APPROVED: 11/1/2018

City of Eustis, Florida

City Hall
10 North Grove Street
Post Office Drawer 68
Eustis, FL 32727-0068

Meeting Minutes – Final*
City Commission

Thursday, October 18, 2018 | **6:00 PM** | **City Hall**

INVOCATION: Rev. Marc Kappel, Faith Lutheran Church

PLEDGE OF ALLEGIANCE: Commissioner Holland

CALL TO ORDER: Mayor Morin - 6:02 p.m.

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

Present: 5 - Commissioner Carla Gnann-Thompson; Commissioner Michael Holland; Vice-Mayor Marie Aliberti; Commissioner Linda Bob; and Mayor Robert Morin

I. AGENDA UPDATE - None

II. APPROVAL OF MINUTES

18-0263 September 20, 2018 - Regular City Commission Meeting
October 4, 2018 - Regular City Commission Meeting

A motion was made by Commissioner Holland, seconded by Commissioner Bob, that the Minutes be Approved . On a voice vote, the motion passed unanimously.

III. AUDIENCE TO BE HEARD

Edward Bowman addressed the Commission regarding Clara's Law which prohibits sexual predators from working in healthcare facilities. He stated his intent to walk from Mount Dora to Tallahassee to bring attention to the proposed law.

Mayor Morin encouraged Mr. Bowman to talk to the Commissioners separately after the meeting and maybe they can help encourage support from other cities.

Mr. Bowman noted that the City of Ocoee has indicated they would do a proclamation for him to take with him to Tallahassee.

Mayor Morin read a letter from Charles Ullian expressing thanks to the City's Public Works crew and their efforts on his behalf in cutting back a City tree that was overhanging his carport as well as other work he has observed them doing.

IV. CONSENT AGENDA

18-0253 Resolution No. 18-92: Approval of Purchase in Excess of $25,000 for Customer Service Postage Costs

18-0256 Resolution No. 18-93: Approval of Annual Purchases in Excess of $25,000

18-0261 Resolution No. 18-95: Executing an Addendum to the Lease between the City of Eustis and LEMA

A motion was made by Commissioner Holland, seconded by Commissioner Gnann-Thompson, to Approve the Consent Agenda. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Holland; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

V. ORDINANCES, PUBLIC HEARINGS & QUASI-JUDICIAL HEARINGS

18-0258 Resolution No. 18-90: Site plan with waiver for a retail building located south of CR 44 and west of SR 19

Derek Schroth, City Attorney, announced Resolution No. 18-90: A Resolution of the City Commission of the City of Eustis, Florida; approving a site plan with a waiver for the construction of a retail building with a side main entrance on approximately 2.17 acres located on the west side of SR 19, south of CR 44.

Roland Magyar, Senior Planner, reviewed the proposed site plan for a Dollar Tree and the explained the requested waiver to allow a side main entrance. He cited factors to be considered in determining the waiver. He stated staff's recommendation for approval stating that it meets the intent of the Land Development Regulations and Comprehensive Plan.

The Commission questioned which side would be the Popeye's Restaurant with Mr. Magyar indicating that Popeye's will be on the north, closer to the Publix shopping center.

The Commission questioned why the building was being situated sideways and whether or not they would be required to replace tree for tree with Mr. Neibert indicating they would be required to put in trees and landscaping in accordance with the regulations.

Mr. Schroth opened the public hearing at 6:20 p.m. There being no public comment, the hearing was closed at 6:20 p.m.

A motion was made by Commissioner Holland, seconded by Commissioner Gnann-Thompson, to Approve Resolution No. 18-90. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Holland; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

18-0259 Resolution No. 18-91: Site plan with waiver for a fast food restaurant building located south of CR 44 and west of SR 19

Mr. Schroth announced Resolution No. 18-91: A Resolution of the City Commission of the City of Eustis, Florida, approving a site plan with a waiver for the construction of a fast food restaurant building with a side main entrance on approximately 1.48 acres located on the west side of SR 19, south of CR 44.

Mr. Magyar reviewed the proposed site plan for a Popeye's Restaurant and explained the requested waiver to allow a side main entrance. He reviewed the considerations, indicated that the request is consistent with the Land Development Regulations and Comprehensive Plan and stated staff's recommendation for approval.

Mr. Schroth opened the public hearing at 6:23 p.m. There being no public comment, the hearing was closed at 6:23 p.m.

A motion was made by Commissioner Holland, seconded by Commissioner Bob, to Approve Resolution No. 18-91. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Holland; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

18-0265 Resolution No. 18-94: Amendment to Personnel Rules and Regulations

Mr. Schroth announced Resolution No. 18-94: A Resolution by the City Commission of the City of Eustis, Lake County, Florida, amending the Personnel Rules and Regulations of the City of Eustis.

Bill Howe, Human Resources Director, reviewed the proposed amendment to the City's Personnel Rules and Regulations pertaining to the workplace harassment policy. He stated that the City's public law attorney through Public Risk Management has recommended the policy be amended to be compliant with federal law. He added that mandatory training for all employees has been scheduled.

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

A motion was made by Commissioner Holland, seconded by Vice-Mayor Aliberti, to Approve Resolution No. 18-94. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Holland; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

SECOND READING

18-0185 Ordinance No. 18-15: Amending Chapter 70, Article IV, Municipal Police Officers' Pension and Retirement System

Mr. Schroth read Ordinance No. 18-15 by title on second and final reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida; amending and restating Chapter 70, Pensions and Retirement, Article IV, Municipal Police Officers' Pension and Retirement System, Sections 70-101 through 70-145, inclusive, of the Code of Ordinances of the City of Eustis; restating a "local law" pension plan for police officers to be known as the City of Eustis Municipal Police Officers' Pension and Retirement System; providing for codification; providing for severability of provisions; repealing all ordinances in conflict herewith and providing an effective date.

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.

A motion was made by Commissioner Holland, seconded by Vice-Mayor Aliberti, to Adopt Ordinance No. 18-15 on second reading. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Holland; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

18-0232 Ordinance No. 18-28: Small-Scale Future Land Use Map Amendment to the Comprehensive Plan - Northshore Drive

Mr. Schroth read Ordinance No. 18-28 by title on second and final 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 (1) F.S.; changing the Future Land Use Designation of approximately 1.7 acres of real property located east of Northshore Drive between Wilt Ave. and Pendleton Ave. from Residential Office Transitional (RT) to Public Institutional (PI).

Mr. Schroth reported that the legal description was corrected since first reading. He opened the public hearing at 6:27 p.m.

Mary Solik, attorney representing Jeff LaFrate, addressed the Commission to express Mr. LaFrate's opposition to the comprehensive plan amendment and the justification for his opposition based on the floor area ratio.

Mr. Neibert clarified that the Development Review Committee meetings are posted and open to the public. He stated that public comment is allowed at the meetings. He then confirmed with Ms. Solik that her client could also, in theory, tear down the existing home and construct an assisted living facility under the existing RT land use designation. He noted that under the PI designation there are other land development regulations, such as setbacks, which would limit the amount of developable space on the property.

Ms. Solik responded that the RT FAR restriction is .25 and that in 2015 the City amended the RT FAR reducing it from 1.0 to .25.

The following individuals addressed the Commission in opposition to the project: 1) Daniel Flick; 2) George Barton; 3) Samuel Ellison; and 4) Erica Wilson.

The following individuals addressed the Commission in support of the project: 1) Daniel DiVenanzo; and 2) George Asbate.

Daniel Kennerly, applicant, stated their intent to build something in keeping with the community indicating it would be more than a $23 million development and stating they will be the developers from start to finish. If approved, groundbreaking would occur May or June 2019. He explained their intent to have a sidewalk and docks along the lakefront. He provided a map showing the FAR intensity from the downtown commercial district to the RT and the lack of transition. He stated they would agree to a limitation of a 1.25 FAR or they would have to ask for a waiver. He presented a map showing the location of the property and indicated that the property to the south is commercial with the property to the north being rentals.

There being no further public comment, the hearing was closed at 7:29 p.m.

Mayor Morin disclosed that he spoke with Mr. Flick, Mr. LaFrate, Mr. Kennerly and Mr. Asbate. Commissioner Gnann-Thompson disclosed she spoke with the attorney over the phone. Commissioner Holland also disclosed he spoke with the attorney by phone and met with Mr. Flick and Mr. Kennerly. Commissioner Bob disclosed she met with Mr. Flick and Mr. LaFrate.

The Commission discussed the difficulty in making a decision, the building requirements that are in place, and Mr. Kennerly's willingness to limit the FAR to 1.25.

Lori Barnes, Development Services Director, explained that the PI designation does not have an FAR restriction; however, it would be limited by maximum impervious area and building height. At the Commission's request, she commented on the lack of rational transition within the City under the current comprehensive plan structure and noted that a request to consider amending the FAR in the suburban corridors would be discussed later in the meeting.

The Commission commented on the need for there to be a mix of people within the community and the need to protect the existing residents. The Commission questioned whether or not the City could just move forward with changing the transitions rather than the designation.

Ms. Barnes explained the time difference between a land use map amendment and a large scale or text amendment which would take a minimum of four months. She stated the timing differential could be a factor for the developer which is why they came forward with a PI request. She explained the only limitation the City could apply at this time is through the maximum impervious space and maximum height; otherwise it is called contract zoning and that's illegal. She noted that the DRC meetings are open to the public and people can attend when the site plan comes forward. She added that if they need any type of waiver, then another public hearing process will apply and it will be brought back to Commission for consideration. However, if it complies 100% with all development regulations, then the DRC will approve the site plan.

The Commission confirmed that the maximum size they could have under RT is 16,000 sq. ft. With the 1.25 FAR, the maximum would be 80,000 sq. ft.

Mr. Neibert explained that the Commission can't approve the request with a 1.25 limitation but, functionally, the other design requirements such as setbacks might bring it down to the 1.25.

The Commission commented on the quality of life that would be offered to residents of the facility and how it could benefit the City.

A motion was made by Vice-Mayor Aliberti, seconded by Commissioner Holland, to Adopt Ordinance No. 18-28 on second reading. The motion carried by the following vote:

Aye: 4 - Commissioner Gnann-Thompson; Commissioner Holland; Vice-Mayor Aliberti; and Mayor Morin

Nay: 1 - Commissioner Bob

FIRST READING

18-0260 Ordinance No. 18-29: Comprehensive Plan Text Amendment based on the Evaluation & Appraisal Review of the Comprehensive Plan per Section 163.3191 F.S.

Mr. Schroth announced he had a conflict of interest with Ordinance No. 18-29; therefore, that item would be handled by Acting City Attorney Derek Bruce.

The Commission recessed at 7:47 p.m. and reconvened at 7:52 p.m.

Commissioner Holland welcomed Rep. Jennifer Sullivan.

Derek Bruce, Acting City Attorney, read Ordinance No. 18-29 by title on first reading: An Ordinance of the City Commission of the City of Eustis, Florida, amending the City of Eustis Comprehensive Plan 2010-2035 pursuant to Section 163.3184 of the Florida Statutes; providing for text revisions to the Intergovernmental Coordination Element; providing for the repeal of ordinances inconsistent with the ordinance; providing for conflicting provisions; and providing for severability and effective date.

Lori Barnes, Development Services Director, explained that the proposed ordinance is based on the recent Evaluation and Appraisal Review (EAR). She further explained that the state statute requires that any amendments needed based on the EAR must be submitted to the state for review within one year. She stated that staff identified three required amendments, all of which are in the Intergovernmental Coordination Element. She stated that the Department of Economic Opportunity (DEO) provided the City with a deadline of Oct. 27, 2018, for adoption of the text amendments. She explained the Commission had reviewed the EAR amendments at its November 2, 2017, regular meeting and then discussed whether or not any additional amendments were desired at the February 12, 2018, workshop. She then reviewed the proposed amendments noting they are all required to comply with state law. She noted correspondence received from Attorney Dan Langley regarding the ordinance and a records request received from Scott Ales. She stated that the transmittal deadline is Oct. 27th and failure to meet that deadline will result in the City not being able to make any further amendments until such time as Eustis complies.

Mr. Bruce opened the public hearing at 8:00 p.m.

Scott Ales addressed the Commission regarding the proposed amendment, the Wekiva Protection Act, and the City's stipulated settlement. He commented on the possibility of the DEO conducting a full review of the City's comprehensive plan and requiring the City to put some elements back in based on the Wekiva Protection Act. He encouraged the Commission to hold a workshop and include back in those elements that were previously removed.

Brian Mitnik expressed support for anything that brings people back into town.

Daniel DiVenanzo expressed support for moving forward to meet the state deadline. He agreed with the need for a workshop to clean up the comprehensive plan.

There being no further public comment, the hearing was closed at 8:12 p.m.

A motion was made by Commissioner Bob, seconded by Commissioner Holland, to Approve Ordinance No. 18-29 on First Reading. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Holland; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

18-0252 Ordinance No. 18-30: Authorizing the Removal of a Utility Meter on a Liened Property

Mr. Schroth read Ordinance No. 18-30 by title on first reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida; amending Chapter 94 Utilities of the City of Eustis Code of Ordinances, Section 94-261 – Water, Wastewater and Irrigation Liens; authorizing the removal of utility meters; providing for conflicting ordinances, severability and an effective date.

Mr. Neibert explained the ordinance was discussed with the Commission at the previous meeting in relation to the utility liens.

Mr. Schroth opened the public hearing at 8:14 p.m. There being no public comment, the hearing was closed at 8:14 p.m.

A motion was made by Commissioner Holland, seconded by Vice-Mayor Aliberti, to Approve Ordinance No. 18-30 on First Reading. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Holland; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

VI. OTHER BUSINESS

18-0254 Appointment to Lake County Arts and Cultural Alliance

Mr. Neibert explained the City needed to appoint a new representative to the Lake County Arts and Cultural Alliance due to the recent resignation of Richard Colvin. He suggested that the Commission could make a temporary appointment until January when the regular appointments would be done. He further explained that an appointment was not needed at this time for the Lake Community Action Agency but could be handled in January with the other appointments.

Vice Mayor Aliberti agreed to serve as the temporary appointee to the Lake County Arts and Cultural Alliance.

CONSENSUS: It was a consensus of the Commission to appoint Vice Mayor Aliberti to the Lake County Arts and Cultural Alliance until January.

18-0255 Appointment to Lake Community Action Agency

No action taken at this time. Appointment will be made in January 2019.

18-0262 Consideration of a Comprehensive Plan Text Amendment to Increase Maximum Intensity on Properties Along US Hwy 441 (and Possibly US Hwy 19)

Ms. Barnes reviewed a letter staff received from Land Grab LLC's representative Ken LaRoe asking the City to consider increasing the maximum intensities (floor area ratio) on properties located on US Hwy. 441 and possibly along SR 19 corridor from 0.35 to 2.0. She cited the property that prompted the request and explained there is a potential buyer who wants to build *a hotel on the site. She compared the City's commercial densities and intensities to other area cities noting some use floor area ratio limitations and some use maximum impervious surface area and building height to limit development. She indicated that Mount Dora and Leesburg, which are most comparable to Eustis, both have higher commercial intensities than Eustis and Lake County's Urban High designation is a 2.0 which is also higher than Eustis. She stated that the differences put Eustis at a competitive disadvantage to the other cities. She commented on the comprehensive plan provisions and stated that the established intensities for commercial and mixed-use are not fully reflective with the comprehensive plan policies. She stated there is no incremental decrease in intensity between the downtown area and the outlying rural areas of the City or joint planning area. She stated the transition is extreme between the Central Business District and areas bordering it with the FAR dropping from 3.0 to .25 on the north and east and to .35 and .25 on the south. She added that the only area that has a rational transition is in the South Bay Street corridor.*

Ms. Barnes then reviewed some possible options for the Commission to consider as follows: 1) Option 1 - Assign a maximum floor area ratio to non-residential and/or mixed use land designations and create land development regulations to incrementally decrease the intensity from urban to suburban to rural design districts. She provided some examples of how that could be accomplished. She stated that, of the three options, Option 1 would be the staff recommended option.

Ms. Barnes then explained some considerations pertaining to Option 1. She stated there are some areas along Hwy. 441 that border land use designations that have lower intensities than that allowed along Hwy. 441. She suggested that, rather than using design district designations, they could limit intensities based on surrounding land uses.

Ms. Barnes then reviewed Option 2 - Eliminate the maximum intensity/floor area ratio of non-residential/mixed use land use districts and, instead, utilize the maximum building heights and maximum impervious surface area ratio as limitations such as is done by Mount Dora, Tavares and Umatilla. She reviewed the considerations for Option 2 stating that the current comprehensive plan only addresses the FAR and impervious surface ratio. She added that maximum building heights are not included because sometimes a building may vary a foot or two from the maximum based on the design and the comprehensive plan restrictions cannot be waivered. She further explained the risk in not including an FAR is that an applicant could request a building height waiver and gain an additional story, thereby obtaining additional square footage. She noted that the Commission would have discretion to approve or deny such a waiver.

Ms. Barnes then reviewed Option 3 - Increase the intensity/floor area ratio of non-residential/mixed use land use designations without consideration of an incremental decrease from urban to suburban to rural. She stated that is not recommended since it would be inconsistent with State and City land use policies that discourage urban sprawl. It also would not incentivize infill development or redevelopment of properties with urban services available or in close proximity. She stated that staff's recommendation would be Option 1 as it does provide for the incrementally decreasing intensities and a transition between the different areas of the City.

Ms. Barnes noted that Mr. LaRoe could not be present but Rick Gonzalez was present as his representative.

The Commission noted the close proximity of the subject property to homes and the possibility that it would negatively affect their property values.

Ms. Barnes stated that a hotel could be built on the property as is and the properties are already located within one block of a six-lane arterial road. She indicated that she does not have the expertise to comment on any effect on the properties' values and offered to obtain that information if desired by the Commission.

Mr. Neibert questioned Mr. Gonzalez about the typical size of the chain's properties with Mr. Gonzalez giving the Hampton Inn in Mount Dora as a similar type of property. He also noted that it would be adjacent to the Mellow Mushroom. He stated the closest homes are 500 feet away. He stated the drawings he has seen has the parking area behind the hotel and between the hotel and the homes.

Mr. Neibert stated staff is asking the Commission to address the overall City land use regulations even though the issue was prompted by a specific project.

The Commission discussed the need for the City to determine how it wants to grow before making decisions on the development regulations.

Mr. Neibert responded that's why staff is recommending Option 1 as it addresses the desire for growth while maintaining control through the layered densities.

The Commission stated that right now developers are looking at the City's regulations and walking away. Option 1 may help open some doors.

Mr. Gonzalez noted that the impervious surface ratio, building setbacks and landscaping requirements will stay in place. By changing the FAR, it will allow them to put another floor on.

Mr. Neibert explained staff is asking for direction from Commission regarding bringing back some appropriate changes with Ms. Barnes reminding the Commission that they can't make the changes based on one property or one corridor. The intensities apply to properties all over the City which is why staff is recommending assigning densities based on the design district designations.

CONSENSUS: It was a consensus of the Commission for staff to bring back an amendment to the comprehensive plan based on Option 1.

VII. FUTURE AGENDA ITEMS - None

VIII. COMMENTS

City Commission

Commissioner Holland complimented Erin Bailey and staff on the inaugural Gospel Festival with Commissioner Bob recommending that the school choirs be invited to participate as well.

Vice Mayor Aliberti reported on the Eustis Fire Department helping out in the panhandle with the hurricane recovery.

Commissioner Gnann-Thompson stated she frequently receives complaints from residents about the School Board's ball field. She asked if the City can contact the School Board about it.

Mr. Neibert stated he has had a number of discussions with the School Board about the issue. He stated the School Board has reached an agreement with the Little League for use of part of the field; however, two of the lots are being combined to be used for bus parking.

The Commission discussed the area being an entrance to the City and that being an inappropriate place for the bus parking.

Mr. Neibert recommended setting up a meeting with the City's School Board representative and it was agreed to invite them to attend a regular Commission meeting.

Mayor Morin asked about the Expressway signage with Mr. Neibert indicating that portion of the expressway is privately owned. He added that Public Works Director Rick Gierok has gotten the information and will be contacting them about adding Eustis to the signage.

Mayor Morin asked about the traffic study with Mr. Neibert stating he would send out a timeline.

Commissioner Holland asked about the meeting request from Commissioner Leslie Campione with Mr. Neibert reporting that he has contacted her to try and get the meeting scheduled.

City Manager

Mr. Neibert reported that on Oct. 23rd at 5 p.m. there would be the joint workshop with the City of Umatilla to discuss a joint sewer project.

Vice Mayor Aliberti asked about the paratroopers being at the November First Friday with Mr. Neibert explaining their plane is not currently functional so staff is working to get them to participate in Georgefest.

City Attorney - None

Mayor

Mayor Morin asked the Commissioners for their appointees to the Housing Rehab Ad Hoc Committee and stated his nominee is Emily Lee.

Commissioner Holland stated his nominee is Daniel DiVenanzo.

Commissioner Gnann-Thompson stated her nominee is Thelma Whooten.

Commissioner Bob stated her intention to ask Monica Buggs.

Vice Mayor Aliberti stated her intention to ask Theo Bob.

IX. ADJOURNMENT - 8:51 p.m.

Mary C. Montez
MARY MONTEZ
City Clerk

Robert R. Morin, Jr.
ROBERT R. MORIN, JR.
Mayor/Commissioner

*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.