APPROVED: 8/20/2013

City of Eustis, Florida

Meeting Minutes – Final*

City Commission

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

Thursday, July 18, 2013 **6:00 PM** **City Hall**

CALL TO ORDER: Mayor Muenzmay

INVOCATION: Commissioner Eckian

PLEDGE OF ALLEGIANCE: Commissioner Holland

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

13152 June 26, 2013 - Special City Commission Meeting
June 26, 2013 - City Commission Workshop
June 27, 2013 - Regular City Commission Workshop
June 27, 2013 - City Commission Workshop

A motion was made by Commissioner Michael Holland, seconded by Commissioner Karen LeHeup-Smith, to Approve the Minutes. The motion passed by an unanimous vote.

III. AUDIENCE TO BE HEARD

Teresa Padgett, 23912 Sardinia Drive, Sorrento, addressed the Commission regarding the lighting at and maintenance of the Carver Park ballfields. She presented a petition signed by all of the players saying they will not return to Eustis if the fields are not improved.

DaQuwan McNealy addressed the Commission regarding the Lake Champion Center to be operated in the building formerly occupied by the Omega Zone. He explained the purpose of the program to provide a gathering space and activities for youth and asked for assistance from the City.

There being no further public comment, the Audience to be Heard portion was closed at 6:09 p.m.

IV. CONSENT AGENDA

13153 Resolution No. 13-33: Community Garden License Agreement

13157 Resolution No. 13-46: Purchase in Excess of $50,000 for Palmetto Plaza Construction Documents

A motion was made by Commissioner Holland, seconded by Vice-Mayor Bob, 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

V. ORDINANCES, PUBLIC HEARINGS & QUASI-JUDICIAL HEARINGS

13155 Resolution No. 13-43: Easement Vacation

Derek Schroth, City Attorney, announced Resolution No. 13-43: A Resolution of the City Commission of the City of Eustis, Florida; Vacating a Portion of the Utility Easement Located along the Easterly Property Line of 1217 E. Huffstetler Road.

Dianne Kramer, Development Services Director, explained the location of the property is where the site plan was approved for the Lifestream Behavioral School. She further explained that some of the planned improvements to the building fall within the 30-foot utility easement along the eastern property line. She stated the City has no utilities within the easement and all other agencies involved have also been contacted. She concluded stating they are recommending vacation of just the west half of the easement leaving the remaining 15 feet for possible use in the future.

Mr. Schroth opened the public hearing at 6:10 p.m. There being no public comment, the hearing was closed at 6:10 p.m.

A motion was made by Commissioner Holland, seconded by Commissioner LeHeup-Smith, to Approve Resolution No. 13-43. The motion carried by the following vote:

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

13154 Resolution No. 13-44: Variance to the Garage Setback Requirement for Property on the West Side of Lakeshore Dr.

Mr. Schroth announced Resolution No. 13-44: A Resolution of the City Commission of the City of Eustis, Florida; Granting Approval for a Variance to City of Eustis Land Development Regulations Section 110-5 (n), by Reducing the Required Setback for a Garage Room 18 Feet from the Front of the Principal Structure to 4 Feet for the Single Family Home to be Constructed on Approximately 0.28 Acres Located on the West Side of Lakeshore Drive, North of Green Lake Drive.

Ms. Kramer explained the property is located on Lakeshore Drive between the Urban and Suburban Design Districts and is classified as an estate lot. She explained that the Land Development Regulations require an 18 foot setback since most of the lots in the Urban Design District have a zero minimum setback and at least 18 feet would be needed in order to pull in a car. She stated the property has more of the design characteristics of a Suburban lot and is in keeping with the surrounding properties. She added that is one area of the regulations that needs to be addressed.

Mr. Schroth opened the public hearing at 6:13 p.m. There being no public comment, the hearing was closed at 6:13 p.m.

A motion was made by Commissioner Holland, seconded by Vice-Mayor Bob, to Approve Resolution No. 13-44. The motion carried by the following vote:

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

13161 Resolution No. 13-45: Urging Tobacco Vendors to Stop the Sale and Marketing of Flavored Tobacco Products

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

Paul Berg, City Manager, explained this was requested by the Commission pursuant to a request by *members of the public at the previous Commission meeting. He stated the resolution is similar to ones adopted by Lake County and the City of Clermont. He cited a letter received that day asking that the City not pass a regulatory resolution. He explained that the proposed resolution is not regulatory.*

Mr. Schroth opened the public hearing at 6:15 p.m.

Theo Bob, representing the Bates Avenue Neighborhood Youth Council and SWAT (Students Working Against Tobacco), stated they came to the City the previous month and clarified they were only asking that local vendors refrain from marketing the flavored tobacco products and that the products not be placed in proximity to candy.

The Commission asked if they discussed the issue with any of the local stores and Mr. Bob responded negatively.

There being no further public comment, the hearing was closed at 6:17 p.m.

The Commission discussed ensuring young people do not purchase the products, amending the resolution to only refer to marketing of the products, the probability the legislature will eventually address the issue, the letter received from the FPMA (Florida Petroleum Marketers and Convenience Store Association) and suggested that the students discuss their concerns with the local vendors and that they contact the American Cancer Society affiliates that are working to get legislation passed concerning the tobacco products.

The Commission also expressed concern about passing resolutions in response to social concerns.

Mr. Schroth recommended that, since the City received the letter, the resolution should be placed on another agenda if it is modified.

Emily Lee, 705 E. Washington Ave., Facilitator for Bates Avenue Neighborhood Council, thanked the Commission for letting the students address the Commission. She explained they have been working with the Tobacco Prevention Organization who recommended they ask the local governments to pass the resolutions. She emphasized the most important issue is the marketing and the placement of the products.

The Commission indicated that the FPMA letter states that all tobacco sales are non-self-service and stated that is also required by state statute.

CONSENSUS: It was the consensus of the Commission to have the resolution amended to refer only to the marketing of the products and for it to be placed on the next regular Commission agenda for consideration.

13162 Resolution No. 13-48: Revisions to Agreement for Annexation, Impact Fees, Parks, and Setbacks for the Oaks at Summerglen Subdivision

Mr. Schroth announced Resolution No. 13-48: A Resolution by the City Commission of the City of Eustis, Lake County, Florida, Modifying the Agreement for Annexation, Impact Fees, Parks and Setbacks for the Oaks at Summerglen Subdivision.

Ms. Kramer explained there is a new developer that will be completing the Summerglen Subdivision. She stated that the original agreement was done in 2006 and only one home has been constructed. She reviewed the recommended changes as follows: 1) the park will be located near the entrance which is also larger than the original location; 2) rear setbacks will be reduced from 27 feet to 15 feet which is the same as the rest of the City; and 3) the new agreement makes it clear there will not be a second phase to the development. She added that the original agreement refers to the "skink area" and requested that the resolution be changed to refer to Tract C and the legal description.

The Commission questioned if there will be access to the skink area with Ms. Kramer responding that there are homes that back up to the area.

The Commission then asked if the land to the north would be available in the future for development.

Ms. Kramer responded that area is currently platted as a tract dedicated to the homeowner's association. She explained that, for that area to be developed, the skinks would have to be gone and it would have to be replatted. She confirmed the skinks cannot be relocated.

Mr. Schroth opened the public hearing at 6:32 p.m.

John Massimino, 2611 Summerglen Lane, stated a roadway was recently built through the skink area and he was told it was necessary for emergency access. He asked, if it can't be developed or touched, why was a road put in?

Ms. Kramer confirmed the road is an emergency access road and that it is actually to the west of the skink area and not through it.

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

A motion was made by Commissioner Eckian, seconded by Commissioner LeHeup-Smith, to Approve Resolution No. 13-48 as amended. The motion carried by the following vote:

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

13159 Resolution No. 13-49: Sale and Purchase of City-Owned Property

Mr. Schroth announced Resolution No. 13-49: A Resolution of the City Commission of the City of Eustis, Florida, Authorizing the City Manager to Record a Lot Split and Execute Contracts for the Sale and Purchase of City-Owned Property Located on South Exeter Street.

Ms. Kramer explained the property was previously used for a lift station which has not been in operation for several years. She stated that a buyer approached the City to purchase the property in order to expand their backyard. The City notified the surrounding property owners and posted the property out to bid. The City received bids from all of the surrounding buyers. She reviewed the various bids and stated that, at the suggestion of the City, the top two bidders agreed to split the property. If approved by the Commission, the City Manager will have the property split and then proceed with the sale for $5,000 each.

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

A motion was made by Commissioner Holland, seconded by Commissioner LeHeup-Smith, to Approve Resolution No. 13-49. The motion carried by the following vote:

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

SECOND READING

13130 Ordinance No. 13-08: Repeal of Section 34-102, Offensive Noises, Code of Ordinances

Mr. Schroth read Ordinance No. 13-08 by title on second and final reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida, Repealing in its Entirety Section 34-102, Offensive Noises, of the City of Eustis Code of Ordinances.

Mr. Schroth opened the public hearing at 6:38 p.m. There being no public comment, the hearing was closed at 6:38 p.m.

A motion was made by Commissioner Holland, seconded by Vice-Mayor Bob, to Adopt Ordinance No. 13-08 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

13131 Ordinance No. 13-09: Conditional Use Permit for Automobile Sales at 25 S. Bay St.

Mr. Schroth read Ordinance No. 13-09 by title on second and final reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida, Approving a Conditional Use Permit for Automobile Sales in the Central Business District (CBD) Land Use District on Approximately 0.6 Acres Located at 25 S. Bay Street.

Mr. Schroth opened the public hearing at 6:38 p.m. There being no public comment, the hearing was closed at 6:38 p.m.

A motion was made by Commissioner Holland, seconded by Commissioner LeHeup-Smith, to Adopt Ordinance No. 13-09 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

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 first 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.

Ms. Kramer commented on the previous workshops held on the tree ordinance and stated she attempted to take the comments from the last workshop and incorporate them into the ordinance. She reviewed the items included in the ordinance as follows: 1) the proposed tree exemptions for palm, citrus and pine trees were removed; 2) allows for the removal of trees from within 25 feet of a single family home as long as they retain the required number of trees elsewhere on the site; and 3) allows a permit for removal as long as the tree will be replaced so that a minimum number of trees are maintained on each lot. She then reviewed the proposed changes to the fines as follows: 1) if someone removes a tree without a permit and they could not have gotten a permit, the requirements are reduced to require the replacement of two trees for every tree removed and if there isn't room on the site, payment must be made into the tree fund; and 2) if someone removes a tree without a permit but they could have received a permit, the fine will be $50 for not getting the permit prior to removal. She stated the ordinance also removes the requirement for replacement at 2.5 times the dbh.

The Commission confirmed that the proposed ordinance will assist staff with enforcement with Ms. Kramer stating it will provide more flexibility while protecting the trees. She also noted the inclusion of the allowance for a commercial property owner to submit a revised landscape plan.

The Commission discussed methods for publicizing the changes to the tree ordinance including revising the tree ordinance brochure and providing it to property owners and tree trimmers, notifying realtors, developers, consultants, etc. of the changes, posting the information to the City's Facebook page, website and Fast Facts, and possibly including it in the utility bills.

Mr. Schroth opened the public hearing at 6:46 p.m.

The following individuals spoke in opposition to the proposed revisions to the tree ordinance: 1) Kevin Jenness, 25 E. Magnolia (Peddler's Wagon) and 36309 Brendenshire Ct. Grand Island; 2) Sean Jenness, 25 E. Magnolia; and 3) Joan Bryant, 707 Poinsettia Drive.

There being no further public comment, the hearing was closed at 7:04 p.m.

The Commission discussed changing the allowed distance from a residence from 25 feet to 15 feet, the need to have regulations that allow staff to work with residents, and private property rights.

CONSENSUS: It was a consensus of the Commission to amend the ordinance to change the allowed distance from a residence from 25 feet to 15 feet.

A motion was made by Commissioner LeHeup-Smith, seconded by Vice-Mayor Bob, to Approve Ordinance No. 13-10 on First Reading as amended. The motion carried by the following vote:

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

VI. OTHER BUSINESS

13158 Small Pool Recommendation

Joe LaPolla, Parks & Recreation Director, reported on the condition of the small pool. He stated that to re-open the pool will also require installing a deck-mounted chair lift as well as a new drainfield system. The estimated cost to make the pool operational would be approximately $18,000. He stated staff is recommending that the pool be closed and filled in which will create more deck space for the large pool. He cited additional ideas for use of the area if filled in.

CONSENSUS: It was the consensus of the Commission to close the small pool.

13160 Keating Litigation

Mr. Schroth explained the purpose of the item is for approval of the Commission to proceed with the litigation. He stated that one of the actions will be a Motion to Dismiss and a Motion for Summary Judgment.

The Commission discussed the decision made in November, the desire to reach an agreement, the need to proceed with revisions to the Land Development Regulations, the length of time the issue has been discussed, and the need for an outside entity to make a decision.

A motion was made by Mayor Muenzmay, seconded by Commissioner Holland, to proceed with the Keating lawsuit litigation. The motion carried by the following vote:

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

Nay: 1 - Commissioner Eckian

13164 Establish a Proposed Millage Rate for 2013 and Set the Date of First Public Budget Hearing

Jim Myers, Finance Director, stated that the proposed millage is the higher roll-back rate of 7.581 mills and will be advertised in the TRIM notice to be mailed out in mid-August. He explained the required process for the proposed rate and reviewed a chart of property values and tax collections over the past seven years. He stated that the 7.581 millage rate was used in preparation of the draft budget. He then explained the different roll-back rates and reviewed the millage rates for the other Lake County cities. He recommended approval of the 7.5810 tentative millage rate and first hearing date of September 5, 2013, at 6 p.m.

The Commission informed the public that a workshop was held Monday regarding the millage rate.

A motion was made by Commissioner Holland, seconded by Commissioner LeHeup-Smith, to set the tentative millage rate at 7.5810 mills and to hold the first budget hearing on September 5, 2013 at 6:00 p.m. The motion carried by the following vote:

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

13165 Comprehensive Plan Review

Ms. Kramer explained the Comprehensive Plan elements that have not yet been reviewed are the Economic Development, Public Schools, Intergovernmental Coordination and Capital Improvement elements. She asked if they wanted to make changes to any of those elements and, if so, do they want to schedule a workshop to review those.

The Commission noted there are two new Commissioners that were not involved with the review of the other elements with Ms. Kramer confirming that she sent to all of the Commissioners copies of strike-through versions of the already reviewed elements. She also confirmed that the Transportation Element had already been sent to the State and approved.

CONSENSUS: It was the consensus of the Commission to review the already proposed Comprehensive Plan revisions at the beginning of the workshop and to hold the workshop on August 1, 2013 at 5:00 p.m.

13167 Strategic Plan Accountability

Ms. Kramer commented on the previous direction by the Commission to have quarterly reports on the status of the strategic plan projects. She explained the proposed tracking mechanism.

The Commission discussed whether to have the reviews at regularly scheduled Commission meetings or at separate workshops.

CONSENSUS: It was the consensus of the Commission to utilize the proposed tracking tool for the strategic plan accountability reports and for the quarterly reports to be provided at regular Commission meetings unless there was an issue that needed to be addressed, then a separate workshop could be scheduled.

VII. FUTURE AGENDA ITEMS

Commissioner Eckian requested the City Attorney prepare an ordinance to protect the Commissioners from being sued personally and indemnify the Commission as long as any action pertains to the performance of their duties.

Commissioner Holland noted recent comments that "The City is dying". He asked to have an agenda item to discuss where the City is going.

Vice Mayor Bob agreed with the need for a discussion about the City's future.

Mayor Muenzmay stated that the League of Cities conference begins the same day as the next Commission meeting - August 15th. He noted that three Commissioners will be attending the conference and asked if they wished to reschedule the meeting.

CONSENSUS: It was the consensus of the Commission to reschedule the August regular Commission meeting to Tuesday, August 20, 2013 at 6:00 p.m.

VIII. COMMENTS

City Commission

Commissioner LeHeup-Smith reminded everyone there is a new bakery in town - Delite's Bakery. She distributed cupcakes and sourdough bread to the Commissioners from the bakery. She commented on the visit with students from China and the production of "Hairspray" by the Bay St. Players.

Commissioner Holland agreed the production of "Hairspray" was excellent. He thanked Maria Alleverde for the student exchange program.

Vice Mayor Bob noted that Devereaux Kids will be hosting a "back to school" event on August 10th and that school will be starting within a few weeks.

Mayor Muenzmay presented a Certificate of Completion to Commissioner Eckian for his completion of the Elected Officials Institute.

Commissioner Eckian thanked the Mayor and City for support of his attendance at the Institute. He expressed thanks to the Bates Avenue Council and cited the backpack program scheduled for Saturday, August 10th at 9 a.m.

Mayor Muenzmay apologized for missing the program with the Chinese students due to a business conflict. He commented on changes to the community and the need to understand the obstacles facing the City and how to address those obstacles.

City Manager

Mr. Berg expressed thanks to everyone involved with 4th of July celebration and asked Ms. Kramer to provide the building department report.

Ms. Kramer explained that Jim Stroupe, the City's Building Official, could not be present due to a conflict. She distributed a report on the building department activities and commented on the department's quick turnaround times. She noted that Mr. Stroupe is not only the City's building official but also performs all of the commercial building inspections.

The Commission asked about the Development Services interns with Ms. Kramer stating that the one intern just finished his internship and noted his comments on how down to earth the Commissioners are. She stated that the other intern is still on the job.

City Attorney

Mr. Schroth expressed his support for the ordinance suggested by Commissioner Eckian which will serve to assure the Commissioners that they have protection from litigation.

IX. ADJOURNMENT - 7:59 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.