



Minutes

Town Commission

Regularly Scheduled Meeting

Tuesday • February 10, 2015 • 7:30 pm

1. Call to Order: 7:30 pm
2. Invocation & Pledge of Allegiance to Flag
3. Roll Call:
Commissioners Attending:
 - Joseph Aufmuth Present
 - Michael Berkowitz Present (Arrived 7:55 p.m.)
 - Virginia Mance, Mayor Pro-Tem Present
 - Richard Shutterly, Mayor Present
 - Mike Roberts Present

 - Debbie Gonano, Town Administrator Present
 - Stephen Lee, Town Attorney Present
 - Patty Polk, Deputy Town Clerk Present
4. Consent Agenda Approval:
 - A. Agenda Approval
Motion made and seconded (Aufmuth/Mance) to approve the agenda as amended; moving 10A) Micanopy Trust for Historic Forts & Battlefields – MNAHP Sign Design & Wording to 6C); passed 4-0
 - B. Minutes of Public Lien Assessment Hearing and Regular Meeting both on January 13, 2015
 - C. Review & Acceptance of Financial Transactions & Reports
Motion made and seconded (Aufmuth/Mance) to accept the minutes of the January 13, 2015 meetings and the Financial Transactions and reports as submitted; passed 4-0
5. Guests: None
6. Citizens Forum:
 - A. DeDe DesForges, Micanopy Fall Festival Committee Member, would like permission for vendor RV camping at the Ballpark during the upcoming Festival scheduled for October 30 and October 31, 2015. Self-contained campers only. Last year we only had five campers.
Motion made and seconded (Aufmuth/Mance) to approve camping at the Ballpark during the Fall Festival 2015; passed 4-0
 - B. Julie Penrod-Glenn, Division St, inquired if the commission could consider the development of an investment policy similar to what McIntosh is implementing; modeled after investment plans in the City of Ocala and other small towns in Alachua County. Commissioner Aufmuth would like more information regarding McIntosh's plan and what brought it about.
 - C. Micanopy Trust for Historic Forts & Battlefields – MNAHP Sign Design & Wording – Chris Monaco distributed the latest version of a plan for the Micanopy Trust for Historic Forts & Battlefields for placement of an historic marker commemorating the “Battle of Micanopy” in text. Discussion ensued summarizing the history of town natives and chosen text. Commissioner Aufmuth and Planning & Historic Preservation (P&HPB) Board Member

Brady are liaisons on this board, and they have previously reviewed and revised the text. Mayor Shutterly suggested that the placement of the historic marker should go before the P&HPB for approval. Mr. Monaco does need a letter from the Commission giving the Town's approval for the Micanopy Trust for Historic Forts & Battlefields to start the initial process in Tallahassee. The letter should state that the non-profit agency has permission to erect this marker on town land and include the GPS location. Discussion ensued.

Motion made and seconded (Aufmuth/Roberts) to provide a letter of support for the marker and have the placement of the marker vetted through the P&HPB and with their approval, have this project move forward; passed 4-1 (Shutterly opposed)

Mr. Monaco discussed holding two fundraisers to raise money for the project. Additionally, Mr. Monaco suggested that any donation from the Town would be great. Discussion ensued. Town Administrator Gonano suggested that the Town might wait to donate money until cost is established, and the commission agreed.

7. Citizen Board and Committee Reports:

A. Planning & Historic Preservation Board – Chair Warren gave a verbal report.

- Parcel #16633-001-000, (the old post office) requested use as an art gallery. The applicant had requested and was denied a special permit for on premise consumption of wine and bottled beer, in addition to being denied a variance for alcohol use within 200' setback from a residential district. Chair Warren disclosed that the P&HPB was confused on the alcohol use matter; therefore the special use permit request was denied. A Certificate of Appropriateness was approved for the art gallery to open with no beer and wine served.
- Parcel #16748-006-000, Steve & Jennifer Elder owners and Mark Gregg (neighbor).
 - Variance and a lot split in which the two neighbors worked out an acceptable agreement.
- New Business – we re-elected Chair Warren, again. We have a new vice chair who is one of our newest members, Tim Parker.
- Old Business – Brick samples were presented by Mr. DesForges, and the Veterans Memorial Marker brick was chosen, so this project can move forward.
- Mayor Shutterly inquired about the open air sales. Chair Warren stated that this will be on the next agenda.

B. Tree Committee – unavailable

8. Town Attorney Report:

A. Mandatory Ethics Training – Mayor Shutterly presented. The Alachua County League of Cities will provide certified training to elected and appointed officials cost-free on one of three (3) possible training dates at a class to be held in Alachua. Town Administrator Gonano pointed out that if you miss the class then you may have to travel to take a different class. Otherwise, the Commission could purchase the self-certifiable program offered by Mr. Lee through the Florida Bar for \$300.

Motion made and seconded (Berkowitz/Mance) to direct our attorney to purchase the ethics training materials to do our mandatory ethics training; passed 5-0

B. Citizens Advisory Board/Committee Formation – Attorney Lee presented and has provided information in your packets.

- Public Policy Issues:
 - Pros – encourages public participation in the process of governance, provides a forum for citizens to express their views on issues affecting the community, may serve as a fact finding body, can help build consensus or a sense of “buying-in,” may tap into technical expertise not available from staff, and may expedite Commission meetings.
 - Cons – may become a forum for individual complaints rather than community issues, may turn substantive issues into popularity contests, may create a perception of winners and losers, may create distractions or divisive issues, and may not provide an accurate reflection of feelings in the community.
- Procedural Issues:
 - The primary procedural issue, from my point of view, is how such a committee is established: by resolution or ordinance. A resolution does not require a public hearing and may be amended at any time by a subsequent resolution. An ordinance requires advertising and a public hearing and must be amended by another ordinance. Issues the Commission should consider for either process include, in no particular order: size of the committee, membership qualifications (if any), scope of the committee's responsibilities (open or limited), membership terms, staff support, and budget (if any).

- **Legal Issues:**
There are two significant legal issues: public records and the sunshine law. As to public records, the Town should set up e-mail addresses for committee members as any e-mails from or to them are public records, which must be captured and preserved. Should members use their own e-mail addresses for committee business, then personal computers and e-mail accounts may be subject to public records requests and searches. Also, any documents generated by the committee are public records and should be kept and maintained by the Town rather than a committee member. As to the sunshine law, committee members cannot communicate among themselves about anything that might come before the committee. If the scope of the committee's charge is unlimited, then members could not talk to each other about any Town business or any other topic that might be brought up before the committee. Essentially, committee members should not talk to each other except at committee meetings. Additionally, meetings must be noticed and minutes kept. Those functions should be performed by Town staff to insure that proper notice is given and the records are properly maintained. All participation in the various social media (Facebook, Twitter, etc.) and texting could become suspect and the subject of either public records or sunshine law questions or allegation. Committee members would be well advised to avoid using such media. Restricting the scope of the committee's purview might ease this problem as only certain subjects would be off limits.
- **Political Issues:**
This discussion could be included in the section on public policy issues; however, I thought important to state these considerations separately. First, I do not use the term "political" in the context of individuals. While one or more committee members may have political aspirations or develop them as a result of participation, my focus is on the political ramifications of creating a committee to advise the Commission. Doing so may create an expectation that the Commission will consider the committee's advice valuable and will follow it. Should the Commission do otherwise, then committee members may become disillusioned about the process or angered at the Commission. This could create division in the community or recall campaigns. Alternatively, should the Commission become a "rubber stamp" for the committee, and then the process for governance will shift from the Commission to the committee. Neither result is inevitable; however, the prospects should be mentioned and considered.

Discussion ensued. Commissioner Aufmuth discussed having prior experience with meetings, minutes, and the sunshine law. "How does an ad-hoc committee work?" Attorney Lee stated that there is nothing that prohibits a group of citizens' getting together and discussing anything and bringing it to the commission. You will run into issues when you start to formalize the process. Commissioner Berkowitz summarized that formalizing a committee under the Commission makes it become something else; and making it something else takes away from what you were trying to achieve by making it a formal committee. If an informal group is getting together, there is nothing preventing anyone from bringing a matter up to the commission by putting it on the agenda or discussing it during citizens forum. Mayor Shutterly gave Julie Penrod-Glenn the information from Attorney Lee regarding committee formation. Commissioner Aufmuth put the emphasis on the formation of a citizen's advisory committee back on the group bringing up the issue.

Mrs. Glenn outlined the participation by the citizens in Micanopy on a diverse set of issues from how we decide to fix our roads to the outcome of the Dollar General issue. Despite numerous public meetings about the sidewalk issue, Mrs. Glenn suggested that there are still a lot of hard feelings about the outcome of the sidewalk issue because of a limited amount of community participation (there were 30 people present for the meeting); Mrs. Glenn claimed the Dollar General supporters felt that their opinions wouldn't matter to the Commission, and they are still upset that we don't have a Dollar General close by. Mrs. Glenn summarized that we need to figure out how to communicate better, as we are not doing it well. We all have some work to do and not just the commissioners.

Commissioner Roberts answered that for the last fifty years people have been sitting back and saying things are not fair; but they will not come to a commission meeting. Commissioner Aufmuth stated that it is the same in any town. Commissioner Aufmuth explained that it is difficult to do this job and that the Commission makes the best decisions that we can. Commissioner Aufmuth thanked Mrs. Glenn for being the messenger for the people of the town who do not show up to voice their opinions. He suggested that concerned citizens can leave messages at town hall. Mayor Pro-Tem Mance disclosed that citizens frequently do voice their concerns to her and ask questions of her. Mayor Shutterly agreed and stated that citizen involvement has previously changed his mind on impending issues.

9. Town Administrator Report:

- A. Florida Rural Water Association (FRWA) Water Study – The study is in process, but initial testing has not produced anything abnormal.
- B. Independence Day Festivities Planning – We are starting a little bit earlier this year hoping to recruit some marching bands and thought we should ask the Commission if this sounds like a good idea. With permission, Town Administrator Gonano will try to recruit some school marching bands. Additionally, Todd Goodwin has provided the music for our fireworks at no charge for years, did a great job, and has recently moved. If you know anyone who may be interested, please let us know.
- C. Micanopy Great American Spring Clean Up Day – Saturday, April 18, 2015
- D. Future of SW 6th Street Lots #16720-028-015 (.19 acres) & #16720-028-026 (.14 acres) – Town Administrator Gonano inquired if there is there any interest in selling residential parcels that the Town owns and getting them back on the tax rolls.
- Parcel #16802-004-000 - The escheated parcel that the county recently signed over to us, the owners next door are interested in that parcel and have submitted a written offer to purchase it for \$500. Discussion ensued. Commissioner Aufmuth is concerned about giving up this parcel as it is a drainage ditch and it needs to be kept and maintained. Likewise, Commissioner Berkowitz discussed the drainage and how it takes quite a while to drain. Mayor Shutterly inquired about the possibility of placing a deed restriction on the sale requiring the owner to maintain the ditch. Attorney Lee stated that typically easements are retained for maintenance of a ditch and suggested that if the ditch is part of the overall drainage plan, its better under your control. Commissioner Aufmuth stated that it is up to the town on how we manage our drainage system. Another possibility would be to have a covenant that would stay with the land; however it may cause maintenance enforcement issues. Town Administrator Gonano discussed that previously the ditch property was privately owned, and she would think that the environmentalists would probably have protection over the ditch if it was a natural drainage area.
 - Parcel #16720-028-015 (.19) & Parcel #16720-028-026 (.14) – These lots are vacant and non-conforming on which a small home could be built with a variance from the P&HPB. Town Administrator Gonano questioned the Commission’s interest in getting these lots back on the tax rolls by determining if adjoining property owners may possibly want to purchase these lots. Mayor Pro-Tem Mance explained the history of parcel #16720-028-015 and that the Town received this lot for unpaid taxes; we removed the vacant building, and briefly considered turning it into a park, but had reconsidered because of negative citizen interest and other nearby parks. Commissioner Roberts would like to offer this parcel to the adjoining property owner which he could add to his non-conforming lot to make a larger parcel.
Motion made and seconded (Berkowitz/Aufmuth) to direct the Town Administrator to offer the parcel to Mr. Miller, and if he doesn’t want it then we can put it up for sale; passed 5-0
Discussed ensued regarding the price of the parcel the fair market value is a good place to begin negotiations.
 - Parcel #16720-028-026 (.14) – Commissioner Roberts wondered if the lot could be split and property owners on each side offered half. Commissioner Aufmuth discussed the legality of lot splits and minimum lot size. Attorney Lee stated that it depends on what you want to use it for, if you want to make a larger parcel by adding it to an existing lot then that would not be a problem. If you want to split it and put another house in then that would have to go before the P&HPB. Attorney Lee’s concern is the Reverter Clause attached to this parcel dated June 3, 1974 from Alachua County stating that this parcel is a gift from them and to be used for recreation purposes only. Possibly Alachua County would remove that clause and give us a clear title.
Motion made and seconded (Mance/Aufmuth) to direct the Town Administrator to contact Alachua County about modifying the restriction on this deed; passed 5-0

10. New Business:

- A. Appeal for Mark & Diana Richardson’s request for a variance to sell beer and wine will be heard during our regularly scheduled Town Commission meeting on March 10, 2015 – starting at 7:30 p.m.

- B. Alachua County Local Mitigation Strategy 5-Year project List 76 – Discussion ensued. Jeffery Bielling, Alachua County Emergency Management, sent this list to Mrs. Gonano stating that it is time to update the list. Additionally, Mr. Bielling stated that in order to apply for any grant funding, the project and estimated cost must be on this list. Normally the grants being offered are matching grants. It’s a matter of how much the town wants to pursue the grant funding. The only project currently on the list is a retro-fit for wind damage for the fire station. In talking to Chief Modican, he would be more interested in generators and communication equipment then to try to retrofit the fire station, plus if we are going to do any renovations to the fire station this may not be necessary to keep this on the list. Commissioner Aufmuth would like to keep the retrofit for the fire station on the list, along with the generator project.

11. Unfinished Business:

- A. Installation of Bat Houses – One bat house has been installed at the Micanopy Native American Heritage Preserve, and the other two are waiting for the rain-drenched fields to dry up.
- B. Status of RFP – Structural Red Iron Steel Maintenance Shop/Garage – The materials are being manufactured for end of the month delivery. We will take the old building down by the end of the month.
- C. ThyssenKrupp Elevator Service Contract – effective 5/7/2015 – Debbie Gonano presented and discussion ensued. ***Motion made and seconded (Mance/Berkowitz) to approve the elevator service contract written by Attorney Lee; passed 5-0***
- D. Unpaid Occupational Licenses & Street Paving Assessment – Procedure for Collection – Debbie Gonano presented stating that she has collected all but one occupational license. Commissioner Aufmuth suggests that we proceed with collecting this debt. Attorney Lee stated that we can proceed with a code enforcement process or you can authorize a civil suit where we file a lawsuit in court. Mr. Lee stated that you are authorized to collect the fee, attorney fees, court cost, and a penalty of \$250 assuming that it is collected. Bud DesForges suggested having our attorney send the delinquent licensee a collection letter on attorney letterhead. ***Motion made and seconded (Aufmuth/Berkowitz) to have the town attorney write a letter summarizing the next step in the collection process which would include filing; and waiting until next month for more guidance from the Commission; passed 5-0***

12. Town Commissioner Reports:

- Commissioner Joseph Aufmuth: Announced that he has been awarded a sabbatical in Virginia meaning that he will not be in Micanopy in the fall or spring. Commissioner Aufmuth recognized that his re-election will be coming up in the spring of 2016, and he admitted that he would hate to lose the seat while he is gone. Therefore, he will discuss the matter with the town attorney and see how we want to fill the seat while he is gone.
- Commissioner Mike Berkowitz: Has had some feed-back from some of our residents about the bat houses and they are excited about them and want more. People are questioning the building we are putting up behind Town Hall.
- Commissioner Ginny Mance:
 - The Micanopy Arbor Day ceremony planting of a tree. Part of the Town’s objective with the Tree committee was to again become a Tree City USA. The ceremony was on Friday January 23rd at the Micanopy Middle School with Principal Johnson, Mike Campbell, Christine Steurer, and Dave Concert of the forestry division, and the middle school students.
 - Derelict houses/buildings. There is one property at 202 NE Hwy. 441 (next to Blue Highway Pizza) that was on our original list of derelict houses, and it is in need of repair. We dealt with all the residential properties that needed to be looked at, and Mrs. Gonano inquired of the commission if they had any more in mind. She’s not sure if this is qualifies as a derelict property. “Should we take action on this property?” The Mayor suggested putting it on the agenda at any time.
- Commissioner Mike Roberts: He is concerned about the trees damaging the fence at the water plant between his house and the water plant. “Should we have Mike Campbell look at these trees to see if anything should be done before they damage the fence beyond repair?” The Mayor answered that this is a maintenance issue for the Town Administrator.

13. Mayor Richard Shutterly Report:
- Congratulations to Commissioner Mance on your election (non-election).
 - He has heard some compliments on our website, it is very informative, it looks great, and is updated promptly.
 - He is looking forward to the other two bat houses going up because we have other communities who want to see the finished product. Brian Pope with the Lubee Foundation will help us with a kiosk, and the Lubee Foundation will post an update that our bat houses are ready to view.
 - For anyone who is interested, we had a meeting at the local delegation with Senator Bradley, Clovis Watson our representative, and Keith Perry who is the Northwest representative. One issue discussed is the Boundary Adjustment Act, which Keith Perry is moving forward with by taking an appeal to the State.
14. Adjourn: 9:25 PM

MINUTES APPROVED:

As submitted _____ as amended _____ at Town Commission Meeting _____

Richard Shutterly, Mayor

Patty S. Polk, Recorder