

**MANDEVILLE CITY COUNCIL MINUTES
FOR THE MEETING OF JULY 24, 2014**

The regular meeting of the Mandeville City Council was called to order by the Mayor Pro Tem at 6:00 p.m. 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, Captain Ruple; Frank Oliveri, Finance Director; Louissette, Kidd, Planning Director; Edward Deano, City Attorney; David deGeneres, Public Works Director; Henry DiFranco, City Engineer; Kim Chatelain, Times Picayune; Faimon Roberts, The Advocate; David Folse, Tammany West

MINUTES:

1. Adoption of the July 10, 2014 Regular Meeting Minutes.

A motion was made by Mr. Mr. Madden and seconded by Mr. Ellis for the adoption of the July 10, 2014 regular meeting minutes. The motion passed 5-0.

PRESENTATIONS:

1. Ann Borne, Executive Director for the Northshore Housing Initiative (NHI), gave a presentation on the mission and vision of the community land trust. Using a shared equity model, NHI helps moderate-income homebuyers purchase a home by investing in the land. The land is leased to the homebuyer by the trust with a long-term lease that includes a resale formula to ensure affordability is preserved for the next buyer. The vision of NHI is to build a stock of workforce housing that is preserved for future generations.

OLD BUSINESS:

1. Adoption of Ordinance No. 14-14, AN ORDINANCE OF THE CITY OF MANDEVILLE LEVYING AND IMPOSING TAXES ON PROPERTY SUBJECT TO TAXATION IN THE CITY OF MANDEVILLE, STATE OF LOUISIANA, FOR THE YEAR 2014 IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE VII, SECTION 23(B) AND (C) OF THE 1974 LOUISIANA CONSTITUTION AND R.S. 47:1705 (B) (1) AND (2).

A motion was made by Mr. Ellis and seconded by Mr. Burguières for the adoption of Ordinance No. 14-14. Mr. Madden stated that the millage rate up for adoption has remained the same since 2012. This was a simple renewal. Mr. Ellis asked general clarifying questions on the separation of the millage rate into three sections and if the sales tax rededication has any influence on this ordinance. Mayor Villere stated that possible rededication would affect the millage rate this time next year. There being no further discussion or public comment, the motion to adopt Ordinance No. 14-14 passed 5-0.

2. Adoption of Ordinance No. 14-29, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE SUPPLEMENTING AND AMENDING THE COMPREHENSIVE LAND USE REGULATIONS ORDINANCE OF THE CITY OF MANDEVILLE, APPENDIX "A" OF THE CODE OF ORDINANCES OF THE CITY OF MANDEVILLE BY ADDING PROVISIONS TO THE FLOOD HAZARD PREVENTION ORDINANCE TO REGULATE THE PLACEMENT OF DUMPSTERS, DRAINS AND GREASE TRAPS IN ORDER TO PREVENT DAMAGES CAUSED BY PERIODIC FLOODING

A motion was made by Mrs. Buchholz and seconded by Mr. Burguières for the adoption of Ordinance No. 14-29. Mrs. Kidd explained the recommendations from the Planning and Zoning Commission to include: Dumpsters and other refuse containers 1 cubic yard or larger shall be properly secured in a fixed position to withstand any storm surge or removed from site whenever a named tropical storm / hurricane is located in the Gulf of Mexico, within the area of the City of Mandeville bounded by, and including all parcels touching, Monroe Street on the North, Jackson Avenue on the East, Galvez Street on the West and Lake Pontchartrain on the South and shall conform to all of the following conditions: (1) The dumpster or other refuse container is shall be enclosed within a fenced area in an approved location by the City Planner or designee as shown on a site plan of the property (2) All dumpsters shall have a secured cover that is suited for such dumpsters (3) Any dumpster which is temporary in place for use less than thirty (30) days or if a dumpster is used in conjunction with construction, during the period of the building permit, shall be secured in a manner to withstand any storm (4) Any dumpsters in place as of the effective date of this ordinance shall be secured in such a manner that is approved by the Department of Planning and Development. A motion was made by Mr. Ellis and seconded by Mr. Madden to amend Ordinance No. 14-29 based on the recommendations by the Planning and Zoning Commission. The motion to amend passed 5-0. A motion was made by Mr. Burguières and seconded by Mr. Madden to amend Ordinance No. 14-29 by adding additional language under section 8.3.5.6 (2) to read: All dumpsters used in the area designated above shall be registered with the City Department of Planning and Development. The registration shall include the name and address of the person responsible for the dumpster as well as any identifying information for the dumpster and the specific location of the dumpster. The motion to amend passed 5-0. There being no further questions, the motion to adopt Ordinance No. 14-29, as amended, passed 5-0.

NEW BUSINESS:

1. Adoption of Resolution No. 14-41, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF

MANDEVILLE TO REQUEST AN OPINION FROM THE LOUISIANA ATTORNEY GENERAL FOR AN OPINION ON THE PUBLIC RECORDS REQUEST TO THE CITY OF MANDEVILLE, DATED FEBRUARY 28, 2014 AND REVISED ON APRIL 4, 2014

A motion was made by Mr. Burguières and seconded by Mr. Madden for the adoption of Resolution No. 14-41. Mr. Burguières stated that this Resolution came as a result of the public records discussion held at the last regular Council meeting. A lot of questions were raised by citizen Finance Committee members, some were answered and some still linger. Mrs. Buchholz stated that the Council set a policy by Resolution, thirteen months ago, on how to request an Attorney General opinion. She added that this Resolution has not gone through our legal department, per our own policy, and therefore she could not vote in favor of it this evening. Mr. Deano provided clarification and stated that there were a few questions he would like to receive an opinion on. Specifically, our City Code of Conduct which requires that all public records requests be directed to the City Attorney might be in conflict with State law. Mr. Madden asked for clarification on the proper procedure. Mr. Deano stated that he should provide answers to the questions in this Resolution and if the Council did not agree with the response, or wanted additional confirmation, then the Resolution to seek an Attorney General opinion would be appropriate. Mr. Burguières added an additional question to the list under Resolution No. 14-41 to include: Is there an obligation on the part of the City to continue recording a public meeting after the meeting had adjourned and parties are discussing a prior public records request? A motion was made by Mr. Burguières and seconded by Mr. Madden to defer the adoption of Resolution No. 14-41 to August 28, 2014. The motion to defer passed 5-0.

2. Adoption of Resolution No. 14-42, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE ACCEPTING THE BIDS FOR THE MARINER'S VILLAGE SLOPE STABILIZATION PROJECT, PROJECT NO. 1301A8 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 Mrs. Buchholz and seconded by Mr. Ellis for the adoption of Resolution No. 14-42. Mrs. Buchholz stated that the City owns a ditch along Mariner's Village, behind the apartments, to the lake that has suffered erosion and needs improvement under this project. Mr. deGeneres added that the property is between Mariner's Village and the pre-stress site; we have a servitude there. The servitude is encroaching onto the property and we are proposing to straighten the ditch out (on the Mariner's Village side). Ten bids were received and Principal Engineering recommends Stranco as the lowest responsible bidder. Mr. Burguières asked if the improvement was on the pre-stress site. Mr. deGeneres stated no. Mr. Burguières asked for an attachment of a survey, map or drawing, in the future, for Resolutions and Ordinances referring to property. There being no further questions, the motion to adopt Resolution No. 14-42 passed 5-0.

3. Adoption of Resolution No. 14-43, A RESOLUTION OF THE CITY OF MANDEVILLE AUTHORIZING THE MAYOR TO SIGN A COOPERATIVE ENDEAVOR AGREEMENT BETWEEN THE CITY OF MANDEVILLE AND THE COASTAL PROTECTION AND RESTORATION AUTHORITY, STATE OF LOUISIANA TO UNDERTAKE A RESTORATION PROJECT AT EAST TCHEFUNCTE MARSH ASSIMILATION WETLAND AT A COST OF \$25,000 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. 14-43. Mr. deGeneres stated that the City received a grant from the State for this restoration project to plant cypress trees in the East Tchefuncte Marsh and the City's match was \$25,000. Mr. Burguières emphasized the need for the inclusion of a map. There being no further questions, the motion to adopt Resolution No. 14-43 passed 5-0.

4. Adoption of Resolution No. 14-44, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE ACCEPTING THE PROPOSALS FOR THE 2014 ROAD NETWORK RESTORATION SERVICES PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE RESPONSIBLE OFFEROR AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH

A motion was made by Mrs. Buchholz and seconded by Mr. Danielson for the adoption of Resolution No. 14-44. Mayor Villere stated that this contract was for the removal of debris off City streets ("The Push") during the first 70 hours after a declared emergency /storm. The contract needs to be in place prior to the event so the contractor can respond immediately. It is a two year contract. One proposal was received and found responsible. There being no further questions, the motion to adopt Resolution No. 14-44 passed 5-0.

5. Introduction of Ordinance No. 14-33, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE DECLARING CERTAIN ITEMS AND VEHICLES AS SURPLUS AND NO LONGER NEEDED FOR CITY USE; ACCEPTANCE OF BIDS FOR SAID ITEMS AND VEHICLES; AUTHORIZING THE SALE OF SAID ITEMS AND VEHICLES TO THE HIGHEST BIDDER; AUTHORIZING THE MAYOR TO EXECUTE ALL NECESSARY DOCUMENTS; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH

Ordinance No. 14-33 was read by title by Mr. Danielson. A motion was made by Mrs. Buchholz and seconded by Mr. Madden for its introduction.

6. Introduction of Ordinance No. 14-34, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE DECLARING CERTAIN VEHICLES AS SURPLUS AND NO LONGER NEEDED FOR CITY USE; AUTHORIZING THE MAYOR TO EXCHANGE OR DONATE SURPLUS VEHICLES; AUTHORIZING THE MAYOR TO EXECUTE ALL NECESSARY DOCUMENTS; AND PROVIDING FOR OTHER MATTERS

IN CONNECTION THEREWITH

Ordinance No. 14-34 was read by title by Mr. Danielson. A motion was made by Mrs. Buchholz and seconded by Mr. Ellis for its introduction.

7. Discussion of Amendments to Ordinance No. 14-31 and Ordinance 14-32, ORDINANCES TO APPROPRIATE FUNDS RELATIVE TO AND FOR ADOPTION OF THE CAPITAL IMPROVEMENT BUDGET AND THE OPERATING BUDGET FOR THE CITY OF MANDEVILLE

Mr. Danielson proposed amendments, to be considered when the capital and operating budget ordinances are up for adoption at the end of August, which provide additional guidelines for the preparation and execution of the budget documents. He added that he has met with the Administration already to review these proposed amendments and his intent was to improve the budget process. The proposed amendments read as follows:

- 1.) In the event that surplus funds are needed to fund budget items, the Administration shall provide an explanation and justification during the budget process.
- 2.) The Administration shall maintain no less than 80% of the beginning fund balances for the 2014 – 2015 fiscal year.
- 3.) Every capital improvement shall be accompanied by a "good faith projection" of yearly maintenance and operating costs for five years.
- 4.) The Administration shall notify the City Council in writing two weeks prior to the execution of any contract or Cooperative Endeavor Agreement (CEA) greater than \$40,000. In the event of an emergency situation, the Administration shall notify the City Council as soon as practical.
- 5.) The Administration and City Engineer shall provide the City Council with a mid-year update on all open items (greater than \$40,000) in the Capital Improvement Budget related to the infrastructure of the City.
- 6.) The definition of professional service contract as it pertains to funds appropriated by this budget and as governed by Section 5-08 of the Mandeville City Charter shall be those contracts in which the primary service is performed by those holding a designation or certification as a medical doctor, attorney, architect or engineer.

8. Announcement and request for resumes for an appointment by the Council to the Planning and Zoning Commission

Mrs. Danielson announced the request for resumes for the Council's appointment to the Planning and Zoning Commission. Mr. Ren Clark's appointment expires on August 31, 2014. The deadline to submit a resume is August 22, 2014, 4:00 p.m. and the appointment will be made at the August 28, 2014 regular Council meeting.

9. Discussion: Report from Edward Deano about the applicability of the restriction by Bernard de Marigny on erecting structures on the Lakefront

Mr. Deano stated that this was a complicated project. There are several problems: (1) we do not have a plat of the City recorded in St. Tammany Parish, (2) reportedly the plat was done, recorded in New Orleans Parish but cannot be found, (3) the plat filed in New Orleans Parish, was done so before Mandeville was a City (incorporated in 1840). So the lakefront may have been dedicated to an entity which did not exist at that time. What we are left with is the mention of those restrictions outlined (no erecting of structures) in the deeds that were conveyed by Marigny. He sold over 400 lots in less than one week. Those would only have the authority of a restrictive covenant, which if it is not enforced becomes abandoned. There have been buildings and pavilions on the lakefront for 100 years. And that is the only authority that can be found in the public records or deeds of St. Tammany Parish. We cannot find a dedication of that property (between Lakeshore Drive and the lake) to the City of Mandeville. Mrs. Rebecca Rohrbough, Lakeshore Drive resident, asked if the City has taken any parcel of land, from the 1834 act of sale to the 20th century, and followed title through to see where the property line descriptions have changed (from the lake to Lakeshore Drive). Mr. Deano stated no. She asked what archives were available at the City for researching at what point the City took over the management of the lakefront. Mr. Deano stated that it was his understanding there was a fire in the 1880's and a lot of documents were destroyed. Mrs. Rohrbough added that the official journal, The St. Tammany Farmer, has records of published Council minutes at the library in Covington. At some point a decision was made by City officials to honor Bernard de Marigny's request for restrictions on the lakefront (and dedication). Perhaps this Council should consider a modern day Ordinance or Resolution to confirm and continue those restrictions and dedication of the lakefront as a public space. Mr. Nixon Adams suggested that the Causeway Commission might also have earlier records for research. Mr. Deano added that the Louisiana Constitution states that a public entity cannot maintain private property.

FINANCE REPORT:

The General Fund currently has \$11.4 million. Our Special Sales Tax Fund is at \$17.8 million which will decrease as we finish up the capital projects (\$6.7 million) for this year. We have planned for carryover in this year's budget. For example, the \$400,000 budgeted for land purchase. Mr. Oliveri gave a summary of all fund balances to date. Total balances equal \$45 million, before the \$6.7 million committed for capital projects. Our policy is to maintain 20% or \$3 million in the General Fund at all times.

PUBLIC COMMENT:

Mrs. Buchholz stated that we deferred Resolution No. 14-41 tonight for procedural issues; we need to make sure we have the process right. Also, after the lengthy discussion at the last Council meeting, there appeared to be resistance

from several MFOC committee members not willing to produce the information requested in the public records request. Once a citizen committee member has signed the code of conduct and has taken a role to serve the City and advise the Council on financial matters, they are no longer just a private citizen. She added that she finds it curious that the request is meeting with so much resistance.

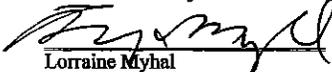
Mr. Jerry Coogan, Kimberly Ann Drive and MFOC Committee member, stated that he was concerned that at the June MFOC meeting there was a committee member who asked and confirmed if the meeting was adjourned, and then proceeded to discuss the public records request off the record. It was finance committee business because it concerned each committee member. He continued to discuss with a full quorum of committee members and a quorum of the City Council. The topic was not advertised or on the agenda. He added that as a former Councilman he was troubled by the resistance to release public committee emails. He stated that he informed the Mayor that he will no longer attend these committee meetings as his representative and invited the Mayor to replace him on the committee. He added that until the public records request is satisfied, he will not participate on the committee.

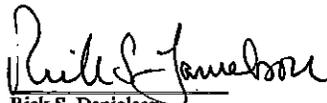
PROJECTS IN PROGRESS (STATUS REPORT):

1. Capital Roadway Maintenance Project – Task Order No. 1 is substantially complete. The Carondelet sidewalk is in progress. The drainage on Marigny between Jefferson and Madison Street is the next project under Task Order No. 2.
2. Girod Street Landscaping & Lighting Project, Phase III – No change in status. The State employee who handled the project has retired and Mr. deGeneres plans to connect with her replacement.
3. Tyler Thomas Park Restrooms - The bathrooms were open this past weekend. The contractor is working on punch list items. We are waiting on CLECO to install the meter.
4. Lotus Drive/Village Lane Drainage Project – The contractor is installing conflict box at the Lotus Drive pipe crossing. Next, the work at Lotus and Garden Ave. will start.
5. West Beach Park Playground – The equipment and safety surfacing has been installed. There are plans to install some additional concrete benches.
6. Hurricane Isaac Recovery Bridge Replacement – The site work has begun. Pile driving and the removal of existing bridge will start this week. There are four to six weeks of work remaining.
7. Isaac Recovery Sewer Lift Station Electrical Rehabilitation – The lift station is under construction.
8. Rapatel Water Tower – The site clearing is nearly complete. The contractor will begin installing new water main piping to connect with system in the next week.
9. WWTP Headworks Rehabilitation & Sluice Gates – The headworks portion is 75% complete. Once complete, the contractor will work on the sluice gates portion of the project.

ADJOURNMENT:

Mr. Danielson adjourned the meeting at 7:35 p.m.


Lorraine Myhal
Council Clerk


Rick S. Danielson
Mayor Pro Tem