APPROVED: 9/5/2013

City of Eustis, Florida

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

Meeting Minutes – Final*
City Commission

Tuesday, August 20, 2013 | **6:00 PM** | **City Hall**

CALL TO ORDER: Mayor Muenzmay - 6:00 p.m.

INVOCATION: Rev. W. H. Volland, Epiphany Anglican Church

PLEDGE OF ALLEGIANCE: Commissioner LeHeup-Smith

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

Present: 5 - Vice-Mayor Linda Bob; Commissioner Albert Eckian; Commissioner Michael Holland; Commissioner Karen LeHeup-Smith; and Mayor Kress Muenzmay

I. AGENDA UPDATE - None

II. APPROVAL OF MINUTES

13195 July 15, 2013 - City Commission Workshop
July 18, 2013 - City Commission Meeting
July 18, 2013 - City Commission Workshop
August 1, 2013 - City Commission Workshop

A motion was made by Commissioner Michael Holland, seconded by Vice-Mayor Linda Bob, that the Minutes be Approved as submitted. The motion passed by an unanimous vote.

III. PRESENTATIONS

13177 Presentation: Eustis Viva Florida 500 Celebration Plans

Laura McGlothlin, Youth Services Librarian, explained the Viva Florida 500 Celebration to commemorate the 500th anniversary of the discovery and founding of Florida by Juan Ponce de Leon. She commented on the activities involved and explained the use of local time capsules and the planned burial of the City's capsule. She explained the use of a survey through SurveyMonkey to determine what items should be included in the time capsule with the survey to run through September 30 and the burial to occur in the first week of November. She distributed Viva Florida 500 materials to the Commission.

13192 Presentation: Lifesaving Awards

Fire Chief Rex Winn, Mayor Muenzmay, Vice Mayor Bob and EMS Director Jerry Smith presented Lifesaving Awards to the following fire/rescue staff with Chief Winn explaining the incident which occurred and resulted in saving the life of Ms. Bob's sister - Mrs. Broomfield: Lt. Gerald Cunningham, Eng/Medic Mike Peckham, FF/EMT Shawn Kelleher, FF/EMT Jerry Donaldson, Lake EMS Paramedic Gwen Burgess, Lake EMT Crystal Vicchiollo, Call Taker Amber Otero and Dispatcher Diane Burrows.

IV. AUDIENCE TO BE HEARD

Emily Lee, Bates Avenue Neighborhood Improvement Council, thanked the Commission for their support of the recent backpack event. She recognized the City, Police and Fire Departments, Devereaux Kids and other organizations and businesses for their support of the event.

V. CONSENT AGENDA

13173 Resolution No. 13-50: Purchase of Concrete in Excess of $50,000.00

13171 Resolution No. 13-51: Bid Award for Sludge Cake Hauling and Disposal Services

13185 Appointment to the Firefighters' Pension Board - Ken Carpenter

13193 Appointment to the Lake-Sumter MPO Bicycle and Pedestrian Advisory Committee (BPAC) - Lori Barnes

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

Aye: 5 - Vice-Mayor Bob; Commissioner Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Muenzmay

VI. ORDINANCES, PUBLIC HEARINGS & QUASI-JUDICIAL HEARINGS

13176 Resolution No. 13-45: Urging Tobacco Vendors to Stop the Marketing of Flavored Tobacco Products

Derek Schroth, City Attorney, announced Resolution No. 13-45: A Resolution of the City Commission of the City of Eustis, Florida, Urging Tobacco Retailers to Stop the Marketing of Flavored Tobacco Products in the City of Eustis.

Mr. Schroth opened the public hearing at 6:21 p.m. There being no public comment, the hearing was closed at 6:21 p.m.

A motion was made by Commissioner Holland, seconded by Commissioner LeHeup-Smith, to Approve Resolution No. 13-45. The motion carried by the following vote:

Aye: 5 - Vice-Mayor Bob; Commissioner Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Muenzmay

13181 Resolution No. 13-52: Pendleton Commons Conceptual Site Plan

Mr. Schroth announced Resolution No. 13-52: A Resolution of the City Commission of the City of Eustis, Florida; Approving a Conceptual Site Plan for an Affordable Housing Complex on 4.15 Acres Located in the Southwest Corner of the Intersection of Kurt Street and Huffstetler Road.

Dianne Kramer, Development Services Director, explained that approval of the conceptual plan is an optional step which allows the applicant to present a concept to the Commission and determine whether or not to proceed. She noted that it is also necessary for the affordable housing credit application. She further explained the same concept was previously submitted for a different parcel; however, the developer did not receive the housing credits and did not proceed with that project. She stated the proposed project consists of four acres at the corner of Huffstetler and Kurt Street with a land use designation of MCR which is mixed commercial and residential. She added the MCR allows a maximum density of 12 units per acre; however, both the Comprehensive Plan and Land Development Regulations (LDR's) allow an additional 50% density for affordable housing which would permit 18 units per acre. She stated the conceptual plan includes 72 units. She concluded the plan is consistent with the City's LDR's and comprehensive plan.

The Commission confirmed the process if they are awarded the affordable housing credits with Ms. Kramer explaining that, if they receive the credits, they will come back through the regular site plan approval process and the project would again be advertised with a public hearing.

Mr. Schroth opened the public hearing at 6:25 p.m.

Jim Nichols, 2900 Kurt Street, explained the use of his business property noting the amount of noise from his business and possible odors and expressed concern regarding a residential use adjoining the property.

Yvonne Spikes, Lake Eustis Drive and President of the Eustis Plaza Condominium Association, explained the condominiums are located at 2811 through 2815 Kurt Street. She expressed concern regarding the following issues: 1) traffic on Kurt Street; 2) road improvements which have not been completed; 3) proximity of the proposed ingress and egress to Kurt Street; 4) stormwater runoff from Huffstetler; and 5) possible access problems for police and fire/rescue.

Ryan von Weller, applicant with Wendover Housing Partners - 1105 Kensington Park Dr. Altamonte Springs, responded to some of the concerns regarding the plan. He noted a traffic study will be required prior to completion of the project and estimated the daily trip count at 200 cars per day. He stated that the plan was done in conjunction with City codes and explained the additional density is based on receiving affordable housing designation.

Jean Kaminski, 316 Palm Way, Tavares and owner of units at the Eustis Plaza Condominums, questioned if the development will be age restricted.

Mr. Schroth and Mr. von Weller confirmed it would be 55 and older.

Judy Nichols, 2900 Kurt St., commented on other property that would be more appropriate than backing up to high density commercial and expressed concern regarding the possible impact of noise complaints on their business.

The public hearing was closed at 6:39 p.m.

The Commission discussed the following issues: 1) concern about noise and drainage; 2) whether or not there are techniques for noise mitigation; 3) the possibility the developer will not receive the affordable housing credits; 4) addressing the drainage issues via engineering; 5) whether or not the housing credits can be transferred to another property; 6) the proximity of the condos to the proposed project and whether or not they currently experience noise issues; 7) the need for affordable housing in the City; 8) the impact of the additional traffic; and 9) the fact the proposal complies with existing City codes.

The Commission discussed the jurisdictional issues regarding improvements to Kurt Street with Vice Mayor Bob commenting on how Eustis Heights is being re-designed and the impact on traffic from that.

A motion was made by Commissioner LeHeup-Smith, seconded by Commissioner Eckian, to Approve Resolution No. 13-52. The motion carried by the following vote:

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

Nay: 1 - Vice-Mayor Bob

13182 **Resolution No. 13-55: Annexation Incentive Program**

Mr. Schroth announced Resolution No. 13-55: A Resolution of the City Commission of the City of Eustis, Florida, Establishing an Annexation Incentive Program that Waives all Application Fees Associated with Voluntary Annexation from October 1, 2013 through October 31, 2013.

Ms. Kramer explained the proposed resolution to provide a waiver of annexation fees during the month of October in order to stimulate interest in annexation. She explained staff has prepared information for the residents that will show the benefits and any increased taxes. She noted staff wanted to wait and find out the final millage before sending out the letters to the individual property owners.

The Commission discussed the following: 1) providing the resident information to the Commissioners; 2) possible downsides to the City including some properties already receive City utilities and pay for those at a higher rate than City residents; and 3) any possible impact to the City's police and fire services.

Fire Chief Rex Winn and Police Chief Fred Cobb indicated that it would be easier for public safety if the proposed areas were annexed into the City.

Mr. Schroth opened the public hearing at 6:53 p.m. There being no public comment, the hearing was closed at 6:53 p.m.

A motion was made by Commissioner Holland, seconded by Commissioner LeHeup-Smith, to Approve Resolution No. 13-55. The motion carried by the following vote:

Aye: 5 - Vice-Mayor Bob; Commissioner Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Muenzmay

13183 **Resolution No. 13-56: Termination of Interlocal Agreement for School Facilities Planning and Siting**

Mr. Schroth announced Resolution No. 13-56: A Resolution by the City Commission of the City of Eustis, Florida, Authorizing the Mayor to Provide Written Notice to the Board of County Commissioners of Lake County, the School Board of Lake County and the Municipalities of Astatula, Howey-in-the-Hills, Tavares, Mount Dora, Umatilla, Leesburg, Lady Lake, Fruitland Park, Minneola, Mascotte, Groveland, Clermont and Montverde of that the City of Eustis is Terminating the Interlocal Agreement for School Facilities Planning and Siting within 120 Days Pursuant to Section 7 of Said Agreement.

Ms. Kramer explained the resolution is pursuant to the Commission's previous direction at a workshop to have the City opt out of the school facilities planning interlocal agreement. She explained this requires a 120-day notice. She stated that she included in the resolution the City's intent to adopt a new interlocal which would include Sections 1 through 4 of the current agreement. She explained this would continue the sharing of information and mutual cooperation but would eliminate the section concerning concurrency.

Mr. Schroth opened the public hearing at 6:55 p.m.

The following individuals spoke in opposition to the elimination of school concurrency: 1) Egor Emery, 35544 Estes Road; 2) Hugh Kent, 19714 CR 44A; 3) Ken LaRoe; and 4) Scott Ales, 2461 E. Crooked Lake Club Blvd.

The hearing was closed at 7:01 p.m.

The Commission discussed the following: 1) lack of concern for schools; 2) revenue resources available to the School Board and the responsibility for quality of the schools resting with the School Board; 3) the state no longer requiring concurrency; and 4) the City's intent to enact its own agreement with the School Board and the information to be shared with the School Board.

At the Commission's request, Ms. Kramer explained the concurrency process and noted it was not in place locally long enough to determine its effectiveness due to the reduction in building because of the national housing crisis.

The Commission questioned if there is a place in the country where concurrency has worked and prevented over-capacity.

Ms. Kramer explained that the concurrency pioneer was Orange County. She stated there were projects put on hold because of the evaluations and developer requirements were instituted because of evaluations. She cited her experience in planning facilities for Orange County schools. She indicated she could not evaluate how effective it would be in Lake County due to the lack of experience in the County and lack of heavy growth.

The Commission confirmed that, if in the future homes are being built in volume, concurrency could be re-instated and discussed school funding with Ms. Kramer clarifying that Lake County not the School Board waived the school impact fees and the School Board does not have the power to levy a millage rate as it is set by the state through state sharing. She further explained that schools do plan ahead but have to plan within a five-year window based on the state's enrollment projections.

The Commission asked what would happen if the City omits concurrency and then a developer brings 1,000 new homes to the City.

Ms. Kramer explained the City would provide the information to the School Board; however, the City would not have a mechanism to refuse the development based on over capacity.

The Commission further discussed concurrency and how the school system plans for growth and whether there are any schools in the City that are currently over capacity.

The Commission then discussed the possibility of tabling the issue for a year and directing staff to continue to provide information regarding concurrency during that time.

CONSENSUS: It was a consensus of the Commission to not take action on Resolution No. 13-56.

SECOND READING

13156 Ordinance No. 13-10: Revision of Section 115-8 of the Land Development Regulations -- Tree Protection

Mr. Schroth read Ordinance No. 13-10 by title on second and final reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida, Replacing Section 115-8 of the Land Development Regulations Regarding Tree Protection and Vegetative Preservation; Providing for Codification; and Providing for an Effective Date.

Mr. Schroth opened the public hearing at 7:33 p.m.

Joan Bryant, 707 Poinsettia Drive, commented on the need to preserve the trees to protect the quality of life.

The Commission confirmed the requested change was made from 25 feet to 15 feet.

The hearing was closed at 7:34 p.m.

A motion was made by Commissioner LeHeup-Smith, seconded by Commissioner Eckian, to Adopt Ordinance No. 13-10 on second reading. The motion carried by the following vote:

Aye: 5 - Vice-Mayor Bob; Commissioner Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Muenzmay

FIRST READING

13188 Ordinance No. 13-11: Creating Downtown Waterfront Entertainment District

Mr. Schroth read Ordinance No. 13-11 by title on first reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida, Creating a Downtown Waterfront Entertainment District; Amending Chapter 10, Amusements and Entertainment, by Adding Article III Downtown Waterfront Entertainment District; Amending Chapter 6, Sections 6-8, 6-9(d) and 6-10 (a) and (b) Alcoholic Beverages; Providing an Effective Date.

Richard Hoon, Assistant to the City Manager for Community Relations, noted the Commission previously reviewed the proposal in a workshop. He reviewed the changes from the original proposal as follows: 1) Outdoor consumption of alcoholic beverages will be allowed 10 a.m. to 10 p.m. 2) He added that the hours could be extended as approved by the Commission for City or City-sponsored events. 3) All references to permitting and permit fees were removed. He explained that Chief Cobb will be bringing forward changes to the special event process and permit fees.

Mr. Schroth opened the public hearing at 7:39 p.m. There being no public comment, the public hearing was closed at 7:39 p.m.

The Commission confirmed that the program could be changed if difficulties arise.

A motion was made by Commissioner Holland, seconded by Commissioner LeHeup-Smith, to Approve Ordinance No. 13-11 on First Reading. The motion carried by the following vote:

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

Nay: 1 - Commissioner Eckian

13179 Ordinance No. 13-12: Large Scale Text Amendment to the Comprehensive Plan

Mr. Schroth read Ordinance No. 13-12 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 Future Land Use Element, the Future Land Use Appendix, the Conservation Element, the Housing Element, the Economic Development Element, the Intergovernmental Coordination Element, and the Capital Improvements Element; Eliminating the Public School Facilities Element in its Entirety; Providing for the Repeal of Ordinances Inconsistent with this Ordinance; Providing for Conflicting Provisions; and Providing for Severability and Effective Date.

Ms. Kramer asked the Commission to table the ordinance to the next meeting to allow time for her to make the changes regarding school concurrency discussed earlier in the meeting. She reviewed the process with the ordinance to be transmitted to the state following first reading with second reading not to occur until the comments are received from the state. The Commission would then have the opportunity to make any changes recommended by the state prior to second reading and final adoption.

Ms. Kramer reviewed the comprehensive plan changes included in the ordinance noting that the school concurrency can still be in the comprehensive plan even with the elimination of the public school facilities element. She noted a requirement in the Future Land Use Appendix regarding open space requirements within the Wekiva Study area. She expressed concern regarding the administration of the requirement that any changes to the Future Land Use designation from the November 2008 designations would require the 35% open space. She explained this would *apply to any annexations the City enacted within the study area that they wanted to designate with a commercial designation. She expressed support for addressing the requirement with the State as part of the amendment.*

Mr. Schroth informed the public that the ordinance would need to be tabled due to the need to amend the ordinance and re-advertise it prior to first reading to include the school concurrency. He opened the public hearing at 7:45 p.m.

Daniel Langley, Fishback Dominick law firm, stated he represents Johnny and Evelyn Smith and other affected persons. He commented on the proposed changes to the comprehensive plan and expressed concern regarding the lack of a strike-through and underlined document as part of the ordinance and the difficulty in identifying errors. He cited as an example a provision under Section 1.1.2 - Water Quality Local Regulations for Hazardous Materials as being omitted between the workshop and the ordinance. He provided a highlighted copy of the section to the City Attorney. He then commented on changes proposed by staff regarding open space requirements and the elimination of the Wekiva footnote. He expressed the opinion that the amendment could jeopardize the City's stipulated agreement with the State of Florida Dept. of Community Affairs concerning the Wekiva Comp. Plan amendments that were found not in compliance. He presented a copy of the stipulated settlement agreement between the City and State of Florida to the City Clerk for distribution to the Commissioners. He expressed concern about the City possibly being in violation of the Wekiva Parkway Act, and the Chapter 163 comprehensive plan amendment process. He urged the Commission to table the ordinance for a longer period to further consider the amendments.

The following individuals expressed support for the Commission denying the amendment rather than tabling: Scott Ales and Egor Emery.

Mr. Schroth noted that the time was 8:00 p.m. and stated it requires Commission approval to continue beyond two hours. It was a consensus of the Commission to continue with the meeting.

The following individuals expressed opposition to the proposed amendment: 1) Hugh Kent; 2) Ken LaRoe, Lake Seneca Road; and 3) William Ferree, 34503 Parkview Ave., who expressed opposition to removal of any language pertaining to energy efficiency and removal of the school concurrency.

The public hearing was closed at 8:08 p.m.

Mayor Muenzmay responded to some of the comments. He explained that the Commission previously received strike-through documents which showed all of the proposed changes. He noted that the City will have to wait for comments from the State before the amendment will be finally approved. He stated that the comprehensive plan has been under review for over a year and under two seated Commissions in publicly noticed workshops. He asked the Commission for input on staff's request to table the ordinance.

The Commission discussed tabling the ordinance with the note that it was approved by the Commission during the workshop to remove the section regarding hazardous materials that was cited by Attorney Langley.

A motion was made by Commissioner LeHeup-Smith, seconded by Commissioner Eckian, to table Ordinance No. 13-12 to allow time for staff to make corrections and check on additional information. The motion carried by the following vote:

Aye: 5 - Vice-Mayor Bob; Commissioner Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Muenzmay

13184 Ordinance No. 13-13: Indemnification for City Commissioners

Mr. Schroth read Ordinance No. 13-13 by title on first reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida, Adopted Pursuant to Florida Law, Providing a Legal Defense, Indemnification, Payment of Attorneys' Fees, Costs, and Damages of the City of Eustis City Commissioners for Acts Occurring Within the Scope of Their Office or Appointment and Not Prohibited; Providing Legislative Findings; Providing Intent and Purpose; Providing a Prohibition; Providing a Repealing Clause; Providing for Severability; and Providing for an Effective Date.

Mr. Schroth explained the ordinance was prepared at the request of the Commission. He stated that, if a Commissioner is sued and believes that he/she was acting within their authority, the City has to provide a defense until a judge decides the action was outside the scope of their authority. He added that this formalizes the City's policy to defend the Commissioners.

The Commission confirmed that if there was a question as to whether an action was within the Commissioner's authority, it would have to be determined by a judge.

Mr. Schroth opened the public hearing at 8:18 p.m.

Scott Ales commented on the potential cost to the City in the event of a very large settlement.

Mr. Schroth explained that the City and Commission has sovereign immunity from certain types of acts with the liability insurance layered over that immunity.

The Commission discussed the amount of sovereign immunity.

The public hearing was closed at 8:22 p.m.

A motion was made by Commissioner Eckian, seconded by Commissioner LeHeup-Smith, to Approve Ordinance No. 13-13 on first reading. The motion carried by the following vote:

Aye: 5 - Vice-Mayor Bob; Commissioner Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Muenzmay

VII. OTHER BUSINESS

13187 Sale of City Property

Ms. Kramer explained the proposed policy for the sale and marketing of surplus City property. She noted the lack of staff time to previously address the issue and introduced the City's new planner - Lori Barnes. She noted that any property that might be needed by the City in the future was not included on the list. She cited the number of small residential lots most of which were obtained through code enforcement liens. She explained the process for sale of those parcels and stated she needs to know if the City wants to accept any offer or set a minimum offer and if they want to have the purchaser include their proposed use of the property in their offer.

CONSENSUS: It was a consensus of the Commission to set the minimum bid at the assessed value and for the bids to include the proposed use for the property.

Ms. Kramer then asked about the property along CR44 near Hitch Ditch Road. She asked if they wanted to reserve the corner which was previously proposed for use for a public safety complex.

The Commission discussed marketing for the property, use of local realtors versus requests for proposals, sale of the property to someone who will utilize the property rather than being held by an investor, marketing the properties individually and holding a workshop to identify and prioritize parcels for marketing.

CONSENSUS: It was a consensus of the Commission to hold workshop on the sale of property at 5:00 p.m. on Sept. 19th.

Ms. Kramer then informed the Commission that she received an offer for the sprayfield property from Darrell Carter, Morey Carter & Assoc., in the amount of $1,250,000 for the 200 acres. She stated their terms are $10,000 down with 60 day due diligence and no contingencies. Another $25,000 would be paid after 60 days with closing within 30 days after that. She stated the contract is good until September 20th and asked if the Commission wanted a new appraisal performed. She added that, if they want a new appraisal, consideration of the contract would have to wait until the September 19th meeting to allow time for that to occur.

CONSENSUS: It was a consensus of the Commission to have a new appraisal performed and for staff to place the contract on the Sept. 19th agenda for consideration.

Paul Berg, City Manager, noted that the Blue Chip property will be going to auction on September 6th with Ms. Kramer explaining that the original appraisal used the Blue Chip property as the main comparable.

Mr. Schroth confirmed the contract would be on the September 19th agenda noting that he would need to review the contract and make sure there were no issues with the title.

Mayor Muenzmay opened the floor to public comment at 8:38 p.m.

Scott Ales informed the Commission about a website that is open only to government agencies to sell property called GovDeals. He urged the City to utilize the website for sale of any tangible assets.

13189 Review of Land Development Regulations

Ms. Kramer stated that the Commission had requested a review of the Land Development Regulations (LDR's). She noted that a major revision to the LDR's was done in 2008; however, there were chapters that were not addressed. She indicated that some changes would have to be made to Chapter 106 - Concurrency Management due to the proposed changes made in the comprehensive plan regarding concurrency. She asked for direction from the Commission regarding how they want to undertake the review.

CONSENSUS: It was a consensus of the Commission to review the LDR's chapter by chapter but with related chapters considered together.

The Commission discussed whether or not the review of the LDR's would affect the City's ongoing litigation with Mr. Schroth confirming it would not impact the litigation but would impact any future application for the property.

Ms. Kramer indicated she would work up a schedule for the workshops and confirmed that the Commission desired to hold the workshops on different days than the regular Commission meetings.

13194 Police Union Negotiations

Mr. Berg explained that on August 9th PERC certified a bargaining unit for the City's police department which will become formal on August 24th. He noted that the police salary increases cannot be implemented until the contract is bargained. He recommended the use of a professional negotiator to negotiate the initial bargaining contract with the new union.

The Commission questioned why a professional negotiator was not used for the current fire union contract with Mr. Berg explaining that the fire union negotiations were straightforward and they had indicated they did not intend to use professional support.

CONSENSUS: It was a consensus of the Commission to contract with the professional negotiator.

Mr. Berg noted that he has the authority to expend up to $50,000 and asked for approval to expend from the contingency fund for the negotiator.

A motion was made by Commissioner LeHeup-Smith, seconded by Mayor Muenzmay, to Approve the expenditure of up to $50,000 from Contingency for the police union negotiations. The motion carried by the following vote:

Aye: 5 - Vice-Mayor Bob; Commissioner Eckian; Commissioner Holland; Commissioner LeHeup-Smith; and Mayor Muenzmay

13190 2013 City Manager Performance Evaluation

Mr. Berg explained the annual evaluation of the City Manager is required by his contract noting he had provided to the Commissioners his comments on his performance and concerns, successes and challenges over the past year.

Mayor Muenzmay explained for the audience how the Commissioners evaluated the City Manager individually and how the information was compiled. He asked each Commissioner to provide a review of their individual evaluations.

The Commission provided comments on their individual evaluations and compared changes in the evaluations from previous years. A suggestion was made that the Commissioners would like to know what the employees and residents think about the City Manager.

Mayor Muenzmay indicated that residents could contact the individual Commissioners regarding the City Manager. He cautioned that any emails would be public record and stated that residents could not tell one Commissioner what another one said. He then informed the public that Commissioner Eckian had asked for a preliminary resolution to be placed on the next agenda for removal of the City Manager. He asked Mr. Schroth to review the required process.

Mr. Schroth stated that under the City Commission Rules of Order any Commissioner can put an item on the agenda with ten days' notice to the City Manager. He stated that the requested resolution will be on the Sept. 5th agenda. He explained that the resolution will set the date and time for a vote regarding termination of the City Manager. He reviewed the payments required under the contract and explained that if three Commissioners request his resignation, he has the option of resigning and the process is avoided. He stated that, under the Charter, Mr. Berg also has the option of requesting his own hearing where he would have the ability to present evidence and any argument against his termination. He added that the actual vote on termination would probably have to occur on September 19th.

The Commission discussed a provision in the City Manager's contract that states if three Commissioners express their willingness to accept his resignation should he resign voluntarily, then he can resign voluntarily and still receive his entire severance package. It was clarified for the public that, if Mr. Berg just resigns, he would get no benefits.

The following Commissioners indicated their willingness to accept Mr. Berg's resignation if he should submit it voluntarily: Commissioner Eckian, Vice Mayor Bob and Commissioner Holland.

Mr. Schroth confirmed that would trigger the provision in the contract.

Commissioner Eckian asked if the other Commissioners were willing to provide a one month window for the offer with Vice Mayor Bob and Commissioner Holland concurring.

Mr. Schroth indicated that Mr. Berg could tender his resignation at that time or wait to allow time to consider the offer or consult his own counsel.

Mr. Berg expressed appreciation for the Commission, the community and the employees and indicated he would discuss the offer with his family and resolve the issue as soon as possible. He noted his intent to attend the annual city manager conference which had already been partially paid for by the City. He indicated his willingness to repay those funds and asked the Commission to direct the City Attorney to prepare the proper documentation for his resignation.

CONSENSUS: It was the consensus of the Commission to have the City Attorney work with the City Manager to prepare the proper documentation for acceptance of the City Manager's resignation and to allow Mr. Berg to attend the city manager's conference.

Mr. Schroth confirmed the date of the conference to make sure it would not jeopardize Mr. Berg's severance benefits.

The Commission confirmed Mr. Berg's intention to accept the resignation offer with Mr. Berg clarifying his intent to accept the offer within the timeframe and probably in less than a week.

Mr. Schroth stated that the Commission will have to convene a special meeting to appoint an interim city manager once the resignation is received.

Commissioner Eckian noted that the City Manager previously received a car allowance and later the City purchased a car for his use. He asked the Commission to consider allowing Mr. Berg to purchase the vehicle from the City at Blue Book value.

CONSENSUS: It was a consensus of the Commission to not object to the sale of the vehicle to Mr. Berg if he desired to purchase it.

The Commission and City Attorney discussed the process for appointment of an interim or acting manager and actions that would need to be addressed in the interim with City Clerk Mary Montez explaining that a four-day window would be needed for advertising and proper notice of the special meeting.

Mayor Muenzmay asked the Commission to keep their calendars clear for the next three weeks to allow time for scheduling of the special meeting. He then asked the Commission to return to the twice per month meeting schedule due to the upcoming issues facing the City.

CONSENSUS: It was a consensus of the Commission to return to the first and third Thursday meeting schedule, effective September.

On a poll by the Mayor, it was agreed to accept a resignation from Mr. Berg if submitted within a 30-day period and per the City Manager's contract for his severance package to remain intact. The offer was approved by the following vote:

Aye: 3 - Vice-Mayor Bob; Commissioner Eckian; and Commissioner Holland

Nay: 2 - Commissioner LeHeup-Smith; and Mayor Muenzmay

VIII. FUTURE AGENDA ITEMS

Mr. Schroth noted an issue that had arose regarding whether one Commissioner can direct the City Attorney. He stated that is currently not in the Rules of Order. He asked if the Commission wants to consider changing rules to establish parameters for whether or not individual Commissioners can provide him with direction that would wind up costing the City money.

The Commission discussed the ability of the individual Commissioners to contact the City Attorney, to place items on the agenda and possible liabilities if the Commissioners cannot ask questions of the City Attorney.

CONSENSUS: It was a consensus of the Commission to leave the Rules of Order as is.

IX. COMMENTS

City Commission

Commissioner Eckian asked Christie Bobbitt, Chamber of Commerce Executive Director, to report on the upcoming Business After Hours.

Ms. Bobbitt explained they will be recognizing new members and long-term members at the next event which will be at Striking Effects. She invited Commissioners to attend and noted donations that will be provided to all of the local elementary schools including Seminole Springs.

Mayor Muenzmay noted they will be having a special sale with 100% of the proceeds to go to the local elementary schools with a minimum of $500 per school to be used for school supplies.

Ms. Bobbitt also reported that 100% of their vendor fees from the August First Friday event would be donated to the high school in an amount of $1,000.

Mayor Muenzmay thanked City Manager Paul Berg for his service to the City and wished him best of luck.

City Manager - None

City Attorney - None

X. ADJOURNMENT - 10:19 p.m.

Mary C. Montez

MARY C. MONTEZ
City Clerk

KRESS T. MUENZMAY
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.