APPROVED: 11/4/2021

MINUTES
Regular City Commission Meeting
6:00 PM - Thursday, September 23, 2021 - City Hall

INVOCATION: A MOMENT OF SILENCE WAS HELD

PLEDGE OF ALLEGIANCE: COMMISSIONER LEHEUP-SMITH

CALL TO ORDER: 6:01 P.M.

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

PRESENT: Commissioner Karen LeHeup-Smith, Commissioner Nan Cobb, Commissioner Willie Hawkins, Vice Mayor Emily Lee and Mayor Michael Holland

1. AGENDA UPDATE

1.1 Bill Howe, Acting City Manager, announced that Resolution Number 21-74 was pulled from the agenda.

2. APPROVAL OF MINUTES

2.1 August 19, 2021 - Regular City Commission Meeting

Moved by Commissioner LeHeup-Smith, seconded by Vice Mayor Lee, to approve the Minutes as submitted. Motion carried by the following votes:

Ayes: Commissioner LeHeup-Smith, Commissioner Cobb, Commissioner Hawkins, Vice Mayor Lee and Mayor Holland

3. AUDIENCE TO BE HEARD

3.1 Patricia Duncan addressed the Commission regarding the proposed development in the Thrill Hill area and recently proposed changes to the Comprehensive Plan. She thanked the Commission for continuing to negotiate with Lake County regarding joint planning.

Cindy Newton distributed a written statement to the Commission regarding the effect of trees on water quality and the effect of development on the environment.

Lee Conger commented on an upcoming joint planning meeting between the City and Lake County. She indicated she would be emailing to the City some planning information for consideration during those negotiations. She suggested the possibility of providing development incentives to encourage developers to use smart growth methods.

Gail Isaac Thomas thanked the Commission for the beautiful renovation of the Commission Room. She indicated she emailed the City and Commission regarding the right-of-way on Kensington and thanked Public Works for mowing the area where the dumpster was located.

Joseph Drovin thanked the City and Parks and Recreation for the Tuesday morning senior citizen breakfasts.

Yolanda Taylor asked the Commission to place on a future agenda use of CRA monies in the East Town area.

4. CONSENT AGENDA

4.1 Resignation of City Manager upon approval of City Commission

4.2 Resolution Number 21-70: Acceptance of Eleven Oaks Subdivision Road Right-of-Way and Water System Infrastructure and associated actions

4.3 Resolution Number 21-73: Purchase in excess of $50,000 for Reclaimed Water Pipe

4.4 Resolution Number 21-74: Bay State South Utilities Agreement
This item was removed from the agenda at the request of the Bay State South Homeowners Association.

Moved by Vice Mayor Lee, seconded by Commissioner Cobb, to approve the Consent Agenda as submitted with the removal of the Bay State South utility agreement. Motion carried by the following votes:

Ayes: Commissioner LeHeup-Smith, Commissioner Cobb, Commissioner Hawkins, Vice Mayor Lee and Mayor Holland

5. ORDINANCES, PUBLIC HEARINGS & QUASI-JUDICIAL HEARINGS

5.1 Resolution Number 21-71: Adopting Final Millage Rate for 2021

Derek Schroth, City Attorney, announced Resolution Number 21-71: A Resolution by the City Commission of the City of Eustis, Lake County, Florida; adopting the final millage levy of ad valorem taxes for the City of Eustis, Lake County, Florida, for Fiscal Year 2021-2022; providing for an effective date.

Mike Sheppard, Finance Director, announced that the proposed final millage rate is 7.5810 mills, which is greater than the rolled-back rate of 7.1548 mills and increases taxes by 5.96%.

Mr. Schroth opened the public hearing at 6:14 p.m. There being no public comment, the hearing was closed at 6:14 p.m.

Moved by Commissioner LeHeup-Smith, seconded by Commissioner Hawkins, to approve Resolution Number 21-71. Motion carried by the following votes:

Ayes: Commissioner LeHeup-Smith, Commissioner Cobb, Commissioner Hawkins, Vice Mayor Lee and Mayor Holland

5.2 Resolution Number 21-72: Adopting a Final Budget for Fiscal Year 2021-2022

Mr. Schroth announced Resolution Number 21-72: A Resolution by the City Commission of the City of Eustis, Lake County, Florida; adopting the final budget for Fiscal Year 2021-2022; providing for an effective date.

Mr. Sheppard confirmed the budget hearing was properly advertised pursuant to state statute. He provided a brief overview of the budget summary and noted that both the police and fire pensions were able to reduce the amount of the City's contribution. He added that the City only experienced a 1.6% increase in the cost of the health insurance. He indicated that the budget includes a 3% across the board salary increase for City employees.

The Commission thanked Mr. Sheppard and the City staff for the budget workshops which helped Commission have a better understanding of the budget.

Mr. Schroth opened the public hearing at 6:18 p.m. There being no public comment, the hearing was closed at 6:18 p.m.

Moved by Vice Mayor Lee, seconded by Commissioner Hawkins, to approve Resolution Number 21-72. Motion carried by the following votes:

Ayes: Commissioner LeHeup-Smith, Commissioner Cobb, Commissioner Hawkins, Vice Mayor Lee and Mayor Holland

5.3 Explanation of Ordinances for Property Located at 2959 South Grove Street (First Reading):
Ordinance Number 21-24 – Voluntary Annexation
Ordinance Number 21-25 – Comprehensive Plan Amendment
Ordinance Number 21-26 – Design District Assignment

Mr. Schroth read Ordinance Number 21-24 by title on first reading: An Ordinance of the City Commission of the City Of Eustis, Florida, voluntarily annexing approximately 0.83 acres of real property located at 2959 South Grove Street.

Heather Croney, Senior Planner, reviewed the proposed annexation and explained the proposed future land use and design district designations for property located at 2959 S. Grove St. which is owned by Villagers for Veterans Inc. She explained the proposal is to change the future land use designation from Urban Low in Lake County to Suburban Residential and assign a design district designation of Suburban Neighborhood. She reviewed the criteria under the Suburban Residential and Suburban Neighborhood designations. She stated the request is consistent with the surrounding land use designations and reviewed staff's analysis of the request. She indicated they are proposing to construct a single family dwelling unit which will not have significant additional impact to the area. She stated staff's recommendation for approval stating the annexation is consistent with the joint planning area and Florida statute requirements and the designations are compatible with the Comprehensive Plan and Land Development Regulations.

Mr. Schroth opened the public hearing at 6:24 p.m.

Catherine Wilgus, a member of the Villagers for Veterans, stated she was present to answer any questions.

There being no further public comment, the hearing was closed at 6:25 p.m.

Moved by Commissioner Hawkins, seconded by Vice Mayor Lee, to approve Ordinance Number 21-24 on first reading. Motion carried by the following votes:

Ayes: Commissioner LeHeup-Smith, Commissioner Cobb, Commissioner Hawkins, Vice Mayor Lee and Mayor Holland

5.4 Ordinance Number 21-25 - Comprehensive Plan Amendment for property located at 2959 South Grove Street

Mr. Schroth read Ordinance Number 21-25 by title on first reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida, amending the City of Eustis Comprehensive Plan pursuant to 163.3187 F.S.; changing the future land use designation of approximately 0.83 acres of recently annexed property, located at 2959 South Grove Street, from Urban Low in Lake County to Suburban Residential in the City of Eustis.

Mr. Schroth opened the public hearing at 6:26 p.m. There being no public comment, the hearing was closed at 6:26 p.m.

Moved by Commissioner Cobb, seconded by Commissioner Hawkins, to approve Ordinance Number 21-25 on first reading. Motion carried by the following votes:

Ayes: Commissioner LeHeup-Smith, Commissioner Cobb, Commissioner Hawkins, Vice Mayor Lee and Mayor Holland

5.5 Ordinance Number 21-26 - Design district designation for property located at 2959 South Grove Street

Mr. Schroth read Ordinance Number 21-26 by title on first reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida; assigning the Suburban Neighborhood design district designation to approximately 0.83 acres of real property, located at 2959 South Grove Street.

Mr. Schroth opened the public hearing at 6:26 p.m. There being no public comment, the hearing was closed at 6:26 p.m.

Moved by Commissioner LeHeup-Smith, seconded by Commissioner Hawkins, to approve Ordinance 21-26 on first reading. Motion carried by the following votes:

Ayes: Commissioner LeHeup-Smith, Commissioner Cobb, Commissioner Hawkins, Vice Mayor Lee and Mayor Holland

5.6 Explanation of Ordinances for Property Located on the West End of West Seminole Avenue (First Reading):
Ordinance Number 21-27 – Voluntary Annexation
Ordinance Number 21-28 – Comprehensive Plan Amendment

Ordinance Number 21-29 – Design District Assignment

Mr. Schroth read Ordinance Number 21-27 by title on first reading: An Ordinance of the City Commission of the City of Eustis, Florida, voluntarily annexing approximately 0.26 acres of real property on the west end of W. Seminole Avenue.

Lori Barnes, Development Services Director, reviewed the proposed annexation of 0.26 acres of real property located on the west end of W. Seminole Avenue and the proposed future land use and design district designations. She noted that the property is part of an unincorporated enclave and the annexation would reduce the size of the enclave. She explained the request is for a future land use designation of Suburban Residential and a design district designation of Suburban Neighborhood. She noted the surrounding area has a mix of uses and reviewed the criteria of the future land use and design district designations. She stated staff's finding that the request is consistent with the surrounding future land use designations and established patterns. She explained the property is proposed to be used for emergency access only to a previously approved annexed property. She indicated it will be brought back as a subdivision plat modification. She reviewed staff's analysis of the request and stated the request is consistent with the Comprehensive Plan and Land Development Regulations. She stated staff's recommendation for approval.

The Commission confirmed that the property is planned for emergency access only.

Mr. Schroth opened the public hearing at 6:33 p.m.

Nick Hill, SNME, thanked staff for their assistance with their application and indicated they were present to answer any questions.

There being no further public comment, the hearing was closed at 6:34 p.m.

Moved by Vice Mayor Lee, seconded by Commissioner Hawkins, to adopt Ordinance Number 21-27 on second reading. Motion carried by the following votes:

Ayes: Commissioner LeHeup-Smith, Commissioner Cobb, Commissioner Hawkins, Vice Mayor Lee and Mayor Holland

5.7 Ordinance Number 21-28 - Future land use designation for property located on west end of W. Seminole Avenue

Mr. Schroth read Ordinance Number 21-28 by title on first reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida, amending the City of Eustis Comprehensive Plan pursuant to 163.3187 F.S.; changing the future land use designation of approximately 0.26 acres of recently annexed real property on the west end of W. Seminole Avenue from Urban Low in Lake County to Suburban Residential (SR) in the City of Eustis.

Mr. Schroth opened the public hearing at 6:35 p.m.

Jeremy Brown asked how much the taxes would increase and how that would be offset by future development.

Ms. Barnes explained that anytime property is annexed into the City they will then be levied at the City's ad valorem rate. She stated that pre-development estimate is $55 per year. She explained they do not currently have a post-development estimate. Once the property is combined, then they will be able to provide an estimate of the tax revenue.

There being no further public comment, the hearing was closed at 6:36 p.m.

Moved by Commissioner Hawkins, seconded by Commissioner Cobb, to approve Ordinance Number 21-28 on first reading. Motion carried by the following votes:

Ayes: Commissioner LeHeup-Smith, Commissioner Cobb, Commissioner Hawkins, Vice Mayor Lee and Mayor Holland

5.8 Ordinance Number 21-29 - Design district designation for property located on west end of W. Seminole Avenue

Mr. Schroth read Ordinance Number 21-29 by title on first reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida; assigning the Suburban Neighborhood design district designation to approximately 0.26 acres of recently annexed real property on the west end of W. Seminole Avenue.

Mr. Schroth opened by public hearing at 6:37 p.m. There being no public comment, the hearing was closed at 6:37 p.m.

Moved by Commissioner Cobb, seconded by Commissioner Hawkins, to approve Ordinance Number 21-29 on first reading. Motion carried by the following votes:

Ayes: Commissioner LeHeup-Smith, Commissioner Cobb, Commissioner Hawkins, Vice Mayor Lee and Mayor Holland

6. OTHER BUSINESS

6.1 Review of RFQ for downtown parking garage

Rick Gierok, Public Works/Utilities Director, reviewed the RFQ for the proposed parking garage. He explained it would be located on the half block between Gottsche and Clifford to the west of Eustis Street. He stated the original concept plan was for a ground floor and two additional decks for 255 parking spaces and an estimated cost of $4.5 million. He stated that at the beginning of 2021 an RFQ was let and seven submittals were received; however, the time for evaluation of that RFQ has expired. He indicated the project could be re-advertised October 4th with a pre-submittal conference on October 19th and a submittal deadline of November 19th. He reviewed the anticipated timeline stating it could be brought before the Commission for approval in January 2022. He explained that it is a design-build so there would not be a separate engineering bid. He explained the use of an RFQ versus a bid and estimated the cost of the project at $4.5 million. He then reviewed the criteria to be used for evaluation of the submittals and the funding options. He noted the City will be receiving $10,600,000 from the Rescue

Act. He commented on questions regarding stipulations on the use of those funds and when the funds would be available. He indicated the possibility of a deadline for use of the funds by the end of 2024 and stated the project would be eligible. He estimated that the project would be complete within 16 months. He commented on possible use of the Rescue Act funds also for expansion of the wastewater treatment plant. He estimated the cost of that expansion at $7 million which should give the City 20 years of capacity. He indicated they are working to keep that project eligible for SRF funds. He stated they are looking at getting into the funding cycle in March. He commented on current issues with costs for materials for construction projects.

The Commission asked whether or not any consideration had been given to adding some commercial space and how many spaces would be lost.

Mr. Gierok indicated they would lose a third of the spaces. He commented on whether or not they could go up another level to avoid losing those spaces. He indicated to go up another level might require using pilings.

The Commission asked whether or not local contractors would be included in the RFQ with Mr. Gierok indicating that they will make sure that local contractors are included. He explained that with SRF funding you cannot include points for being a local vendor.

The Commission asked if they also have to submit financial information with Mr. Gierok indicating they have to submit bonding information. He explained how they look at that information.

CONSENSUS: It was a consensus of the Commission for staff to move forward with the project.

6.2 Direction on the former Florida Hospital Waterman site

Tom Carrino, Economic Development Director, explained that, based on the Commission's actions at the last meeting, staff was requesting direction regarding how to move forward with the former Florida Hospital Waterman site. He stated that options include the following: 1) renegotiating the contract with the Atrium team; and 2) Reissuing the request for proposal either similar to the original or issuing a whole new request for proposal following meetings with local stakeholders. He added that there are consultants that review RFP's if the Commission thinks that expertise is needed.

Commissioner Hawkins reported that he had met with Adam Wonus regarding the project following the last meeting. He indicated his opinion that Atrium is willing to look at making changes to their proposal such as changing some of the apartments to townhouses to reduce the amount of required parking. He stated he did not believe the City and Atrium were as far apart as it previously seemed.

Commissioner LeHeup-Smith expressed agreement for further negotiations with Atrium.

Vice Mayor Lee stated she would have to see what is brought forward.

Commissioner Cobb noted she had met with Mr. Carrino and commented on her desire to look at the CRA as a whole and stated her desire to see more local people involved with the project. She stated her desire to see the project more Commission driven.

Commissioner Hawkins expressed support for further negotiations with Atrium.

Discussion was held regarding how it would be negotiated.

Mayor Holland commented on the possibility of placing that on the next agenda. He asked Commissioner Hawkins to be the Commission liaison and for each of the other Commissioners to appoint someone to sit on a committee.

Further discussion was held regarding negotiations with Atrium.

CONSENSUS: It was a consensus of the Commission to place on the next agenda discussion regarding appointing a committee to work on the project with the intent to develop a master plan for the downtown.

Discussion was held regarding the need to appoint a new person to represent the west side of the CRA on the CRA Board with Bill Howe stating he would have a notice published.

6.3 Discussion concerning SpenceTF contract and anticipatory breach

Mr. Schroth explained his concerns regarding the SpenceTF contract and the anticipatory breach. He cited the agreement stating that the primary intent of the contract is for it to be developed as a drive-in movie theater with at least two screens and that must be developed prior to construction of anything else. He commented on the Commission's concerns expressed at the last meeting.

Spencer Follmar introduced Ted Boland, CEO of Flagship.

Mr. Boland provided a brief review of his personal background and other development projects Flagship had been involved with. He reviewed the history of his company's relationship with Spencer Follmar noting his use of Greg Beliveaux with the Land Planning Group for review of the contract and proposed development. He commented on their review of the contract and what other types of development are allowed within the land use classification. He commented on the demand in the area for a high-end self-storage facility with RV parking and their experience in building those types of facilities. He cited their work in completing the various required studies at an estimated cost of $250,000.

Mr. Boland stated that the reports showed the groundwater level is high on the property which is complicated by the presence of clay on the site. He noted the environmental audit showed contamination on the site that may need to be remediated and also showed gopher tortoises on the site. He stated the traffic survey indicated improvements that would be required on Hwy. 44. He noted they had the property bush hogged so that the surveyors could complete the survey and the civil engineers have begun the design work. He expressed concern regarding the email from the City Attorney regarding the anticipatory breach. He stated his opinion that the contract buyer is in compliance with the agreement stating that a feasible plan has been presented to build a two-screen drive-in theater and use the remaining property for an allowed use. He indicated there are ongoing property issues that need to be resolved in cooperation with the City. He stated their plan going forward is to meet with staff once they have more data within a week or two which can be presented to the Commission at a later hearing. He stated they fully intend to proceed with their consultant team, address the issues, design the project, close on the land and move forward. He indicated their desire to work collaboratively with the City to complete the project.

Commissioner Hawkins asked how long ago he began working with Mr. Follmar with Mr. Boland indicating seven to eight months previous.

Commissioner Hawkins questioned what was originally proposed to him with Mr. Boland indicating Mr. Follmar's original desire to do five screens but the contract requires a minimum of two. He indicated the intent to put in the two and then, if the project is successful, to add the additional screens. He explained his view was for them to start with the required two screens and maybe a retail pavilion.

Commissioner Hawkins expressed concern regarding reducing the plan from five screens with commercial and retail down to two screens and storage units.

Mr. Boland explained that just getting the two screens off the ground is a big deal noting that most financial institutions don't want to finance that. He further explained that the storage facility could drive the funding for the drive-in theater.

Commissioner Hawkins asked how many financial institutions he spoke with before Flagship with Mr. Follmar indicating that initially he told them he had private financing from the movie industry but that all went away following Covid due to the significant impact on the movie industry. He explained that his brother-in-law introduced him to Mr. Boland which enabled him to move forward with the project.

Commissioner Hawkins asked when the determination to only do the two screens was done and if it was done prior to receiving the studies with Mr. Boland indicating he looked at what was required under the contract and that was what they would plan around. He added that he would love to see what is in the rendering but they have to match it to demand.

Commissioner Hawkins asked when they decided to go with storage units with Mr. Boland responding they spoke with Greg Beliveaux about what was already in the area. He then indicated the decision was made about four or five months previous.

Commissioner Hawkins expressed concern that the Commission only heard about the possibility of storage units three weeks prior.

Mr. Boland then stated he only concluded his deal with SpenceTF about 90 days ago.

Commissioner Hawkins expressed concern regarding the amount of time between their deal and when the information was provided to the Commission. He then asked how many storage facilities they have.

Mr. Boland responded they had fifteen and they recently sold five but have additional facilities under construction or in process and cited various locations. He added they also operate studio salons.

Commissioner Cobb emphasized she does not have to recuse herself and she does not have a conflict of interest as she has no financial interest involved. She expressed concern about erroneous information being provided regarding her business. She stated the Commission was sold the project with five screens and commercial development.

Vice Mayor Lee expressed concern regarding what is proposed noting she has not been in favor of the project from the beginning. She further expressed disappointment regarding changing uses between storage units and RV storage. She stated her opposition to the project.

Mayor Holland asked Mr. Schroth what the City's options are.

Mr. Schroth recapped that there was a statement that night about a purchase of an interest in the company and there is a prohibition in the contract for assignment. He indicated the contract extension was extended to December 20th so the City may have to wait until then. He stated the contract requires construction of a two-screen drive-in theater first and the primary purpose is for the drive-in theater. He added that, if they are expressing willingness to do that, then the City may need to wait and see what will occur. He requested direction to contact their attorney to clarify the purchase of an interest in the company.

Mayor Holland expressed concern regarding changes since the original contract.

CONSENSUS: It was a consensus of the Commission for Mr. Schroth to contact their attorney.

Vice Mayor Lee asked about whether or not they have a breach to the contract with Mr. Schroth asking Mr. Boland for clarification of what he said regarding a first and second "traunch".

Mr. Boland explained that the first "traunch" is the two-screen drive-in theater and "traunch" two is the RV park and self-storage facility which would be very high end. He cited the high demand for that type of facility. He then commented on the problems with the property.

Mayor Holland emphasized that he had informed Spencer Follmar in an open meeting that the property had a number of problems and advised him to look for another property.

Mr. Boland responded that, based on the Commission comments, they would withdraw from the project.

7. **FUTURE AGENDA ITEMS**

7.1 Commissioner Cobb stated she spoke with Mr. Schroth regarding Sharp's Mobile Home Park noting that it is up for sale again for $4 million. She commented on encroachments they have on both City and County right-of-way as well as on Daniel DiVenanzo's property. She stated that whenever the property is sold, those encroachments need to be addressed.

Mayor Holland agreed to place it on a future agenda and asked Mr. Schroth to research the encroachments and bring that back.

8. **COMMENTS**

8.1 City Commission

Commissioner LeHeup-Smith commented on a very nice letter she received from Vaughn Lewis regarding Wyatt Lewis who gave his family excellent service in selecting a gravesite. She indicated she would give a copy of the letter to the City.

Vice Mayor Lee asked to have discussion regarding the cemetery brought back.

8.2 City Manager - None

8.3 City Attorney

Mr. Schroth noted that under the Charter, Mr. Neibert requested that Bill Howe be appointed as Acting Manager until October 15th. He indicated they can change that or approve that recommendation and that they would have to appoint an Interim Manager for after October 15th to serve during the selection process.

CONSENSUS: Following discussion, it was a consensus of the Commission for Bill Howe to serve as Acting City Manager until October 15th.

Mr. Schroth confirmed they wanted discussion regarding appointment of an Interim Manager on the next agenda.

8.4 Mayor

Commissioner Hawkins expressed concern regarding the resignation of Ron Neibert and his support for him as manager. He stated that the way it occurred took his vote away from him and that what happened was wrong. He indicated that it is not just about Mr. Neibert but opposition to the way it was handled.

Vice Mayor Lee stated they have been praised for being a good Commission. She stated the Commission needs to get back on track for what they were doing well. She expressed the need for the Commission to work together.

Commissioner LeHeup-Smith read a prepared statement expressing concern regarding the resignation of the City Manager, lack of teamwork by the Commission, indecisiveness and lack of clear direction by the Commission. She indicated she had considered resigning from the Commission but has decided to complete her term.

Mayor Holland thanked Mr. Neibert for his service to the City and stated the Commission and staff will work together to get the City where it needs to go.

9. ADJOURNMENT: 7:51 P.M.

**These minutes reflect the actions taken and portions of the discussion during the meeting. To review the entire discussion concerning any agenda item, go to www.eustis.org and click on the video for the meeting in question. A DVD of the entire meeting or CD of the entire audio recording or verbatim transcript of the meeting can be obtained from the office of the City Clerk for a fee.*

Mary C. Montez

MARY C. MONTEZ
City Clerk

MICHAEL L. HOLLAND
Mayor/Commissioner