

The City Commission of the City of Fernandina Beach, Florida, met in a Regular Meeting on Tuesday, October 17, 2017 at 6:00 pm in the City Commission Chambers. Present were Mayor Robin C. Lentz, presiding, Commissioners John A. Miller, Tim Poynter, and Roy G. Smith. Also present were City Clerk Caroline Best, City Manager Dale L. Martin, and City Attorney Tammi Bach. Vice Mayor Kreger was absent due to a death in his family.

Mayor Lentz called the meeting to order and led the Pledge of Allegiance to the Flag. The invocation was then given by Fernandina Beach Police Department Chaplain Don McFadyen.

4.1 PROCLAMATION - RETIREMENT OF MR. WILLIAM "BILLY" SWEARINGEN: Mayor Lentz read the Proclamation in its entirety recognizing Mr. William "Billy" Swearingen upon his retirement after twenty years of dedicated service to the City of Fernandina Beach. Mr. Swearingen retired on September 30, 2017 and was in attendance to accept the Proclamation and thanked the City for a long and successful career.

4.2 PROCLAMATION - NATIONAL COLONIAL HERITAGE MONTH: Mayor Lentz read the Proclamation in its entirety recognizing the month of October as "National Colonial Heritage Month." National Society Colonial Dames XVII Century President Ms. Georgia Murray and Vice President Lisa Bauer were present to accept the Proclamation and shared news of happenings around Fernandina Beach.

4.3 PROCLAMATION - NATIONAL EDUCATION SUPPORT PROFESSIONALS: Mayor Lentz read the Proclamation in its entirety recognizing November 15, 2017, as "National Education Support Professionals Day."

4.4 PROCLAMATION - FLORIDA CITY GOVERNMENT WEEK: Mayor Lentz read the Proclamation in its entirety recognizing October 23-29, 2017, as "Florida City Government Week" and encouraged all citizens to support the celebration and corresponding activities. City Manager Dale Martin was in attendance to accept the Proclamation and spoke on behalf of city staff for the honor and privilege to serve the City Commission and citizens and thanked all for their support.

AGENDA CHANGES: Mayor Lentz stated the city is still technically under a state of emergency in order to ensure Federal Emergency Management Agency (FEMA) compliance following Hurricane Irma. Noting the state of emergency needs to be ended with Commission consensus, Mayor Lentz requested a motion be made. **A motion was made by Commissioner Poynter, seconded by Commissioner Smith to end the state of emergency. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

4.5 BUDGET SUMMARY: Comptroller Patti Clifford was available to answer any questions regarding the budget summary for Preliminary September 2017. There were no questions at this time.

5. PUBLIC COMMENT REGARDING ITEMS NOT ON THE AGENDA OR ITEMS ON THE CONSENT AGENDA:

ALACHUA STREET: Dr. Chip Ross, 210 N. 3rd Street, showed a presentation regarding the Alachua Street railroad crossing and questioned the City Attorney and City Manager if there had been an investigation into the easement agreement from 1886 that states the removal of obstructions be entirely at the expense of the party receiving right of way. Referring to a recent letter from the Florida Department of Transportation to City Manager Martin regarding the opening and conditions, Dr. Ross asked what the conditions are and questioned the feasibility, logistics process and way forward regarding the opening of Alachua Street.

City Attorney Bach explained the 1886 agreement has not been broached as yet reasoning that an allowance to open the Alachua Street railroad crossing is still needed from both CSX and the Florida Department of Transportation (FDOT). There is research still needed to be done to deem whether the agreement is an enforceable easement provision without an expensive lawsuit.

City Manager Martin commented there is ongoing discussion and the plans that were developed in 2011 by Zev Cohen & Associates for the city were presented to the FDOT the Genessee and Wyoming (G&W) railroad. Mayor Lentz noted FDOT had originally approved the opening without closing two other crossings which is usually the norm.

ALACHUA STREET: Ms. Joann Bean, 141 S. 15th Street, recently read an article in the newspaper that said the Commission is in agreement and questioned what the next step would be and whether it would include another meeting with CSX. Mayor Lentz conveyed there are still questions to be answered, clarifications to make and details to address with both FDOT and G&W (not CSX).

WEBSITE: Mr. Leslie Rohde, 645 King George Lane, acknowledged and commended the new City website. As an online entrepreneur, Mr. Rohde appreciates the updated website and views it as an important tool that can be sharpened. Communication and interaction are integral and in his opinion would it be prudent to incorporate those two components into the website to make it more user friendly.

BEAUTIFICATION: Keep Nassau Beautiful (KNB) Executive Director Ms. Karen Klima thanked the City Commission for providing grant money to support keeping Fernandina litter free and sustainable. In the past year, there have been over 2200 volunteers, twenty adopt groups which have adopted roads, beaches etc. to maintain, and 8800 volunteer hours collecting in excess of 114,000 pounds of litter and tons of hazardous waste. KNB is governed by a board and is seeking advice from the commission for board nominations for local citizens to represent Fernandina Beach.

Commissioner Miller offered a list of names including his own and asked Ms. Klima if KNB does research on where litter originates or the source it comes from in Fernandina. Ms. Klima replied there are surveys done that identify hotspots and encourage adopt groups to focus on. Commissioner Miller asked where the majority of litter originates. Ms. Klima explained litter often comes from uncovered pickup, commercial and garbage trucks. The beaches have a serious issue from mainly South Georgia tourists and locals who leave behind trash and plastic. Changing behavior is challenging but more research is being done to understand making change.

MARINA: Mr. Lynn Williams, 1899 S. Fletcher Avenue, commented that when planning to write a letter in support of state legislation to get downtown shoreline stabilization, it would be highly recommended to engage Taylor Engineering to get a handle on where the marina is and stabilize it, a first basic step for approximately \$10,000 that would be well spent.

6. CONSENT AGENDA: The following three items were on the Consent Agenda and were approved by one motion.

6.1 RESOLUTION 2017-158 APPROVING MAUDLIN INTERNATIONAL TRUCKS AS THE SOLE SOURCE VENDOR FOR PARTS AND REPAIRS FOR INTERNATIONAL TRUCKS FOR FY 2016/2017: According to the agenda support documents Resolution 2017-158 approves Maudlin International Trucks as a sole source vendor for FY 2016/2017 for International parts and repairs for the Maintenance Department - Fleet Division. **A motion was made by Commissioner Poynter, seconded by Commissioner Miller to approve Resolution 2017-158. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

6.2 RESOLUTION 2017-159 APPROVING SIX ADDITIONAL APPLICATIONS FOR CITY SEWER, REFUSE, AND STORMWATER EXEMPTION FOR FISCAL YEAR 2017/2018: According to the agenda support documents Resolution 2017-159 approves six additional applications for exemption of payment for City Sewer, Refuse, and Stormwater costs for the months of October 1, 2017, through September 30, 2018. **A motion was made by Commissioner Poynter, seconded by Commissioner Miller to approve Resolution 2017-159. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

6.3 RESOLUTION 2017-160 RECOMMENDING AND SUPPORTING A STATE LEGISLATIVE PRIORITY: According to the agenda support documents Resolution 2017-160 recommends and supports Downtown Shoreline Stabilization as a key legislative priority, and urges that legislation incorporating this priority be enacted by the State legislature during its 2018 regular session. **A motion was made by Commissioner Poynter, seconded by Commissioner Miller to approve Resolution 2017-160. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

7.1 RESOLUTION 2017-161 APPROVING AN AMENDMENT TO THE GOLF COURSE BUDGET FOR FISCAL YEAR 2016/2017: According to the agenda support documents Resolution 2017-161 approves the budget amendment increasing the Insurance Proceeds account and increasing the Golf Equipment account each by \$87,445. Also approves increasing the Total city budget from \$118,116,995 to \$118,204,440. **A motion was made by Commissioner Poynter, seconded by Commissioner Smith to approve Resolution 2017-161. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

7.2 RESOLUTION 2017-162 APPROVING AMENDMENTS TO THE GENERAL EMPLOYEES PENSION FUND AND POLICE & FIRE PENSION FUND BUDGET FOR FISCAL YEAR 2016/2017: According to the agenda support documents Resolution 2017-162 approves a transfer of \$312,800 from the General Employees' Pension Fund Reserve account to the Contractual account (\$8,000), to the Contractual Amer Core account (\$4,800) and to the Retiree Benefits account (\$300,000) and a transfer of \$197,700 from the Police and Fire Pension Fund Reserve account to the Contractual account (\$12,000), to the Contractual Amer Core account (\$5,700) and to the Retiree Benefits account (\$180,000). **A motion was made by Commissioner Miller, seconded by Commissioner Smith to approve Resolution 2017-162. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

7.3 RESOLUTION 2017-163 APPROVING AMENDMENT NO. 01 TO THE INTERLOCAL AGREEMENT WITH THE NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS FOR OCEAN RESCUE SERVICES ON PUBLIC BEACHES: According to the agenda support documents Resolution 2017-163 approves Amendment No. 1 to the Interlocal Agreement with the Nassau County Board of County Commissioners for Ocean Rescue Services for Peter's Point Park, Scott Road Access, and Burney Park. **A motion was made by Commissioner Poynter, seconded by Commissioner Miller to approve Resolution 2017-163. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

7.4 RESOLUTION 2017-164 ACCEPTING A DEED OF DEDICATION FOR LAND THAT WILL BE USED AS RIGHT-OF-WAY FOR CONSTRUCTION OF A RAIL SPUR AND TRANSFER SWITCHES TO SERVE THE LIGNOTECH FLORIDA, LLC MANUFACTURING PLANT FOR WHICH THE FLORIDA DEPARTMENT OF TRANSPORTATION APPROVED AN ECONOMIC DEVELOPMENT TRANSPORTATION FUND GRANT: According to the agenda support documents Resolution 2017-164 accepts the Deed of Dedication from Rayonier Performance Fibers, LLC as part of accepting the Florida Department of Transportation Economic Development Fund Grant for construction of a rail spur. City Attorney Bach shared a brief history of how Lignotech advised the Commission of the Economic Development Transportation Fund grant available through FDOT to government entities. In an effort to support the Lignotech Florida manufacturing plant there was consideration to install an additional access road from Gum Street and a rail spur and various rail improvements. However, FDOT granted \$841,667 for the rail spur to be disbursed by the city, forgoing the other improvements that would be in excess of \$3 million dollars that Rayonier/Lignotech would now need to fund. Rayonier/Lignotech will do a fee simple deed with indemnification to convey the private property to the city in order to meet the grant guidelines. Rayonier/Lignotech will then maintain the rail spur.

Dr. Chip Ross, 210 N. 3rd Street, has a concern that the 7000 square feet that will be given to the City in fee simple from Rayonier, in order to have licensing to put a railroad across the property, in his opinion an environmental study should be done to test the soil. Indemnification is for future, not past, occurrences. Dr. Ross implored the Commission to consider ironclad language in all three agreements that will eliminate any city or subsequent taxpayer liability for the land. City Attorney Bach verified there will be an environmental indemnification in the deed.

Mr. Frank Santry, 414 Dade Street, is aware of the intent of the city and Rayonier/Lignotech to accomplish the grant goal; however the paperwork fails in numerous respects. The first would be joint liability listing both Rayonier and Lignotech as joint entities. The second would be a phase one environmental study and a phase two study, if necessary, to avoid direct liability with Superfund obligations. Provisions of the FDOT contract must be clear prior to signing as well as inclusion of covering legal claims, fees and costs in order to fully indemnify.

Mr. Medardo Monzon, 2826 S. Fletcher, is in agreement that liability for past environmental contamination should be carefully vetted prior to signing the three resolutions in effort to offset

any future responsibility.

Commissioner Smith recommended that the resolutions be postponed to the next meeting.

Commissioner Miller asked City Attorney Bach if an environmental study is needed before indemnification takes place and if finding an issue now versus later mattered. City Attorney Bach noted there is immunity from liability if an environmental study is done per the EPA and Brownfield Redevelopment Act, regardless of indemnification. The study has a phase one and if there is an issue a phase two, the price varies depending on what is found and can range from \$2500 to 250,000 or more and Rayonier would need to approve the study. Lignotech is currently fiscally operating "in the black", building a plant on their land and chose not to do an environmental study, considering all the data it is City Attorney Bach's opinion that risk to the city is small and far into the future.

Mr. Frank Santry, 414 Dade Street, there are specific provisions in Environmental Protection Agency (EPA) laws and regulations that prohibit any related entity involvement in the process in being eliminated from liability. A seller or grantor cannot be asked to provide or pay for the materials for the elimination of liability to be valid. Commissioner Smith noted his history in the asphalt industry and believes that the liability could be large in this particular situation.

Commissioner Miller believes it's a very insignificant piece of property with a low risk. City Attorney Bach noted something very big would need to occur in order for the ground to be dug up. Commissioner Smith explained there can be chemicals in the ground known as plumes leading to a leeching issue as is a current case in Sarasota and suggested a possible solution is once the money is disbursed return the land to Lignotech. City Attorney Bach replied that was not possible unless the grant money was reimbursed to FDOT and recommended postponing the resolutions to the next meeting.

Mayor Lentz asked if the indemnification is added does the liability remain with the deed should it be transferred to another buyer. City Attorney Bach clarified the deed would be rewritten should the property be sold to a new buyer who could in fact request seller liability. A phase one study is a good idea, the tracts are less than 1000 square feet combined.

Commissioner Smith asked if the land could be returned to Rayonier once the money was paid. City Attorney Bach responded FDOT would not allow that unless the grant money was repaid. Mayor Lentz asked for next steps. City Attorney Bach recommended postponement. **A motion was made by Commissioner Poynter, seconded by Commissioner Miller to postpone Resolution 2017-164, Resolution 2017-165 and Resolution 2017-166. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried**

7.5 RESOLUTION 2017-165 APPROVING A LICENSE AND MAINTENANCE AGREEMENT WITH RAYONIER PERFORMANCE FIBERS, LLC AND LIGNOTECH FLORIDA, LLC TO MAINTAIN AND ASSUME ALL COSTS AND LIABILITY FOR LAND THAT WILL CONTAIN A RAIL SPUR AND TRANSFER SWITCHES SERVING LIGNOTECH FLORIDA, LLC'S MANUFACTURING PLANT: According to the agenda support documents this Resolution 2017-165 Approves the License and Maintenance Agreement between the City of Fernandina Beach, Rayonier Performance Fibers, LLC, and LignoTech Florida, LLC. **Postponed.**

7.6 RESOLUTION 2017-166 APPROVING A DISBURSEMENT AGREEMENT WITH RAYONIER PERFORMANCE FIBERS, LLC AND LIGNOTECH FLORIDA LLC FOR DISBURSEMENT OF FDOT ECONOMIC DEVELOPMENT TRANSPORTATION GRANT FUNDS FOR CONSTRUCTION OF A RAIL SPUR AND TRANSFER SWITCHES TO SERVE THE LIGNOTECH MANUFACTURING PLANT: According to the agenda support documents this Resolution 2017-166 approve the Disbursement Agreement with Rayonier Performance Fibers, LLC, and LignoTech Florida, LLC. **Postponed.**

8.1 GOLF COURSE ADVISORY BOARD: According to the agenda support documents, there were three appointments for the Golf Course Advisory Board. **A motion was made by Commissioner Poynter, seconded by Commissioner Miller to approve the appointments of**

Mr. Claude Hartley, Mr. Harry Kegler as members of the Golf Course Advisory Board and Mr. Lee Murray as the Men's Golf Association representative to the Golf Course Advisory Board. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried

CITY MANAGER REPORTS:

TELECONFERENCE: City Manager Martin reported debris removal continues from Hurricane Irma, a teleconference with FEMA is scheduled for Thursday to begin the review process of damages.

ELECTION: City Manager Martin announced its election season and noted the upcoming scheduled candidate forums; Thursday morning October 19th hosted by the Historic Fernandina Business Association, Thursday evening October 19th hosted by the Fernandina Observer newspaper in City Chambers, and one the following Thursday October 26 at the golf course.

WORKDAY: City Manager Martin will be at the Marina for his monthly work day.

MEETING: City Manager Martin reported the Rayonier Community Advisory Council will meet on Wednesday October 18th. City Manager Martin will attend the Northeast Florida League of Cities meeting in St. Augustine Thursday October 19th and from Sunday October 22nd through Wednesday October 25th will be in San Antonio, Texas to attend the National City Managers 01Conference.

CITY ATTORNEY REPORTS:

MEETINGS: City Attorney Bach will also attend the Rayonier Community Advisory Council lunch meeting Wednesday October 18th. Thursday October 19th City Attorney Bach will attend the Executive Council for City and County Attorneys.

CITY CLERK REPORTS:

CITY COMMISSION REGULAR MEETING: City Clerk Best announced the next City Commission Regular Meeting will take place on Wednesday November 8TH due to the General Election on Tuesday November 7th.

MAYOR/COMMISSIONER COMMENTS:

CONDOLENCES: Commissioner Smith expressed condolences to Commissioner Len Kreger on the passing of his Mother. Commissioner Miller also extended his condolences to Commissioner Kreger and family.

WEBSITE: Commissioner Smith acknowledged the new City website and commended the design thanking the IT staff who noted it is a work in progress open to suggestions.

MEETING: Commissioner Miller encouraged attendance at the Board of Adjustment meeting on Wednesday October 18th with a developer seeking permission to fill in wetlands.

REMINDER: Mayor Lentz reminded all that the City of Fernandina Beach Fire Department is hosting there Park for Pink on Saturday October 21 10a-2pm in Central Park in support of breast cancer awareness month.

KUDOS: Mayor Lentz congratulated the Parks and Recreation department on their successful Halloween carnival this past Saturday.

ADJOURNMENT: 7:16 pm

ATTEST:

CAROLINE BEST
City Clerk

ROBIN C. LENTZ
Mayor