



APPROVED: 10/7/2021

MINUTES

Special City Commission Meeting

6:00 PM - Thursday, September 2, 2021 – Community Building
601 Northshore Drive, Eustis

CALL TO ORDER: 6:00 P.M.

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

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

1. ORDINANCES, PUBLIC HEARINGS & QUASI-JUDICIAL HEARINGS

- 1.1 Ordinance Number 20-32: Voluntary Annexation of property located on north side of CR 44A, east of East Eldorado Lake Drive
Ordinance Number 20-33: Comprehensive Plan amendment assigning future land use designation to above property
Ordinance Number 20-34: Assigning a design district designation to the above property

Derek Schroth, City Attorney, read Ordinance Number 20-32 by title on second reading: An Ordinance of the City Commission of the City of Eustis, Florida, voluntarily annexing approximately 20.691 acres of real property located on the north side of County Road 44A, east of East Eldorado Lake Drive.

Mr. Schroth stated that, based on the circumstances, the Commission has two options to either deny the ordinance or postpone to a later date.

The Commission discussed how long the annexation and related ordinances had been before the Commission and the ways the County Commission has blocked the City. Comments were also made regarding what the City wants to see in the area and the need for the City to grow.

Mayor Holland confirmed that they are still working on a date for the next joint planning working group meeting after the last one had to be cancelled. He also confirmed that the City still has not heard back from the State and the State Board (that needs to consider the situation with the park property) is not scheduled to meet until February 2022.

Discussion was held regarding whether or not to continue. The Commission asked whether or not the County has plans to bring the park property back under their ownership and asked Melanie Marsh, Lake County Attorney, to address the question.

Ms. Marsh responded that she has received no direction from the Board of County Commissioners to undo that transaction so to the best of her knowledge it would stay that way unless FCT tells them to do something different.

Further discussion was held regarding the City's frustration, how to proceed, and how soon it could be brought back if they denied it at that time.

Moved by Commissioner Hawkins, seconded by Commissioner LeHeup-Smith, to continue Ordinance 20-32 through Ordinance 20-40 to the date certain of February 17, 2022. Motion carried by the following votes:

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

Nays: Commissioner Cobb and Mayor Holland

- 1.2** Ordinance Number 20-35: Voluntary annexation of property located on the south side of CR 44A and west of Thrill Hill Road
Ordinance Number 20-36: Comprehensive Plan amendment assigning a future land use designation to the above property
Ordinance Number 20-37: Assigning a design district designation to the above property

These ordinances were postponed by the above motion to the date certain of February 17, 2022.

- 1.3** Ordinance Number 20-38: Voluntary annexation of property located on the east side of Thrill Hill Road and north of Reedy Road
Ordinance Number 20-39: Comprehensive Plan amendment assigning a future land use designation to the above property
Ordinance Number 20-40: Assigning a design district designation to the above property

These ordinances were postponed by the above motion to the date certain of February 17, 2022.

2. OTHER BUSINESS

- 2.1** Discussion: Long Term Storage Containers and Possible Land Development Regulation Amendments

Lori Barnes, Development Services Director, addressed the Commission regarding pre-existing, nonconforming, long term storage containers whether they pre-dated the ordinance or if they were placed without permission and without the required screening after the ordinance was adopted. She stated she would review the current regulations and discuss other related regulations that may impact the City's perspective on the long-term storage containers. She added that she would review a list of questions for Commission direction as to a potential ordinance to possibly amend how the regulations address long-term storage containers.

Ms. Barnes reported that staff had conducted an inventory of all of the long-term storage containers, also known as Conex boxes. She stated that there are three locations that contain Conex boxes that pre-date the adoption of the current regulations that require the screening with a brick or masonry wall; however, there are a number of other locations where the containers were placed after December 2016. She added they were placed without authorization, without review by the department and without the required screening from the public right-of-way and adjacent properties.

Ms. Barnes then reviewed the properties with pre-existing containers as follows: 1) Rays Auto, 319 N. Bay St. (containers are in disrepair and there is an existing code enforcement violation that are on hold); 2) Eustis Square Shopping Center, 332 Ardice Ave.; and 3) Former Cemex property, 639 W. Atwater Ave.

Ms. Barnes then reviewed those locations with containers installed after 12/15/2016 as follows: 1) MEGA 400 LLC, 400 N. Eustis St.; 2) Eustis Plaza, 445 Plaza Dr.; 3) Knight Enterprises, 701 W. Atwater Ave.; 4) First Church of God, 1550 N. SR 19; 5) CVS Pharmacy, 1701 US Hwy. 441; 6) Trinity Capital Group, 19122 SR 44; and 7) Prime Plumbing, 37436 N. SR 19. She explained the Prime Plumbing property is unique due to being under construction and their approved site plan includes a masonry wall along their State Road 19 frontage that will screen their shipping containers from view.

Ms. Barnes then explained that the current regulations do address portable storage units and they also regulate how long they may remain on both residential and commercial properties. She indicated that regulations was in place prior to 2016. She then reviewed the regulations pertaining to maintenance noting there are active code violations of those regulations that are on hold based on Commission direction. She stated the 2016 regulation does allow long-term storage containers on improved commercial or industrial property provided a brick or masonry wall screens them from the public right-of-way and any adjacent property. She added that regulation was modified in June 2021 to allow the Development Services Director to approve alternate screening material when supported by site conditions.

Ms. Barnes then stated that in determining in what direction the City Commission wants to go they need to consider that City regulations prohibit metal buildings, except for on industrial lot types, unless the exterior metal is covered by another material such as stucco, siding or Hardie board. She added that the City also has architectural design standards and that accessory structures are now permitted in non-residential areas including sheds.

Ms. Barnes then asked the Commission if they desire to keep regulations in place that allow long-term storage containers on commercial and industrial property within the City limits.

The Commission discussed whether not they desire to continue the regulations on the storage containers with a consensus to retain the regulations.

Ms. Barnes clarified that the Commission desires to allow the containers as a permitted use with regulations. She noted that the Commission, if it so desired, could prohibit the use of the containers for storage purposes. She confirmed that the Commission does want to continue to allow them with some regulation.

The Commission further discussed allowing the containers including whether or not to limit the amount of time they are allowed and whether or not most properties would have sufficient space to build a permanent storage structure with Ms. Barnes explaining that under the Florida Building Code 180 days is considered a temporary use or structure.

Ms. Barnes then asked if the containers are a desired use is there a particular location they would want to permit them such as in the Central Business District, commercial, mixed use, industrial district or only in general industrial or mixed commercial industrial areas.

The Commission questioned what is in the containers with Ms. Barnes indicating that staff does not know; however, the regulations do prohibit storage of hazardous or dangerous materials. She stated that the Fire Department is probably confirming during their annual inspections as to whether or not there are any prohibited materials stored. She indicated that would be a question for the Fire Department.

Mike Swanson, Fire Chief, indicated that, generally, Conex boxes are not inspected as those usually go in and out quickly before the annual inspection. He said that, if they are inspected, then they do check for prohibited materials.

The Commission noted that there is already one pre-existing in the Central Business District.

Discussion was held regarding whether or not to allow the boxes in the downtown area and whether or not they could set a date or timeframe to require removal of the boxes with Ms. Barnes confirming they could do that. She also explained that if someone wants to add a container to their site, then they have to apply for an administrative site plan review and provide the required screening. If they cannot provide the screening and there isn't a unique site condition that prevents them being seen, they that would be a major modification and it would go before the Commission with a waiver request.

Ron Neibert, City Manager, commented that would be on the premise that the Commission wants to permit them at all in any of the land use districts. He stated they could set up different regulations for different land use designations.

The Commission discussed the possibility that any business may need temporary storage at some time and whether or not a wall should be required for something that is only going to be there for 180 days or less.

Ms. Barnes confirmed they can set the temporary timeframe for any length of time that it doesn't have to be the 180 days which is the temporary definition under the Florida Building Code.

Further discussion was held with a suggestion of setting the timeframe at 180 days with an allowance for one extension.

Mr. Neibert stated there are two issues to be addressed: 1) Existing boxes - setting those in certain districts to eventually be gone within a year; and 2) Within the districts where they want them to be allowed to be a temporary use - what is that timeframe - possibly 180 days with one extension. He noted the need to determine those land use districts where they would be appropriate.

Further discussion was held regarding appropriate locations for the storage containers with Mr. Neibert recommending they should be regulated based on land use districts.

Ms. Barnes indicated the regulations could be written to allow them to remain as long as there is an active building permit.

The Commission discussed whether or not to allow additional screening types and insuring any screening is of sufficient type to block the view of the containers.

Mr. Neibert suggested that, for those districts where the Commission does not want to allow the storage containers except for during construction, regulations be established to provide a one-year amortization period to get rid of those. He then suggested that staff make some recommendations for the remaining land use districts regarding whether or not they are allowed and the specific regulations for each land use district. He stated staff would provide a chart of the districts and various screening options and a draft ordinance.

The Commission discussed the following issues: 1) whether to allow six months or one year amortization; 2) the cost for requesting an extension; and 3) how the information will be provided to contractors.

Mr. Neibert then summarized the consensus as follows: 1) Conex boxes will be prohibited in some areas except for during construction or for temporary purposes; 2) There will be some districts where they are allowed permanently with specific screening criteria; and 3) Existing ones in prohibited areas will be required to remove them within a year or they will be subject to code enforcement. He then asked whether or not staff should proceed with code enforcement where appropriate or wait for finalization of the ordinance.

The Commission discussed how to proceed with the code enforcement. It was a consensus of the Commission to proceed with code enforcement for the pre-existing ones that are in violation of the existing maintenance regulations. It was agreed to wait to address the others until the ordinance is passed and they can address all issues at one time.

2.2 Discussion regarding vote on ordinances 20-32 through 20-40

Vice Mayor Lee stated that she consulted with the City Attorney regarding the vote they took on Ordinances 20-32 through 20-40.

Mr. Schroth announced that Vice Mayor Lee had expressed to him a desire to change her vote to denial on the continuance. He stated that the Commission has the discretion to re-open the public hearing and allow the reconsideration under the City Commission Rules of Order. He stated she is requesting that reconsideration.

Vice Mayor Lee expressed her concern regarding the Commission's consideration of the land use regulations while the ordinances are postponed until February. She stated that would be a problem with the ordinances needing to be considered under the new regulations.

Mr. Neibert explained that the ordinances would be considered under the existing regulations since they were submitted before the regulations were changed. However, if the ordinances are denied and then resubmitted later on, they will have to be considered under any new regulations as they will have lost their right to be considered under the old regulations. He further explained that since their applications are still pending, the Commission must consider them under the existing regulations.

Commissioner Hawkins asked that, if the Commission were to deny the ordinances, would the City have any recourse against the County with Mr. Schroth indicating that the question would be moot at that point. He explained the City's argument at this time is that the County's actions prevented the City from holding its hearings.

Mr. Neibert stated the basic question is whether or not there is any desire of the Commission to change its land use regulations. He explained that Vice Mayor Lee's concerns are that the City may change the regulations that apply to that area. He stated that, if the Commission wants to change those regulations, then, to be consistent, they should deny the ordinances and hear them under the new regulations. However, if they like the regulations as they are now, then the continuance of the ordinances to see what happens is appropriate. He cited another factor would be whether or not the County will negotiate something in a reasonable amount of time. He noted that at the last County Commission meeting, Commissioner Parks talked about renegotiating the JPA's with all of the cities and addressing land use districts in those areas that surround municipalities. His proposal was for the County to hire a consultant and then start working with the municipalities. He stated his uncertainty as to whether or not Commissioner Parks intended to continue the negotiations with Eustis or lump the City in with the other negotiations. He indicated that proposed process could take years.

Vice Mayor Lee asked if in February the State rules against the County could the City then annex the property.

Mr. Neibert explained that depends on what the State does. If the State tells the County they will not approve their dedication and they have to have the property put back in their name, then the City would have what staff believes is legal contiguity and could enforce the annexations. Another possibility is for the City to litigate against the County and have their actions declared invalid by a judge.

Mr. Schroth explained that the City would have to file a lawsuit requesting a declaratory judgement action declaring that the action they took under the deed restrictions, as well as the grant assurances that were issued, were in violation. As a result of that violation, the City has been unable to finalize the applications and properly process those applications due to the County's wrongful acts. If the Court agreed with that, then the City would ask the Court to fix it which would be an order to the County to undo what it did. The property would then become part of the park again and then the City can skip over it statutorily and have contiguity.

The Commission asked what the timeframe would be with Mr. Schroth responding that under the new summary judgement standard, which gives courts more flexibility to avoid jury trials and decide things on their own, it would be about six months for a summary judgement. He indicated the County has the right to

discovery and could take depositions and depose each of the Commissioners. He noted that the courts are prioritizing criminal trials so it may take longer than six months.

Mr. Neibert explained that the other issue, if the City waits for the State's decision and they rule to allow the County to do that, then the City has lost any opportunity to litigate.

Commissioner Cobb noted that there has also been talk about the County transferring the property to the Friends of the Wekiva.

Commissioner Hawkins confirmed that if the ordinances are denied then they lose any legal option and are at the mercy of the State.

Discussion was held regarding how much it would cost the City to litigate with Mr. Schroth indicating that a summary judgement would probably cost \$50,000 or less but it would cost more based on any appeals.

Mr. Schroth asked the Commission whether they want to re-open the hearing on the ordinances at that time and allow public comment with Vice Mayor Lee stating that she was withdrawing her request for reconsideration.

Mr. Schroth recommended that the public hearing being opened. The hearing was opened at 7:11 p.m.

Ferdy Vinichec expressed opposition regarding the annexation and other ordinances pertaining to the Thrill Hill Road area and how those would affect the area over the next 20 years.

Daniel DiVenzano addressed the Commission regarding the Conex boxes. He noted he has three properties in the downtown area that he could put boxes on. He cautioned the Commission about waiting to address the noncompliant sites. He noted there are no hurricane tiedowns on the boxes.

Mr. Neibert suggested that any additional boxes put in as of that date be immediately addressed.

Vice Mayor Lee asked if there could be a requirement that the boxes be inspected and whether or not the City could ask what would be stored in them with Mr. Neibert indicating staff would consult with the City Attorney on what they can and can't do.

Vice Mayor Lee suggested establishing a committee to meet with Commissioner Parks.

The Commission discussed whether or not a committee would be helpful and possibly meeting with the City of Leesburg.

Mayor Holland indicated he would talk with Commissioner Parks and report back to the Commission.

Commissioner Cobb announced that there would be a neighborhood cleanup on Northshore Drive on September 18th.

Commissioner Hawkins announced there would be a Job Fair at the Eustis Memorial Library on September 15th.

Commissioner LeHeup-Smith announced that "LEAF" would be giving away free dog spay and neuter certificates on September 18th in Paisley and Groveland.

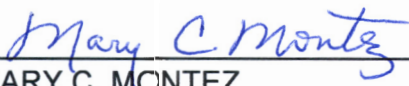
Mr. Neibert wished City Clerk Mary Montez a speedy recovery which was echoed by Mr. Schroth and Mayor Holland

Mayor Holland announced the next regular Commission meeting would be held on September 9th in the Community Center with the September 23rd meeting to be held in the Commission Room at City Hall.

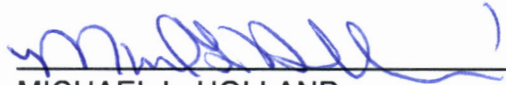
Mr. DiVenanzo reported on the delivery of the chairs for the Commission Room with Mr. Neibert indicating that, if the chairs are the only issue on September 23rd, then that meeting would be held in the Commission Room at City Hall.

3. ADJOURNMENT: 7:25 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
City Clerk



MICHAEL L. HOLLAND
Mayor/Commissioner