

**CITY OF RINCON  
OFFICIAL MINUTES  
RINCON CITY COUNCIL MEETING  
MONDAY, MAY 8, 2017  
COUNCIL CHAMBERS  
107 W. 17<sup>TH</sup> STREET  
7:00 PM**

**Councilmembers Present:**

Reese Browher  
James Dasher  
Paul Wendelken  
Levi Scott, Jr.  
Christi Ricker  
Ann Daniel

**Present:**

Ken Lee, Mayor – Arrived at 7:28 PM  
W.E. Smith, Jr., City Manager  
Raymond Dickey, City Attorney  
Dulcia King, City Clerk  
LaMeisha Kelly, City Planner  
Tim Bowles, Public Works  
Phillip Scholl, Police Chief  
Corey Rahn, Fire Chief

The meeting was called to order by Mayor Pro Tem, Levi Scott, Jr. at 7:06 PM. The Invocation was given by Councilmember Wendelken and Pledge to the Flag was recited.

**Approval of the agenda with the following:**

Move new business item 4 up to the first order of business after the public hearing.

Motion to approve: Councilmember Daniel  
Second: Councilmember Dasher  
Vote: Unanimous

**Approval of the April 24, 2017 minutes with the following correction:**

Under New Business #2, Mr. Faircloth stated he assume the owners would start within the next 30 days.

Motion to approve: Councilmember Ricker  
Second: Councilmember Dasher  
Vote: Unanimous

## **Public Hearing:**

*Turn meeting over to public hearing officer, Raymond Dickey:*

**Public Hearing on a petition filed by Gregory and Patricia Mitchell requesting a variance to Article III, Section 82-64 for the installation of a fence located at 815 Walthour Drive. The property is owned by Gregory and Patricia Mitchell; the property is zoned MXU (Mixed use). Map# R2460540**

Open public hearing: 7:10 PM

Attorney Dickey asked Mrs. Kelly if the property was marked and notice sent, she said yes.

Public input: Mr. and Mrs. Mitchell were present. Mr. Mitchell said they would like to construct and maintain a privacy fence along the perimeter of their property, a portion of the fence will run across an easement along the right front and a water main is underneath. Mr. Mitchell stated they will bear the responsibility to remove the fence if so needed and will have an agreement recorded for future owners of the property to adhere to. They have an irrigation system that will need to be rerouted if they can't put up the fence on the property line. The fence will protect their privacy, safety, and keep out the debris from Fort Howard Road. Mrs. Mitchell asked to be allowed to speak after the public spoke.

Mrs. Kelly showed pictures of the placement of the fence. She said Planning and Zoning did not approve due to the ordinance, we have to have access at all times to the easement. Mrs. Kelly told Council the next person may not be as agreeable as the Mitchell's. Attorney Dickey stated that this is a City of Rincon water line not an Effingham County line as Mr. Mitchell stated earlier.

Councilmember Ricker said she spoke with Mr. Bowles and this is not only water lines it is cable, and other utilities. Mrs. Mitchell said she has called Georgia 811, and spoke to Mrs. Kelly about this. Mrs. Mitchell also stated she has come to City Hall many times and could not get a hold of anyone and had to wait extended hours. She was told last month they had to apply for a variance and if she would have known that, they would have applied back in 2015 when this started.

Councilmember Dasher asked the distance from the property line to the water main; Mrs. Mitchell showed Council pictures on her phone, and said it is approximately 77 inches. Mrs. Mitchell said she gave Travis Grubbs the 811 information back in 2015 and they said it would not be a problem. Mr. Mitchell said the sprinkler system is on the property line and they would be watering the fence if they had to place it anywhere else. Councilmember Daniel asked is we could run a portion of the water line on the other side of their property line, Mr. Bowles said it would be on someone else's property. Mr. Bowles said the whole 20 foot easement is on the Mitchell's property.

Mr. Paul Tanguay, Lost Plantation resident, asked the Mitchell's if this is approved would they follow the HOA proper procedure, it was stated by staff that that would be private matter.

Richard Levy, Lost Plantation, asked if this is this only on the one side, and wanted to make sure the variance is going to allow them to put the fence only on their property, this is a private matter also.

Jacob Peavey, Lost Plantation resident, said he would love to see this come to a resolution.

Patrick Kirkland, Lost Plantation resident, stated he would like to see a resolution so they could build the fence.

Mrs. Mitchell said she has a letter from the HOA that stating they did not violate the covenant.

Close public hearing: 7:37 PM

*Turn the meeting back over to Mayor Lee.*

**Vote on a petition filed by Gregory and Patricia Mitchell requesting a variance to Article III, Section 82-64 for the installation of a fence located at 815 Walthour Drive. The property is owned by Gregory and Patricia Mitchell; the property is zoned MXU (Mixed use). Map# R2460540**

Councilmember Dasher asked staff is there anything we could do that would ensure access to the water main; Mr. Mitchell said he would provide a key to the city. Mr. Bowles said he can't see anything happening to the waterline unless someone is back there digging. Councilmember Browner asked how do we ensure the next property owner is agreeable. Mrs. Mitchell, said legally they will get an agreement and file it with Effingham County, so future owners and heirs will stand by this.

Attorney Dickey said the easement is owned by the City. The problem we have had in the past is residents did not ask for permission to build and you cannot go on to someone property if they won't allow it. They don't need to file a covenant, there is already an easement. If a fence is put up you cannot get on the property unless you go to the court because it is private.

Councilmember Scott and Mayor Lee explained to the Mitchell's there are a wide ranges of variances. Mayor Lee said we would like to help but he hoped that they understood how difficult this is.

Mrs. Kelly wanted to state for the record that she has never promised someone a variance, what she has said is they approve fence permits daily, but she can't say how Council will vote. Mr. Mitchell said they are not implying Mrs. Kelly was misleading; it is a lack of communications. Mr. Mitchell said there is a 30 foot easement 20 on their side and 10 on the neighbors, the realtor deceived them and did not do due diligence.

Councilmember Dasher asked what would be the cost to remove the water line, Mr. Bowles said around \$15,000.00. Councilmember Scott said the issue is getting to the waterline,

personalities could cause problems, the intention is good, but this Council's intention could not be what the next Council would want to do.

Mrs. Kelly said if there is a privacy fence and the next owner says they don't want the City on the property, and the line burst, we can't go on the property. Attorney Dickey said that has happened before and someone was held at gun point, but we will gain access, it is a question of how and when. When access is gained the City would have to repair any damage caused to the property.

Councilmember Browher said we have to maintain a standard and made a motion to deny.

Motion to deny: Councilmember Browher  
Second: Councilmember Wendelken

Councilmember Scott made a motion to table for further discussion in a workshop  
Second: Councilmember Dasher

Attorney Dickey said the motion to table overrides the denial. Item tabled until the June 26, meeting.

Tim Welting, Carlisle Village resident, asked if the City does the variance can there be specific language that ties the owner to the same type of language as an easement. Attorney Dickey said that it would not be binding.

Vote by Council: Unanimous

**4. P. C. Simonton requests approval of Pay Request #16 in the amount of \$2,500.00, for engineering services associated with the WWTP Headworks replacement.  
LI# 50.7280.4411**

Marcus Sack said this is for continued worked on the Headworks Project.

Motion to approve: Councilmember Daniel  
Second: Councilmember Ricker  
Vote by Council: Unanimous

**Old Business:**

**1. Titan Townhouses, LLC requests the subdivision of 48 townhomes in Carlisle Village, located on Karima Circle. Property is zoned R-11 (residential apartments); property is owned by Titan Townhouses, LLC. (Map# R267-5, R267-6, R267-7, R267-8, R267-9, R267-10, R267-11, R267-12, R267-15, R267-18) (Tabled at the April 24, 2017 meeting)**

Motion to remove from the table: Councilmember Ricker  
Second: Councilmember Daniel  
Vote by Council: Unanimous

Tim Welting, representing Titan Townhouses, LLC was present. He said the owner has to refinance these townhomes and the bank requires them to subdivide.

Motion to approve: Councilmember Daniel  
Second: Councilmember Scott  
Vote by Council: Unanimous

**2. Recommendation for revision to Wrecker Contract. (Tabled at March 27, 2017 meeting)**

Motion to remove from the table: Councilmember Dasher  
Second: Councilmember Scott  
Vote by Council: Unanimous

Attorney Dickey said this was tabled to go to workshop, and the changes have been made.

Tracie Rahn, Rahn's Wrecker Service, said she still has one issue with the recovery fee on page 12, if they have an overturned vehicle and it only takes 30 minutes they can only charge \$25. She doesn't think the rate for a rollover should be \$25, accident recovery is totally different. Corey Rahn, asked Alicia Smithey, Smithey Wrecker, to step up to address Council.

Mayor Lee said we need to get in a workshop with every party. Attorney Dickey suggested that the businesses take the contract and write their suggestions down and get it back to City staff.

Ms. Smithey said why fix something that isn't broke.

Councilmember Scott said the only reason we got involved is because of price gouging he doesn't think the city should be involved in wrecks at all.

Councilmember Wendelken said it is not so much about the money.

Motion to table until the June 12<sup>th</sup> meeting: Councilmember Browher  
Second: Councilmember Daniel  
Vote by Council: Unanimous

**3. Second Reading of a petition to annex a 27.53 acre parcel located Hwy 21; the property is owned by Marlene Penton, Gloria M. Wood, and Stephen H. Murphy. (Map #04470015)**

Motion to approve: Councilmember Dasher  
Second: Councilmember Ricker  
Vote by Council: Unanimous

**4. Second Reading of a petition to annex a 5.53 acre parcel and a 12.19 acre parcel located on Fort Howard Road; the properties are owned by Construction Development Investors. (Map #04750007C00 and #04750063)**

Motion to approve: Councilmember Scott  
Second: Councilmember Daniel  
Vote by Council: Unanimous

**5. Second Reading of a petition to annex a .71 acre parcel located Hwy 21 S; the property is owned by Silverwood Partners, LLC. (Map #0465A008)**

Motion to approve: Councilmember Ricker  
Second: Councilmember Scott  
Vote by Council: Unanimous

**New Business:**

**1. EMC Engineering Services requests approval of Work Order for the LMIG 2017 paving project, in the amount of \$17,000. LI# 10.4430.4421**

Alec Metzger said this consists of the road paving on Carolina Avenue from 9<sup>th</sup> Street to 17<sup>th</sup> Street.

Motion to approve: Councilmember Scott  
Second: Councilmember Ricker

Mrs. Kelly said the monies from LMIG went up from \$79,000.00 to \$104,000.00

Vote by Council: Unanimous

**2. R. B. Baker Construction requests payment of Pay Request #7 in the amount of \$118,532.82, for Hwy 21 ROW Improvements. LI# 70.4430.4412**

Motion to approve: Councilmember Daniel  
Second: Councilmember Wendelken  
Vote by Council: Unanimous

**3. Y-Delta, Inc. requests approval of Pay Request #4 in the amount of \$128,221.73, for work completed on the Fort Howard Road Utility Extension project. LI# 40.6260.4422 and 50.7270.4410**

Motion to approve: Councilmember Scott  
Second: Councilmember Wendelken  
Vote by Council: Unanimous

**4. P. C. Simonton requests approval of Pay Request #16 in the amount of \$2,500.00, for engineering services associated with the WWTP Headworks replacement. LI# 50.7280.4411**

This item was moved to first order of business after the Public Hearing.

**5. HHNT Consulting Engineers requests approval of pay request #10 in the amount of \$2,075.16, for engineering services associated with the Lower Floridan Well project. LI# 40.6260.4418**

Brant Lange said both projects are underway and they shouldn't have a problem getting the earth work done. Both contractors have submitted submittals; the tank contractor will be down next week.

Motion to approve: Councilmember Dasher

Second: Councilmember Ricker

Vote by Council: Unanimous

**6. Request an amendment to the Personnel Policy Manual section 05.07 Time Cards and Time Clocks, exempting Public Safety Department from using time clocks, replacing the record keeping timesheets.**

Chief Scholl said this is a very functional request for emergency personnel. When an employee forgets to clock in or has to start work before they come to the office it causes problems. With the changes officers will record their own time on a form. Chief Rahn said fire is unique to this because they work 24 hour shifts, the bigger issue is when they clock in 30 minutes before shift, and they are only getting paid their 24 hour shift.

Councilmember Wendelken asked if this policy change could apply to all departments. Mr. Smith said if there is an issue with other staff clocking in early or late that would be a disciplinary action. Councilmember Scott said he agrees with this change and putting it in place, you don't want to have an instance where public safety has to come to the office and clock in before going to an accident. Mayor Lee said it seems like we are going back in time is there a way they can use a computer to clock in. This policy change will take effect immediately.

Motion to approve: Councilmember Ricker

Second: Councilmember Browher

Vote by Council: Unanimous

**7. Request approval to pay Rahn's Services \$8,125.00 for repair work on the sink hole on Middleground Road.**

Mr. Bowles said this is for the emergency repair to the hole in the road and it actually turned out real good. The line item for payment is 10.4430.4415.

Motion to approve: Councilmember Scott  
Second: Councilmember Dasher  
Vote by Council: Unanimous

**8. Request to approve the 2017 Master Rate Sheets for water and sewer tap fees.**

Mrs. Kelly said, Mr. Bowles mentioned our rates are off and there hasn't been a change in tap fees in the ten years that she has been here. They would like to right price the rates. Councilmember Daniel asked if this was covering cost, Mrs. Kelly said yes. The rates will be effective June 8, 2017.

Motion to approve: Councilmember Daniel  
Second: Councilmember Wendelken  
Vote by Council: Unanimous

**9. Request to approve the 2017 Master Rate Sheets for the Building and Zoning Department.**

Mrs. Kelly said the last time the rates were changed was 2010. These changes would increase the permit fee \$150 to \$200. She said we are still below the average fees and ask that we not hit the builders at one time. Mayor Lee asked if she did comparison, and she said yes. Councilmember Dasher asked about the irrigation well increase, Mrs. Kelly said the increase was due to staff research. The fees will be effective June 8, 2017.

Mr. Kirkwood asked if this would be posted, Mrs. Kelly said it will be on the website.

Motion to approve: Councilmember Ricker  
Second: Councilmember Scott  
Vote by Council: Unanimous

**10. Request approval to renew property and liability insurance with Georgia Interlocal Risk Management Agency (GIRMA) in the amount of \$136,815.00.**

Mr. Smith said this is the typical annual renewal for the property insurance.

Motion to approve: Councilmember Ricker  
Second: Councilmember Scott  
Vote by Council: Unanimous

**11. Administrative Reports:**

**City Manager** – Mr. Smith informed Council that the Tyler Technologies planning package has come in and he is planning a kick off meeting; the dental insurance coverage went up 3.1%, there was no change in vision coverage, you can now get one or the other, you don't have to have both; he is looking into a contract and pricing for vehicle storage area at the golf course; and the department heads are taking a closer look at the electric bill to see if they can find money saving errors.

**City Engineer-** Mr. Metzger said the 9<sup>th</sup> Street project survey has been completed; the Fort Howard Road work is continuing; also the LMIG paving is continuing.

**Chief of Police** – Chief Scholl said he would like to do a charity softball tournament that will host ten teams. The City will collect concession and the entry fees will go to charity. He would like to do this in July, using fields 1, 2 and 3 at MaComber Park. He asked Council if he could move forward, Council said yes.

Councilmember Browher asked when was the last time patrol cars were surplus, Chief Scholl said he has two vehicles they have to get rid of.

**Fire Department** – Chief Rahn said they had two events come up over the weekend: a wreck this weekend in Macon, he would like to move the vehicle back to Rincon, so he can go get the light bar and equipment, Attorney Dickey said the tow back could cost more than the vehicle is worth; and the South Georgia wildfires, he has sent personnel and they are all on overtime, Councilmember Ricker asked will we be reimbursed, Chief Rahn said no. The firefighters are doing structure protection if the fire does not come out to a structure they are sitting still. Feds are not allowing them to fight any fires. Chief Rahn asked Council can he bring them back, Council said bring them back tonight and if they are needed again to send them back.

**Building/Zoning Dept.** – Mrs. Kelly turned in an additional written report to Council. Councilmember Browher asked about the stagnant water behind Williamsburg subdivision, Mrs. Kelly said they will look in to it.

**Water/Sewer/Public Works** – Public Works have cleaned out a couple of ditches at the golf course; they put rip rap along the creek on E 9<sup>th</sup> Street.

**Mayor and Council** – Councilmember Browher asked about the FEMA ID badges; Mrs. Kelly said she has them. Council will need to sign for them and can do so at the workshop. He also asked about impact fees, Mrs. Kelly said EMC has already done a study, and once a committee is set they can do the public hearing.

Bernard Martin, spoke and wanted to thank Council for cleaning up around Veteran Monument. He was also wondering how the repairs are going on the water fountain at the park and mentioned the Macomber Park detention pond was ugly.

Josh Ball, Picket Fences, received a letter that he had to appear before Council about an illegal business and a car parked on the street. He said the vehicle was gone before he got the notice. Mrs. Kelly said they received notice that a car repair business and a daycare were being operated at the home. Everything has been resolved and that was why it was not put on the agenda.

**12. Executive session to discuss personnel, pending litigation, attorney client privilege, and real estate.**

Motion: Councilmember Dasher  
Second: Councilmember Ricker  
Vote by Council: Unanimous

Motion to return to meeting: Councilmember Ricker  
Second: Councilmember Browher  
Vote by Council: Unanimous

**13. Follow the statutes of executive session, to put on file an executive session affidavit and resolution.**

Motion to approve: Councilmember Dasher  
Second: Councilmember Ricker  
Vote by Council: Unanimous

**14. Take any action that is needed on the items from executive session.**

No action taken.

**Adjourn:**

Motion to adjourn: Councilmember Scott  
Second: Councilmember Dasher  
Vote by Council: Unanimous