



City of Eustis, Florida

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

Meeting Minutes – Final* City Commission

Thursday, June 5, 2014

6:00 PM

City Hall

INVOCATION: Rev. Ron Holder, First Church of God

PLEDGE OF ALLEGIANCE: Commissioner Eckian

CALL TO ORDER: Mayor Bob

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

Present: 4 - Vice-Mayor Albert Eckian; Commissioner Michael Holland; Commissioner Karen LeHeup-Smith; and Mayor Linda Bob

Absent: 1 - Commissioner Kress Muenzmay

I. AGENDA UPDATE

Dianne Kramer, Acting City Manager, announced that the second reading of Ordinance No. 14-26 would be postponed until the June 19, 2014, meeting due to advertising issues.

II. APPROVAL OF MINUTES

14135 May 15, 2014 - City Commission Meeting

A motion was made by Commissioner Holland, seconded by Vice-Mayor Eckian, to Approve the Minutes. The motion carried by the following vote:

Aye: 4 - Vice-Mayor Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Bob

III. PRESENTATIONS

14137 Presentation of Letter of Congratulations to Jenna Jones

Mayor Bob presented a letter of congratulations to Eustis High school graduate Jenna Jones in recognition of her appointment to the United States Naval Academy.

IV. AUDIENCE TO BE HEARD

Joan Bryant, President of Trout Lake Nature Center, introduced Eileen Tramontana, their new Executive Director, Trina Raether, Education Chair, and Ron Macfarlane, Treasurer. She presented to the Commission an offer of \$400,000 to purchase City property adjacent to the Trout Lake Nature Center. She explained that a donation was made to the Center to make the offer possible. She also stated their request that the City remove Ordinances No. 14-17 and 14-18 from the agenda in light of the Center's offer to purchase those properties. She introduced Bud Keeler as their real estate agent.

Ralph Keeler, Bud Keeler Consulting Inc. and 1201 Blye Court, Eustis, commented on his work with the Center in developing the proposed purchase.

Barry Goodwin, 506 Pine Hill Street, addressed the Commission regarding the driveways on Pine Hill Street and requested the driveways in the City right-of-way be paved by the City.

V. ORDINANCES, PUBLIC HEARINGS & QUASI-JUDICIAL HEARINGS**14136 Resolution No. 14-36: Contract for Sale and Purchase of City-owned Property**

Derek Schroth, City Attorney, announced Resolution No. 14-36: A Resolution of the City Commission of the City of Eustis, Florida; Authorizing the Acting City Manager to Execute a Contract with Arthur Witte for the Sale and Purchase of City-owned Property East and South of Cardinal Lane.

Mr. Schroth stated he noticed two issues. He noted there is a blank space on the contract regarding the suitability of the purpose for the property and there is an error in the legal description. He explained the proposal includes a time period which would allow the buyer to walk away with no cost to them.

Ms. Kramer also reported that the buyer has increased the offer to the average of the two appraisals \$1,186,750.

John Wanberg, 3763 Blue Crown Lane, Eustis, appeared as representative for the buyer.

Mr. Schroth opened the public hearing at 6:22 p.m. There being no public comment, the public hearing was closed at 6:22 p.m.

The Commission discussed the deficiencies in the contract, the low amount of the offer, the possibility of the property increasing in value, the possibility of partnering with Mr. Witte in the future to sell both his and the City's property, the need to identify the purpose of any profits from the sale of the property, whether or not the property was included on the City's list of properties for sale, the lack of deposit and length of time for the waiting period, the amount of access to the property and the possible need to expand or sell the City's eastern wastewater plant.

Mr. Schroth explained the Commission would need to take a straw vote prior to taking the formal vote due to the absence of Commissioner Muenzmay. He further explained that if the straw vote shows a 2 to 2 vote then the Commission would have to discuss postponing the decision in order to have a full Commission present for consideration.

A motion was made by Commissioner Holland, seconded by Commissioner LeHeup-Smith, to Approve Resolution No. 14-26 with the amended offer of \$1,186,750. A straw vote was taken of the Commission which indicated that all of the Commissioners would vote against the motion to approve the sale of the property. The motion failed by the following vote:

Nay: 4 - Vice-Mayor Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Bob

SECOND READING**14122 Ordinance No. 14-26: Consenting to the Inclusion of the City within the County MSTU for Ambulance and EMS**

Postponed until June 19, 2014, meeting due to an advertising issue.

14132 Ordinance No. 14-27: Schedule of Fees

Mr. Schroth read Ordinance No. 14-27 by title on second reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida; Repealing Ordinance No. 10-09, Schedule of Fees; Establishing New Fees for City Review of Land Development Activities and Related City Services; Providing for an Effective Date.

Mr. Schroth opened the public hearing at 6:41 p.m. There being no public comment, the hearing was closed at 6:41 p.m.

A motion was made by Commissioner Holland, seconded by Vice-Mayor Eckian, to Adopt Ordinance No. 14-27 on second reading. The motion carried by the following vote:

Aye: 4 - Vice-Mayor Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Bob

FIRST READING

14019 Ordinance No. 14-10: Voluntary Annexation - North Side of East County Road 44 (CR 44), West of Gatch Road and East of Hicks Ditch Road

Mr. Schroth explained the quasi-judicial proceedings and the procedures to be used with him as the presiding officer. He noted that one resident - Johnny Smith is the spouse of former Mayor Evelyn Smith and he is represented by Fishback-Dominick. He explained that he previously represented Mrs. Smith in her capacity as Mayor for similar proceedings; therefore he did not feel comfortable taking an adverse position. He stated that, therefore, special land use counsel Don Hemke was present to represent the City and answer any legal questions that may arise concerning the substance of the application. He explained the Commission's responsibilities in the proceedings as the judge and that their decision must be based on competent and substantial evidence. He reviewed the definition of competent and substantial evidence and explained the Commission's abilities and discretion in considering evidence.

Mr. Schroth read Ordinance No. 14-10 by title on first reading: An Ordinance of the City Commission of the City of Eustis, Florida; Voluntarily Annexing Approximately 11.09 Acres of Real Property Located on the North Side of East County Road 44, West of Gatch Road and East of Hicks Ditch Road.

Lori Barnes, Senior Planner, explained the request for voluntary annexation, reviewed the subject location, and stated staff reviewed the application pursuant to the Joint Planning Area Agreement with Lake County and in accordance with Florida Statutes Chapter 171. She added a statement of opposition to the annexation was received by telephone on May 29, 2014 from Mary Getford-Vizina.

The Commission questioned the location of the 215 homes previously permitted by the County with Ms. Barnes responding that the site is immediately east of the subject property and north of CR44 and the applicant has received preliminary plat approval from the County.

Mr. Schroth opened the public hearing at 6:50 p.m.

The following individuals addressed the Commission in opposition to the annexation:

1) Edward Williams, President of Williams Development Services, 920 S. Lanie Ave., Orlando 32806, representing Robert Panuska. He submitted for the record the following documents: a) his Curriculum Vitae; b) Section 102-16 and 102-17 of the City of Eustis Land Development Regulations; c) a copy of a letter from the St. John's River Water Management District to the City of Eustis dated February 11, 2014; d) a Memo to File from Dianne Kramer regarding the waiver of the community meeting; e) Page 2 of the Conservation Element of the City of Eustis Comprehensive Plan; and f) Map #17 contained in the Comprehensive Plan regarding "areas subject to flooding".

2) Richard Geller, Fishback Dominick, representing John B. Smith and Robert T. Panuska.

Thomas Cloud, Gray Robinson representing the applicant, responded to the comments from Mr. Williams and Mr. Geller and expressed support for the annexation. He submitted the following documents for the record: a) a boundary survey of the subject property; and b) an aerial map showing the location of the subject property and the location of property owned by Robert Panuska.

Mr. Schroth asked Don Hemke to approach to answer any questions by the Commission and to respond to the statements made by Mr. Williams and Mr. Geller.

Don Hemke, Carlton Fields Jorden and Burt, Tampa, FL, explained his representation of the City and responded to the comments made at the meeting as well as objections raised in letters received from Dan Langley of Fishback Dominick dated March 14, 2014 and June 4, 2014. He asked to have Ms. Kramer and Ms. Barnes' curriculum vitae be made a part of the record as well as a written memoranda he had provided to Ms. Kramer analyzing Mr. Langley's March letter.

The Commission asked if the annexation is approved and it is challenged would Mr. Hemke represent the City in Court with Mr. Hemke responding affirmatively.

Ms. Kramer provided clarification for the Commission on some of the issues raised including the St. John's Water Management District letter. She stated that was an error on the part of the Management District and reported the City has received an email correcting the error. She explained how the error occurred and stated the City actually had an additional 270,000,000 gallons of capacity.

Mr. Schroth asked the Commissioners to disclose any discussions they have had with the applicants.

Vice Mayor Eckian disclosed he may have discussed the issue with Acting City Manager Kramer.

The remaining Commissioners stated they had no discussions with the applicant or on the matter.

There being no further public comment, the hearing was closed at 7:23 p.m.

A motion was made by Commissioner Holland, seconded by Vice-Mayor Eckian, to Approve Ordinance No. 14-10 on First Reading. Mr. Schroth conducted a straw vote with all Commissioners indicating their intent to vote yes on the motion. The motion carried on roll call by the following vote:

Aye: 4 - Vice-Mayor Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Bob

14023 Ordinance No. 14-12: Design District Map Amendment - North Side of East County Road 44 (CR 44), West of Gatch Road and East of Hicks Ditch Road

Mr. Schroth read Ordinance No. 14-12 by title on first reading: *An Ordinance of the City Commission of the City of Eustis, Lake County, Florida; Assigning a Design District Designation of Suburban Corridor to 11.09 Acres of Recently Annexed Real Property Located on the North Side of East County Road 44, West of Gatch Road and East of Hicks Ditch Road.*

Ms. Kramer explained the design district designation for the property is required as it currently does not have a design district assigned. She then explained the form-based code, land use designations, design district designation process and the difference with Euclidian zoning. She further explained that the design district does not establish the allowable land uses, the densities or the intensity of uses but does establish the performance standards. She provided additional comments in response to issues discussed under the Ordinance No. 14-10 hearing.

Mr. Schroth opened the public hearing at 7:36 p.m.

The following individuals addressed the Commission in opposition to Ordinance No. 14-12:

- 1) Edward Williams, President of Williams Development Services, 920 S. Lanie Ave., Orlando 32806, representing Robert Panuska.
- 2) Richard Geller, Fishback Dominick, representing John B. Smith and Robert T. Panuska.

Thomas Cloud, Gray Robinson representing the applicant, responded to the comments from Mr. Geller and expressed support for Ordinance No. 14-12.

Mr. Hemke, special counsel to the City, explained his scope was limited to procedural issues and whether or not the City could proceed. He responded to comments made in opposition to the ordinance and stated his opinion that the City could proceed.

There being no further public comment, the hearing was closed at 7:46 p.m.

A motion was made by Commissioner Holland, seconded by Vice-Mayor Eckian, to Approve Ordinance No. 14-12 on First Reading. A straw vote indicated all of the Commissioners would vote yes on the motion. The motion carried by the following vote:

Aye: 4 - Vice-Mayor Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Bob

14083 Ordinance No. 14-17: Design District Map Amendment for City-Owned Parcel on the Southwest Corner of East County Road 44 (CR 44) and Hicks Ditch Road

Mr. Schroth asked the Commission's comments before considering the first reading due to the purchase offer and request by the Trout Lake Nature Center for the ordinances to be removed from the agenda.

The Commission discussed proceeding with the first reading and reviewing the offer during the interim before second reading.

Ms. Kramer stated she had briefly reviewed the proposed contract for sale and there is a 90-day due diligence period. She noted the deposit in the contract does not appear to be nonrefundable. She explained that the proposed change in the design district would not impact their planned use of the property.

The Commission and staff discussed whether or not the second reading could be postponed if the ordinances were approved.

The Commission further discussed the need to review the proposal and consider whether or not the City needs the property for other uses and the need to postpone until there is a full Commission in attendance.

A motion was made by Vice-Mayor Eckian, seconded by Commissioner Holland, to postpone consideration of Ordinance No. 14-17. The motion carried by the following vote:

Aye: 4 - Vice-Mayor Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Bob

14094 Ordinance No. 14-18: Design District Map Amendment for City-Owned Property South of East County Road 44 (CR 44) and West of Hicks Ditch Road

A motion was made by Vice-Mayor Eckian, seconded by Commissioner Holland, to postpone consideration of Ordinance No. 14-18. The motion carried by the following vote:

Aye: 4 - Vice-Mayor Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Bob

VI. FUTURE AGENDA ITEMS - None

VII. COMMENTS

City Commission

Vice Mayor Eckian thanked Public Works for the recent renovation of the City Hall front steps noting the benefit to the public. He commented on a meeting he attended with Public Works regarding the reclaimed water, potable water and wastewater and complimented the staff in attendance at the meeting.

Commissioner Holland congratulated the Eustis High School graduates. He commented on the Amazing Race which raised over \$21,000 for local charities and which will be back next year. He informed the public that Fire Chief Winn was hospitalized and asked for prayers him, his family and for the department.

Commissioner LeHeup-Smith announced that the Lake Eustis Museum of Art is showcasing the button designs for the 2015 Georgefest and encouraged everyone to vote.

City Manager

Ms. Kramer announced that Don Griffey has indicated willingness to represent the City on the Lake Sumter MPO Advisory Committee. She stated that the City has not had a representative on the Advisory Committee recently. She noted that Mr. Griffey is not a resident but does own a business within the City.

CONSENSUS: It was a consensus of the Commission to have the appointment brought back for consideration.

Ms. Kramer stated that Commissioner Muenzmay asked for her to inform the Commission about the MPO's priority list. She explained the #1 ranked project is the widening of SR44, which the City previously has opposed. She stated that County Commissioner Leslie Campione has suggested that the extension of Round Lake Road would be a better first priority; however, it is not as ready to begin construction. She stated that Commissioner Muenzmay will need to vote and wanted direction from the Commission on which should be first.

CONSENSUS: It was a consensus of the Commission for Commissioner Muenzmay to vote for the Round Lake Road extension.

Ms. Kramer reported that the bids for the small parcels are due Friday, June 13th. She explained the bids will be evaluated based on price and proposed use of the property.

Ms. Kramer then introduced Tom Carrino, the City's new Economic Development Director.

Mr. Carrino thanked the Commission for the opportunity to serve the City.

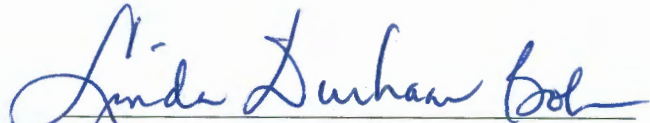
City Attorney - None

Mayor

Mayor Bob reminded everyone about the June First Friday event and that June 6th is the last day of school. She noted that Father's Day will occur prior to the next meeting.

VIII. ADJOURNMENT - 8:06 p.m.


MARY C. MONTEZ
City Clerk


LINDA DURHAM BOB
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.