE REGULATIONS ORDINANCE, INCLUDING SECTIONS 2.5.2 QUALIFICATIONS AND DUTIES OF THE PLANNING DIRECTOR, 4.3.1.1 ET SEQ METHODS OF INITIATION OF AMENDMENT, ELIMINATION OF REFERENCES TO THE COMMUNITY APPEARANCE COMMISSION, 6.3 AND 6.4 LAND USE DEFINITIONS, 7.5.10 ET SEQ OLD MANDEVILLE BUSINESS DISTRICT 8.1 ET SEQ SUPPLEMENTAL REGULATIONS, 8.2.3 OUTDOOR DINING, 9.1 ET PARKING AND LANDSCAPING REQUIREMENTS, AND ARTICLE 10 SIGNS; AMENDING THE B-3 DESIGN REGULATIONS AND GUIDELINES AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH

A motion was made by Mrs. Buchholz and seconded by Mr. Danielson for the adoption of Ordinance No. 14-03. A motion was made by Mr. Madden and seconded by Mr. Burguières to defer the adoption of Ordinance No. 14-03 to March 27, 2014 to allow for further citizen review of six pages of changes resulting from the March 11<sup>th</sup> public hearing. Mrs. Kidd asked the Council to consider letting Mr. Michael Lauer make his presentation on the summary of the first phase of the CLURO revisions, the public hearing process and the recommendation from the Planning Commission. Mr. Lauer stated that there were four workshops held with the Planning Commission in addition to the five month long public hearing process and noted that there was consensus through the process. Phase one of the CLURO amendments include standardizing language, substantive changes (for Old Mandeville) for parking, parking lot design, signage, site development, and outdoor dining, and clarification to regulations for height of structures and electronic signs. Parking revisions in the B3 District, allow for more flexibility for business owners. The amended parking regulations allow for parking reductions by exception, limit parking and use of commercial vehicles and eliminate additional parking space requirements for uses requiring eight or fewer spaces. Under design standards, the amendments have clarified that the district is intended for small scale development. The B3 Design Guidelines are currently under review by the Historic District Commission. The proposed amendments define outdoor dining as an accessory use to restaurants and allow for temporary outdoor displays and permanent outdoor display of certain items. Under proposed changes to height regulations, the CLURO keeps the formula based height approach. No ancillary structure (not intended for occupancy or storage) or architectural feature may exceed 50ft in height within Old Mandeville. Graphics were added to illustrate height definitions and text was changed to "habitable" floor. Electronic message centers are prohibited in the B3 district. The revisions have allowed greater allocation for sign area by allowing businesses to mix and match free standing signs with wall signage. The proposal allows for sandwich board signs, halo lighting (back lit letters), and neon signs under certain circumstances. Outside the

B3 district, the amendments eliminate the bonus area for monument signs but allows up to 20% of allowed monument sign area to be shifted to wall signs and clarifies how sign height is measured. Standards for electronic message centers (EMC) include: (1) limiting them to the B1, B2 and B4 districts, (2) allow EMC to comprise the full area of allowed monument signs, (3) require auto-dimming based on ambient light conditions, (4) establish the maximum brightness and the method for measurement as determined by the sign industry, (5) the message may not change more frequently than once every eight seconds, (6) prohibit animation, and (7) for existing signs, compliance with the new standards is required within 45 days of adoption of the ordinance. Mr. Lauer stated that future CLURO changes will be based upon recommendations from the Planning Commission. Future issues include fill regulations, more sign standards, and town center issues for sight design and use. After Mr. Lauer took clarification questions from the Council, the motion to defer the adoption of Ordinance No. 14-03 to March 27, 2014 passed 5-0.

#### **NEW BUSINESS:**

1. Approval of Liquor License Application for Bagley Concepts, LLC, d/b/a Bourrè, 22 St. Ann Drive, Mandeville LA 70471

A motion was made by and seconded by for the approval of the liquor license application for Bagley Concepts, LLC, d/b/a Bourrè, 22 St. Ann Drive, Mandeville, LA 70471. Mr. Deano asked the applicant if he applied for his State liquor license. Mr. Bagley stated yes. The motion passed 5-0.

#### **PRESENTATION:**

1. Charter Commission Review - Presentation by Victor Frankowitz with Butler, Snow, O'Mara, Stevens and Cannada, PLLC

Mr. Madden stated that Mr. Frankowitz's presentation of preliminary charter amendments was based on a series of interviews he held with the Council and Administration. Public hearings will be scheduled on March 27<sup>th</sup> to be held during the months April and May with the final vote by the Council in June. The draft of charter review changes was presented in three categories: (1) technical changes and changes to synchronize with State and Federal law, (2) significant process changes, and (3) major policy level changes. Mr. Franckiewicz stated these basic principals have guided him through his review process: (1) keep the basic structure of the charter, (2) give recommendations that would facilitate the substance of your governance of this City, (3) minimize the unnecessary process with too much procedure that generates a lot of political movement but little substantive movement forward, (4) try to achieve clarity wherever possible, and (5) avoid exacerbating conflicts that are inherent in a divided government where you have a legislative and executive branch where there will always be some friction. The presentation takes the thirty five page charter, as it currently stands, and adds or deletes minor technical language in red, significant process changes in blue and major policy level changes in yellow. There was consensus to place the draft of amendments on the City's website prior to the public hearings. Mr. Madden asked if the Council would vote on the entire instrument or on each amendment separately. Mr. Deano stated that the Council can determine how amendments are packaged. Mr. Franckiewicz stated that related amendments can be grouped together, for example minor technical changes and process changes. However, policy level changes can stand alone and be presented to the voters separately, for example, term limit issues. A briefing on the amendments will occur at this meeting and then on March 27<sup>th</sup> the Council will consider a preliminary package to put out for public hearings. Then the "hard" introduction of the actual amendments would occur on May 22, 2014. Mr. Franckiewicz highlighted the proposed changes with the Council page by page. Under section 2-01, the first policy amendment recommendation changes Council term limits from two to three terms and eliminates the "musical chairs" of moving from district to at large seats or vice-versa. Mr. Franckiewicz stated that he did not have a recommendation on life time term limits because from a legal or governmental structural standpoint, he does not have a professional reason or basis to make that recommendation. As written, reapportionment would not be possible in 2020 so the package of amendments include revision and technical clarification for schedule workability. If the Council fails to make an appointment for a Council vacancy, the proposed amendment changes the backup appointing authority from the Governor to the Mayor. Under section 2-04, the schedule to change the Council's salary was clarified to ninety days prior to the qualifying deadline to insure that candidates know what the salary will be when they qualify. The second policy level recommendation prohibits the indirect removal of executive branch personnel through substantial reduction of compensation or benefits. Under section 2-06, the proposed change would clarify that the open meetings act applies to new Council members between the time they are elected and when they take office and change the term Mayor Pro Tempore to Council President. Proposed amendments include agenda control procedures to include advertisement in the official journal and on the internet and procedures that do not deny Council members the right to have an item placed on the agenda. It is recommended that the organization of the Council may be changed by a majority vote of the Council rather than a vote of two-thirds of the authorized membership of the Council. The recommendation also goes on to define the terms "authorized membership" and "membership". The two-thirds vote has been changed to three-fourths to be in conjunction with change in supermajority requirements. Under section 2-08, the recommendations clarify the Council's power to choose an independent auditor. Under section 2-10, the recommendation simplifies authority for minor immovable property acquisitions which may be provided as part of the budget ordinance. Mr. Deano added that we may want to consider those circumstances when servitudes of passage are needed for a capital project but there is no appropriation needed in the budget and therefore not a part of the budget ordinance. Another policy level change, under section 2-13, allows the suspension of existing ordinances during emergencies rather than passing new emergency ordinances. Under section 3-08, in addition to technical changes, the recommendation allows for the use of electronic signatures or similar means for the Mayor to execute documents or authorize actions provided under the charter. Under section 4-01, the proposed change allows, but does not require, a Chief Administrative Officer (CAO) position to be nominated by the Mayor and confirmed by the Council. Under section 4-02, a provision was added by which the Council could engage special

legal counsel, by Resolution, to advise the Council on specific circumstances for a limited period of time. This would be for situations where the Council determines that advice independent of the executive branch is required. Under section 5-03, the proposed change recommends that the capital budget shall include all unexpended balances from a prior year appropriations and contractual obligations against those balances, itemized for the individual projects authorized. In considering the capital improvement budget, the Council may rescind the unexpected balance of any prior year appropriation that is not contractually obligated. This would clarify that prior unexpended balances may be rescinded. Further amendments clarify the application of budgetary rescissions. A substantially new provision on professional service and other non-low bid procurements is recommended for section 5-08. Currently State law governs what the City must do on certain contracts. These suggestions cover all types of discretionary procurements between the low bid procurement (ie Public Works Project) and professional services which are not covered by the current charter or State law. The new provisions outline a mandatory competitive selection process and a reporting process. Discretionary contracts are limited to three years. Mr. Franckiewicz concluded by stating that this draft of amendments was a work in process. He added that he did not have recommendations on the following (1) enacting a master plan for historic preservation, (2) civil service issues, (3) life time term limits, (4) Council authorized to call a referendum for a recall, (5) the disability of Council members, (6) additional protections for the Chief of Police over and above what applies to Department Heads, (7) an elected Chief of Police, and (8) the Personnel Director – half appointed and half civil service. Mr. Deano asked if there should be a difference between moratoriums (suspending laws) and emergency ordinances. Mr. Franckiewicz stated that he did not see an ordinance for a moratorium as an emergency but he would study that a little more. Mr. Jack McGuire, 129 Lamarque Street, stated that when an ordinance was introduced last year to recommend lifetime term limits, he suggested that the Charter Review Committee appointed by the preceding Council be reactivated so that all amendments could be considered at one time rather than piecemeal. He added that he hoped that the charter review could be done by a committee of independent, non-political citizens, and the process be under the control of a citizens committee. However, the Council chose to engage a consultant to perform a review and report to the Council. Mr. McGuire stated that he sent a sixteen page letter to Mr. Franckiewicz in November of 2013 outlining his comments on a section-by-section basis. He stated that his concern was that the only things that will make it on the ballot is what the Council wants to see and not necessarily what the public may want. He encouraged active public participation. He listed his some of recommendations: (1) the section that allows the Council, by ordinance, to award benefits to itself should be eliminated, (2) change Personnel Director to Human Resources Director, (3) the Director of any civil service system should be under civil service.

#### NEW BUSINESS:

#### 2. Adoption of Resolution No. 14-09, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE TO CONSIDER THE RECOMMENDATION OF THE MANDEVILLE FINANCIAL OVERSIGHT COMMITTEE FOR THE REDEDICATION OF THE 1% SPECIAL SALES TAX

A motion was made by Mr. Danielson and seconded by Mr. Ellis for the adoption of Resolution No. 14-09. Mr. Danielson stated that the Financial Oversight Committee was charged with studying the possible rededication of the 1% special sales tax. This Resolution offers the Committee's recommendation to the City Council for their intent of the proposition language. The Committee recommends the following criteria: (1) 50% for all city purposes; (2) 50% for continued restricted purposes, excluding operating maintenance and salaries; (3) restricted purposes shall include flood protection; (4) the tax shall continue for ten years. Mrs. Buchholz stated that she could not support the exclusion of salaries. Mr. Danielson stated that the original thought was that all salaries should come from the general fund. Mrs. Buchholz stated that this exclusion was not in line with our Bond Attorney's recommendation. Mayor Villere emphasized the flexible use of resources when considering the financial objectives of the City to maintain services and return money (property tax) to the tax payers. He recommended 100% rededication for all City purposes on a permanent basis to maintain sustainable revenues. He added that we should not place an additional burden on the general fund for the salaries to maintain those services provided by the restricted fund. Mr. Danielson stated that the thought on the ten year term allows for voter flexibility to make a new decision on the 50% restricted/50% all City purposes in the future. Mrs. Buchholz questioned the need to restrict the funds, when the same goal could be accomplished through the budgeting process. Mr. Burguières stated that he has not seen any plans to return money to the citizens or goals to curb spending. Mayor Villere stated that we can provide a reduced millage opportunity to the assessor in June 2015. Mr. Oliveri stated that this proposal does not address equipment or the repair and maintenance of equipment. Also, can we contract with a company and pay their salaries associated with the contract? He asked – "What is the intent, to pay for the cement or pay for the cement and the labor to pour the cement?" Mr. Deano concurred and asked how will the City let projects out to bid. Mayor Villere stated that these restrictions will continue to build a balance in a \$16 million fund. A motion was made by Mr. Danielson and seconded by Mr. Burguières to amend the resolution to include language after lines 22 and 34: "(e) equipment, repairs and maintenance" and delete language on lines 23-24 and 35-36 which reads "operating and/or maintenance and the payment of salaries". After additional discussion regarding the rededication of 50% vs. 100% of the funds, the motion to amend passed 5-0. A motion was made by Mr. Danielson and seconded by Mrs. Buchholz to amend language on lines 26 and 38 from "ten years" to "continue in perpetuity". Mr. Oliveri stated that the ½ cent sales tax will be coming up for renewal in approximately seven years and might be able to expire depending on the state of the City. Mr. Burguières stated that the ten year term gives the voters more flexibility to be involved and limits the Administration from making commitments beyond ten years. A ten year term would show restraint and encourage the City to save. Mrs. Buchholz reiterated that the City Bond Attorney recommended a scenario that includes a perpetual term. The motion to amend passed 3-2, with Mr. Madden and Mr. Burguières voting against. There being no further discussion, the motion to adopt Resolution No. 14-09, as amended, passed 4-1, with Mr. Burguières voting against.

#### 3. Adoption of Resolution No. 14-11, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF

**MANDEVILLE AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF MANDEVILLE AND PROFESSIONAL ENGINEERING CONSULTANTS (PEC) CORPORATION FOR PROFESSIONAL ENGINEERING SERVICES FOR THE LIFT STATIONS 22, 23 AND 33 IMPROVEMENTS PROJECT IN THE AMOUNT OF \$42,200; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH**

A motion was made by Mr. Ellis and seconded by Mrs. Buchholz for the adoption of Resolution No. 14-11. Mr. deGeneres stated that this Resolution was for engineering services for the upgrade of lift stations 22, 23 and 33. Mr. Bernard Smith, resident on Lakeshore Drive, suggested that all lift stations should be equipped to send a signal, via cell phone message, when they are down. Mr. deGeneres stated that they were looking into a less expensive radio system which would accomplish the same purpose. There being no more discussion, the motion to adopt Resolution No. 14-11 passed 5-0.

**4. Adoption of Resolution No. 14-12, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE ACCEPTING THE BIDS FOR THE ISAAC RECOVERY – PEDESTRIAN BRIDGE REPLACEMENT PROJECT, PW-CMA007G AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE APPARENT LOW BIDDER; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH**

A motion was made by Mr. Danielson and seconded by Mrs. Buchholz for the adoption of Resolution No. 14-12. Mr. Danielson stated that the City received eight bids and the apparent low bidder was Sealevel Construction from Thibodaux in the amount of \$235,964. Mr. Burguières stated that a few weeks ago he asked the Mayor if GEC was consulted about this bridge design and if there were any considerations that could be employed in the anticipation of future flood control structures. Mr. DiFranco stated that he did not see any relevance or reason for GEC to look at the bridge with respect to flood protection. Mr. Burguières asked if the question was forwarded to GEC. Mayor Villere stated that he forwarded the question to David deGeneres. Mr. DiFranco stated that this was an interior bridge and there is no relevance for them to look at the bridge; there are no changes they could give us for flood protection. He added it was a FEMA project and the bridge has to be replaced in kind. Mr. Bernard Smith, Lakeshore Drive resident, concurred with Mr. Burguières and stated that he wondered if the bridge design was given enough consideration. Mr. DiFranco commented that we have a failing bridge that is about to become unsafe. Mr. Burguières expressed his disappointment in the fact that his question was not considered. Mr. DiFranco agreed to get an opinion from GEC. There being no further questions, the motion to adopt Resolution No. 14-12 passed 5-0.

**5. Adoption of Resolution No. 14-13, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE ACCEPTING THE BIDS FOR THE WEST BEACH PARK PLAYGROUND PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE RECOMMENDED PROPOSER; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH**

A motion was made by Mr. Danielson and seconded by Mrs. Buchholz for the adoption of Resolution No. 14-13. Mr. Danielson stated that this project was in the 2014 budget, we received three qualified bids, and DynaPlay was the recommended proposer. This company also provided the equipment for the Harbor Playground. Mr. Burguières stated that he received a Resolution from the Parks and Parkways Commission asking the Council to defer the adoption of Resolution No 14-13 until they have a chance to review the project at their monthly meeting. A motion was made by Mr. Burguières and seconded by Mr. Danielson to defer the adoption of Resolution No. 14-13 to April 10, 2014. Mr. Bernard Smith, Lakeshore Drive resident, stated that playgrounds can invite litigation. Mr. Burguières concurred and added that many school playgrounds were closing for liability reasons. Mr. deGeneres stated that what we have now needs to be replaced for safety reasons and to bring the City into compliance with Federal standards. He added that the DynaPlay equipment at the Harbor held up very well through Hurricane Isaac. Mrs. Buchholz stated that this was in her district and she has observed that it is used daily. There was further discussion regarding the powers and duties of the Parks and Parkways Commission. Mr. Madden stated that he would like to hear from the City Attorney with regards to the authority of the Parks and Parkways Commission relative to this project. The Mayor and Mr. deGeneres did not foresee a problem with deferring to April 10th. Mr. deGeneres stated that the City has 60 days from the committee recommendation date of March 6<sup>th</sup> to award the contract. Mr. Madden asked that the final word of what Parks and Parkways can or cannot do and their jurisdiction over recommendations on playground equipment come from the City Attorney. There being no further discussion, the motion to defer the adoption of Resolution No. 14-13 passed 5-0.

**6. Approval of Change Order No. 1 for the Isaac Recovery Water Meter Replacement Project, PW CMA004F in the additive amount of \$31,912.25**

A motion was made by Mr. Burguières and seconded by Mr. Danielson for the approval of Change Order No. 1 for the Isaac Recovery Water Meter Replacement Project, PW CMA004F in the additive amount of \$31,912.25. Mr. deGeneres stated that the contractor discovered that the water meters were different sizes in Old Mandeville which has resulted in an additional cost. Once the final number of non-standard meters are determined, a second change order will be submitted with a deductive amount. The motion passed 5-0.

**PUBLIC COMMENT:**

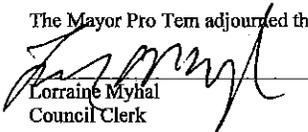
**PROJECTS IN PROGRESS (STATUS REPORT):**

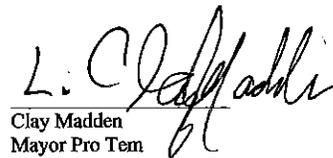
1. Capital Roadway Maintenance Project – The paving was delayed due to the cold and wet weather. The roadway milling is in progress.

2. Girod Street Landscaping & Lighting Project, Phase III – The plan is moving forward.
3. Monroe Street Sewer Lift Station -- The contractor is working on the pump station mechanical installation.
4. Tyler Thomas Park Restrooms – The pre-construction meeting was rescheduled for March 13<sup>th</sup>. We expect to issue a notice to proceed at that meeting.
5. Hurricane Isaac Water Meter Replacement – To date, 441 meters have been installed. Non-standard sizes were discovered and a change order was presented to the Council this evening.
6. Community Center Rehabilitation – Work began last week on interior wall modifications. The contractor is working nights and early mornings to avoid disruption to activities.
7. Hurricane Isaac Pile Cap Replacement – We expect to schedule a pre-construction meeting and issue the notice to proceed within the week.
8. Lotus Drive/Village Lane Drainage Project – The contractor is preparing the contracts, bonds and insurance.

**ADJOURNMENT:**

The Mayor Pro Tem adjourned the meeting at 10:22 p.m.

  
Lorraine Myhal  
Council Clerk

  
Clay Madden  
Mayor Pro Tem