City of Eustis, Florida

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

Meeting Minutes – Final*
City Commission

Thursday, April 4, 2013 **6:00 PM** **City Hall**

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

INVOCATION: Rev. Beth Farabee, First United Methodist Church

PLEDGE OF ALLEGIANCE: Commissioner Holland

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

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

I. AGENDA UPDATE - None

II. APPROVAL OF MINUTES

13081 March 21, 2013 - Regular City Commission Meeting

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

III. PRESENTATIONS

13080 Lake Eustis Area Chamber of Commerce - FY2011-2012 Year-End Report

Nancy Muenzmay, Executive Director for the Lake Eustis Area Chamber of Commerce, presented to the Commission their year-end report for 2012 noting the contract requirements and explaining their use of the City's grant funds. She reviewed the Chamber's mission statement and purpose and provided a summary of the 2013 GeorgeFest. She then reviewed the operating analysis for 2012 and plans for the future and the remainder of 2013.

IV. AUDIENCE TO BE HEARD - None

V. CONSENT AGENDA

Commissioner Eckian asked to remove Resolution No. 13-26 from the Consent Agenda.

13074 Resolution No. 13-17: Award of Bid No. 001-13 - Temple Circle Water Main Replacement

13078 Resolution No. 13-25: Change Order and Budget Amendment for Palmetto Plaza

A motion was made by Commissioner Holland, seconded by Vice-Mayor Bob, to Approve the Consent Agenda as amended. The motion carried by the following vote:

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

VI. ORDINANCES, PUBLIC HEARINGS & QUASI-JUDICIAL HEARINGS

13077 Resolution No. 13-23: Site Plan for a Commercial Retail Building on Orange Avenue with Waivers

Derek Schroth, City Attorney, announced Resolution No. 13-23: A Resolution of the City Commission of the City of Eustis, Florida; Approving a Site Plan for a Commercial Building on Approximately 1.49 Acres Located on the South Side of Orange Avenue West of Abrams Road with a Waiver to the Storefront Character Minimum Window Coverage Requirement and a Waiver to the Requirement for a 6' Masonry Wall within the Rear (South) Buffer.

Dianne Kramer, Development Services Director, explained the request is for a site plan which is part of a parent parcel. She stated the City has received a master plan for the entire site and the request is for the first phase which is required to show they can meet the City's requirements for the remainder of the site. She explained the requested waivers for the storefront character minimum window coverage and for the 6' masonry wall for the rear buffer. She noted there were some objections from adjoining residents for waiver of the wall so the applicant met with the residents and has agreed to put up a privacy fence in lieu of the wall.

Mayor Muenzmay opened the public hearing at 6:30 p.m.

Mary Harris, 2819 Joleen Drive, stated she spoke with the applicant and accepts the privacy fence; however, she expressed her concern that any future commercial development on the site should be required to put up the wall to provide better buffering and a sound barrier.

Ms. Kramer explained any future projects would also be presented for site plan approval and publicized to allow public comment.

Ms. Harris noted that retention is planned for right behind her property so she would prefer a masonry wall buffer in that area.

Daniel Young, engineer for the project and representing Concept Development LLC, noted the applicant did speak with Ms. Harris regarding the privacy fence.

The Commission confirmed the fence would be wood and asked who would be responsible for maintenance of the privacy fence with Mr. Young indicating that the retail store tenant would be responsible for the maintenance.

Pamela Bopp, 2709 N. Dellwood, commented on existing problems with signage issues and asked if the waivers are for signage.

Ms. Kramer explained the waivers do not have anything to do with the signage but remove the requirement for glass frontage on the building and a masonry wall for the rear.

A motion was made by Commissioner Eckian, seconded by Commissioner Holland, to Approve Resolution No. 13-23. The motion carried by the following vote:

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

13076 Resolution No. 13-24: Viva Florida Landscape Demonstration Gardens Grant Application

Mr. Schroth announced Resolution No. 13-24: A Resolution of the City Commission of the City of Eustis, Lake County, Florida; Authorizing the City Manager to Submit an Application to the Florida Wildflower Foundation's Viva Florida Landscape Demonstration Gardens Grant Program for a Matching Grant to Plant Wildflowers in Front of the Education Building at Trout Lake Nature Center.

Ms. Kramer explained the request from the Trout Lake Nature Center (TLNC) for the City to partner with them to submit a wildflower grant application. She stated the City's portion of the match would be to make the signs regarding the types of flowers with TLNC providing the volunteer hours to make up the $1500 total match.

Mayor Muenzmay opened the public hearing at 6:38 p.m. There being no public comment, the hearing was closed at 6:39 p.m.

A motion was made by Commissioner Holland, seconded by Commissioner LeHeup-Smith, to Approve Resolution No. 13-24. The motion carried by the following vote:

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

13083 Resolution No. 13-27: Budget Amendment for First Friday Street Festivals

Mr. Schroth announced Resolution No. 13-27: A Resolution of the City Commission of the City of Eustis, Lake County, Florida; Amending the FY2012/2013 Budget for the General Fund to Reflect the Funds Required in Performance of the First Friday Street Festivals, and Authorizing the Finance Director of the City of Eustis, Florida to Make the Necessary Adjustments.

Mayor Muenzmay announced he would recuse himself due to his wife being employed by the Chamber of Commerce who may receive funding through the street parties and passed the gavel to Vice Mayor Bob.

Paul Berg, City Manager, explained the request to provide funding for the City to assume responsibility for the First Friday street parties.

Richard Hoon, Assistant to the City Manager for Community Relations, explained the figures included in the report are "worst case scenario". He reported that there are 35 vendors scheduled for the April First Friday in spite of competition from the Lake County Fair and the Tavares dragon boat races. He commented on the number of individuals that have offered to assist and explained plans for future events for corporate sponsors, themed events and possible expansion of the event.

Vice Mayor Bob opened the public hearing at 6:43 p.m.

Nikki Lane, Joleen Estates, stated she is the cheerleading coach at Eustis Middle School and asked if the City could allow nonprofit organizations to be a part of the event. She noted they do not have the funds to pay for the space upfront.

Vice Mayor Bob indicated that would be something the City would have to review.

A motion was made by Commissioner Holland, seconded by Commissioner LeHeup-Smith, to Approve Resolution No. 13-27. The motion carried by the following vote:

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

Recused: 1 - Mayor Muenzmay

SECOND READING

13061 Ordinance No. 13-02: Small Scale Comprehensive Plan Amendment 2013-CPLUS-1 for Property on the SE Corner of Barnes Avenue and Morin Street

Mr. Schroth read Ordinance No. 13-02 on second and final reading by title: 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(l) F.S.; Changing the Future Land Use Designation of Approximately 0.46 Acres of Real Property Located on the Southeast Corner of Barnes Avenue and Morin Street from Residential/Office Transitional (RT) to General Commercial (GC).

Mayor Muenzmay recused himself due to his spouse being employed by the Chamber of Commerce who has an interest in the subject property and passed the gavel to Vice Mayor Bob.

Vice Mayor Bob opened the public hearing at 6:46 p.m. There being no public comment, the hearing was closed at 6:46 p.m.

A motion was made by Commissioner Holland, seconded by Commissioner LeHeup-Smith, to Adopt Ordinance No. 13-02 on second reading. The motion carried by the following vote:

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

Recused: 1 - Mayor Muenzmay

VII. OTHER BUSINESS

13075 Resolution No. 13-26: Award of Bid No. 002-13 - Grand Island Shores Water Facility Improvements

Mr. Schroth announced Resolution No. 13-26: A Resolution of the City Commission of the City of Eustis, Florida; Authorizing Award of Bid No. 002-13 with Acceptance of Alternate No. 1 to Beach Construction Company, Inc. in the Amount of $880,970 for the Construction of the Grand Island Shores Water Facility Improvements and Authorizing the City Manager to Execute All Agreements and Contracts Associated with the Award.

The Commissioner questioned what would happen if, in the middle of the project, a redesign would be required or the project ceased due to problems that arose.

John Futch, Public Works Director, stated the question is a legal one and he is unsure whether or not the contract would provide for a situation as described. He asked if the issue could be postponed to allow time for the City Attorney to review the contract. He confirmed that the contract had not yet been signed.

The Commission asked if the project could be phased.

Rick Gierok, Public Works Deputy Director, responded the project is in two phases with the first being to deliver the wells. He added that the contractor has been informed there would be two separate mobilizations. He stated there is verbiage in the bid documents that, if there is a problem in the first phase, the City can terminate the contract and have no obligation for the second phase.

The Commission confirmed that the contract can be written so that the dollar amounts for each phase are fair and reasonable but, if the City has to stop after the first phase due to encountering a problem, there won't be any litigation, mediation or bad feelings.

A motion was made by Commissioner Holland, seconded by Commissioner LeHeup-Smith, to Approve Resolution No. 13-26. The motion carried by the following vote:

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

13082 Open Space Review

Ms. Kramer explained that open space is a policy issue not a technical issue. She stated the purpose of open space is to protect the environment and improve and preserve the quality of life. She then explained the calculation of open space noting it is based on the percent of the development to be dedicated to open space, the designation of what areas can meet the minimum percentage, and the land area base to be used for the percentage calculation. She explained the 40% minimum requirement was based on negotiations with the State regarding the Wekiva Study Area. She explained the difference between using gross acreage and net acreage.

Ms. Kramer then explained the City's options as follows: 1) No change to current requirements or *the definition; 2) Change the percentage requirement; or 3) Revise the definition. She noted that a change to the percentage requirement would require a comprehensive plan amendment and indicated it might be difficult to do based on the previous negotiations with the State. She stated the open space could be redefined and gave the following examples: 1) include wetlands and some water bodies; 2) include wetlands and some water bodies with a percentage restriction, 3) include recreation areas; or 4) include undisturbed conservation easements on individual lots. She noted that the last example would be privately owned and not common space.*

Ms. Kramer then cited the following considerations: 1) general nature of the definition versus specific features of individual sites; 2) effect on the market; 3) long term maintenance of common areas; and 4) environmental impact.

Mayor Muenzmay opened the Commission discussion and asked that they not try to rush to a decision and noted that a workshop could be scheduled for further discussion.

The Commission discussed the following issues: 1) focusing on the land development regulations rather than amending the comprehensive plan; 2) granting waivers for individual projects due to individual aspects of each parcel; 3) changing the open space definition to allow for inclusion of a water body that is totally included on the parcel; 4) including wetlands as open space; 5) including water bodies but not wetlands; 6) maintaining the 40% open space requirement; 7) the need for consistency in application of the regulations; 8) including wetlands due to their purpose being the same as the general purpose for open space; 9) the need for homeowners' associations to care for common areas; 10) revisions made to the comprehensive plan due to changes at the Dept. of Community Affairs; and 11) holding a workshop to hear public input on the issue.

CONSENSUS: It was a consensus of the Commission to hold a separate workshop.

Ms. Kramer asked if there is additional information the Commission would like for the workshop.

The Commission asked for a list of those issues that the City has no choice about; diagrams of different examples with varying amounts of water bodies and wetlands and what can be waived with Ms. Kramer explaining that the minimum 40% requirement cannot be waived and it would be problematic to waive what should be considered as open space.

Ms. Kramer noted that following adoption of the Land Development Regulations the market fell so the City has not really seen how well the regulations work. She commented on how the cost for maintenance of common areas can be burdensome for smaller developments with a lower number of lots to share the cost. She stated that it may be that individual lot open space could be included for the smaller developments to reduce that burden.

VIII. FUTURE AGENDA ITEMS

Mr. Berg informed the Commission the open space workshop probably could not be scheduled until sometime in May.

IX. COMMENTS

Joe LaPolla, Parks and Recreation Director, reported to the Commission on the user fees and program statistics from 2009 through 2013. He provided a presentation on the program "It Starts in Parks", an initiative by the Florida Recreation and Parks Association, and explained how the program will be implemented through the department. He reviewed the department's new website which also allows online registration and payment. He cited department employee Dan King for his work on the website.

The Commission complimented the department on their efforts and the website and asked about the facility rates with Mr. LaPolla noting the City probably needs to review its facility rates.

City Commission

Commissioner Holland complimented the high school and middle school bands and culinary department on the recent jazz band concert. He reminded everyone about the First Friday event and commented on the number of programs being offered at the library and the amount of participation.

Vice Mayor Bob reported on an all day workshop she attended with Lake Community Action Agency. She noted changes to the weatherization program due to funding cuts and some new programs they will be implementing.

Commissioner Eckian also complimented the schools on the jazz concert and emphasized the need to support the schools. He complimented the Chamber and its members on the building and their willingness to take risks in order to grow.

Mayor Muenzmay also complimented the jazz bands. He complimented Rich Hoon on the upcoming First Friday street party and encouraged the Commission to attend the street party to show their support. He announced he would be out of town to see his grandson graduate from basic training.

City Manager

Mr. Berg thanked staff for their support while he was out of the office. He also thanked Rich Hoon and the Chamber for their efforts in putting on the First Friday event. He commented on the number of people attending the City's recreation and library programs and complimented Joe LaPolla and Marlene Blye for their efforts to improve their departments in spite of budget cuts.

City Attorney

Mr. Schroth informed the Commission that John Keating has asked the City to postpone the Motion to Dismiss hearing before Judge Singletary. He summarized the history of the litigation and explained it requires a decision by the Commission on whether to postpone the hearing.

Mayor Muenzmay polled the Commission regarding whether or not they are agreeable to postponing the hearing before Judge Singletary. The result was as follows: 3 - Yes to postponement 2 - No to postponement.

Mayor Muenzmay asked Mr. Schroth what would occur if the City requests the postponement.

Mr. Schroth explained the process and the possibility that the insurance company could proceed with the hearing since the case has been passed over to them. He then commented on the history of the litigation and how it might be viewed by the judge.

CONSENSUS: It was a consensus of the Commission to request a postponement of the Motion to Dismiss hearing.

X. ADJOURNMENT - 8:05 p.m.

Mary C. Montez

MARY C. MONTEZ
City Clerk

Linda Durham Bob

LINDA DURHAM BOB
Vice 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.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Muenzmay, Kress Thomas	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Eustis City Commission
MAILING ADDRESS 3312 Indian Trail	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY Eustis COUNTY Lake	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED 4/4/2013	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * * * * * * * * * * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * * * * * * * * * * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Kress T. Muenzmay, hereby disclose that on April 4, 2013, 20 13:

(a) A measure came or will come before my agency which (check one)

___ inured to my special private gain or loss;

___ inured to the special gain or loss of my business associate, ____________________;

X inured to the special gain or loss of my relative, Nancy Muenzmay;

___ inured to the special gain or loss of ____________________, by whom I am retained; or

___ inured to the special gain or loss of ____________________, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Ordinance No. 13-02: Small scale comprehensive plan amendment changing the future land use designation for 0.46 acres located on SE corner of Barnes Avenue and Morin St. from RT to GC. Property is owned by spouse's employer – Lake Eustis Area Chamber of Commerce.

4/4/2013

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED $10,000.