

CITY OF MACCLENNY
Regular Meeting
May 9, 2017
6:00 p.m.

The City Commission met in a regular session, Tuesday, May 9, 2017 with the following present: Mayor Mark Bryant, City Manager Phil Rhoden, City Attorney Frank Maloney, Commissioners Lynward Bones, Sam Kitching, Cecil Horne Jr., and Danny Norton and Council Secretary Deanna Dinkins.

Mayor Bryant called the meeting to order. Mayor Bryant opened the meeting with prayer followed by a pledge to the United States flag.

Old Business:

City Attorney Frank Maloney read **Ordinance 17-03** by title only, an ordinance rezoning approximately 6.65 acres in the Southeast Quadrant of the City from Planned Unit Development (PUD) to PUD. Mayor Bryant asked City Manager Rhoden to report on the events since the first reading. Manager Rhoden stated the Board did not make a decision at the second reading in February. Blair Gatlin filed a petition for mediation, and comments were heard in the public portion, which was not widely attended. Manager Rhoden explained that mediation is not covered by Sunshine Law, and that means not all of the discussion details may be shared. Manager Rhoden read a portion of the minutes from the public meeting, and explained if a settlement is not agreed on the City would likely face a court case in Federal Court, not just Circuit Court. He emphasized this PUD may not be denied due to the developer being tax-exempt. The City is facing a unified front from the property owner, developer, and attorneys. After the public meeting, the parties involved moved across the street to the fire department to begin the closed-door mediation process, which lasted all day. After the mediation, the City Manager spoke to the Mayor and Commissioners individually regarding the discussions and the settlement. At the end of the process, City staff recommend voting to approve the second reading. This does not mean the City agrees with it, but based on the specific criteria allowed in our Land Development Regulations (LDR) there is no reason to recommend voting against this. The fees paid in lieu of taxes will total \$75,000 over the next 20 years.

Commissioner Kitching asked with respect to the statement, "First with respect to the confidentiality under Florida Statute 119.073, complaints and other records pertaining to complaints under Florida's Fair Housing Act are exempt until otherwise made part of an official record or an investigation becomes inactive," when might that be possible in this case? Mr. Fugate replied it will likely not be possible in this case, as there was never a Fair Housing complaint filed; it was threatened and may have been a possibility if the agreement was not reached in mediation. Therefore, reopening records at a later time does not apply in this situation. He went on to explain Florida Statute 44.405 is the operative statute that addresses the confidentiality of mediation communications. The City Manager was able to share details of the discussions that took place with the Mayor and Commissioners individually, because they are the party (the City). Commissioner Kitching state he would like for the citizens to know the Council is operating where they cannot reveal to them all of the things that went on behind the scenes. Mr. Fugate replied the mediation agreement only is public record and may be shared.

Commissioner Norton asked if there was anyone present representing National Development Foundation (NDF). Elizabeth Vermales introduced herself as an officer of NDF. Commissioner Norton asked her a series of questions regarding the financing terms, property development details and NDF, and Mrs. Vermales responded to each. Commissioner Norton then thanked the taxpayers of Baker County and City of Macclenny for paying taxes, which in turn pay for City and County fire departments, law enforcement, schools, roads, emergency medical services, parks, ball fields, etc.

Mayor Bryant stated federal law is very clear there cannot (and must not) be denial based on tax-free status. We have had mediation and there is a proposed agreement. If this ordinance is not approved there may be serious legal repercussions and it would be very expensive. Manager Rhoden added he has made a recommendation and feels it is important for the future of the City to approve this.

Commissioner Kitching stated the City was misled when this was originally presented. He added that he does not see the value in spending additional money to fight this.

Mayor Bryant asked for a motion, if there was no further discussion. Commissioner Kitching made a motion and was seconded by Commissioner Bones to approve the second reading of Ordinance 17-03. There were no questions or comments. Voting was unanimous. Motion carried.

New Business:

Mr. Fugate discussed the agreement for fee in lieu of taxes for the American Way Town Homes Planned Unit Development. The agreement would remain with the property if sold to another non-profit, but would go away if sold to a for-profit entity. Commissioner Norton asked if 100% of the annual fees come to the City. Mayor Bryant replied yes, this is not shared money. Mr. Fugate added this would all be City dollars to be paid annually by March 1st. The agreement is legal and was completely voluntary by the developer to offer this. While the funds may not equate to the amount that could have been received in taxes, it is better than zero dollars.

Attorney Maloney asked of the Council was going to approve the agreement and stated it does need a vote. Commissioner Kitching made a motion and was seconded by Commissioner Bones to approve the agreement for fee in lieu of taxes for the American Way Town Homes Planned Unit Development. There were no questions or comments. Voting was unanimous. Motion carried.

City Attorney Frank Maloney read **Resolution 17-06**: a resolution between the City of Macclenny and the State Department of Transportation for maintaining the right-of-way on State maintained highways. Assistant Manager Griffis explained this is a renewal of an existing contract to maintain the streets which are listed in Exhibit A of the agreement. This is a three year contract at \$42,000 annually. Mayor Bryant asked if the annual amount is comparable to prior years and Assistant Manager Griffis replied this includes an increase of \$1,200. After brief discussion, Commissioner Kitching made a motion and was seconded by Commissioner Horne to approve Resolution 17-06. There were no questions or comments. Voting was unanimous. Motion carried.

Assistant City Manager Mike Griffis reported there was an appointment to the Zoning Adjustment Board at the last month's meeting, filling one of the two vacant spots. Troy England submitted his application for consideration and we are recommending his appointment to the Zoning Adjustment Board. There was brief discussion regarding his credentials. Commissioner Bones made a motion to appoint Troy England to the Zoning Adjustment Board and was seconded by Commissioner Kitching. There were no further questions or comments. Voting was unanimous.

In other business was the approval of the minutes. The following minutes were submitted for approval:

- Regular Meeting: April 11, 2017

Commissioner Kitching made the motion to approve the minutes and was seconded by Commissioner Norton. Voting was unanimous. Motion carried.

In other business was the review of the bills for March. There were a couple of questions on the bills which were discussed and answered. Commissioner Kitching made a motion to approve the bills and was seconded by Commissioner Bones. Voting was unanimous. Motion carried.

Comments from the Board:

Commissioner Norton referenced the Income and Expense report and asked if it is normal to be at 86% of ad valorem taxes received fiscal year to date. Manager Rhoden stated this is normal and there will be further receipts from tax certificates and late payments will still come in.

Commissioner Norton stated he attended Possum in the Park, which had about 25 vendors. The event was not very well attended.

Manager Rhoden stated it has been a tough couple of weeks. He explained that City Attorney recommended Norm Fugate to assist with the mediation. Manager Rhoden expressed his appreciation to all involved with the mediation. NDF is still under a strict timeline in order to obtain financing.

Manager Rhoden reported the Legislature approved \$500,000 in appropriations for sewer repairs, to be used lift stations. Now we hope the Governor does not veto it. He met with Florida Department of Economic Opportunity (DEO) and Spencer Nabors and looked at four of the five lift stations that need to be replaced or renovated. It looks like the City will qualify for funding, based upon score.

Manager Rhoden reached out to a vendor regarding handicapped recreation equipment at the Memorial Park. We will start with a swing, and hopefully expand later.

Commissioner Horne asked for an update regarding the child who was injured at the park. Manager Rhoden stated it has been turned over to our insurance company.

Manager Rhoden stated we are also working on reducing the duck population at the park. He said there has been a report of an alligator there as well, and we are working on the removal.

Mayor Bryant thanked the Manager for starting the mosquito spraying early this year. He asked if the City could perform call-outs to alert the citizens when spraying will occur in their neighborhoods. Manager Rhoden stated we can provide a schedule, and Assistant Manager Griffis suggested posting this on our website. There was brief discussion regarding the citizens who may prefer to not be outside during spraying times. Manager Rhoden stated if there is a specific request from someone the City will try to accommodate that.

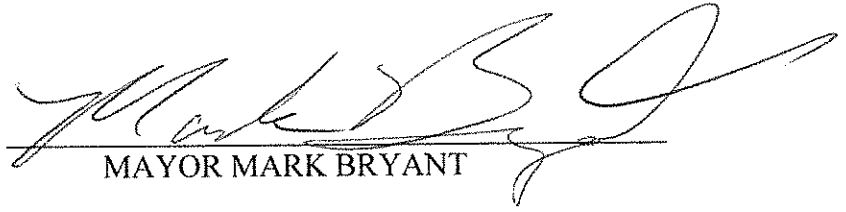
Mayor Bryant stated he has noticed many garbage cans facing the wrong way on pick-up days and asked if we could remind customers to set the cans as indicated. Manager Rhoden stated he has been told that they can be picked up either way, although facing the cans the proper way will ensure the lid closes properly.

Darryl Register reported the Independence Day Celebration planning is underway and will be held Saturday, July 1st. The event will be held at Memorial Park.

Mayor Bryant reminded everyone to be careful with all of the smoke from the fire. Assistant Fire Chief Crews reported the fire is only 12% contained. He stated while Macclenny Fire Department is not a designated drop off location for supplies, they will accept them and get them to the first responders. Mr. Register reported Crooked Rooster has volunteered to be a designated drop off location for anyone interested in sending supplies. Manager Rhoden added Macclenny Fire Department has not sent equipment and resources, but the County has. Macclenny Fire Department has helped cover so the County Fire Departments could provide assistance.

Mayor Bryant encouraged everyone to buy local and eat local.

With no further comments from the audience, Mayor Bryant adjourned the regular meeting.


MAYOR MARK BRYANT

ATTEST:


CITY MANAGER / CLERK PHIL RHODEN

