

# **City of Gainesville**

*City Hall  
200 East University Avenue  
Gainesville, Florida 32601*



## **Meeting Agenda**

**June 11, 2007**

**1:00 PM**

**City Hall Auditorium**

## **City Commission**

***Mayor Pegeen Hanrahan (At Large)  
Mayor-Commissioner Pro Tem Rick Bryant (At Large)  
Commissioner Jeanna Mastrodicasa (At Large)  
Commissioner Scherwin Henry (District 1)  
Commissioner Ed Braddy (District 2)  
Commissioner Jack Donovan (District 3)  
Commissioner Craig Lowe (District 4)***

***Persons with disabilities who require assistance to participate in this meeting are requested to notify the Office of Equal Opportunity at 334-5051 or call the TDD phone line at 334-2069 at least two business days in advance.***

## CALL TO ORDER

## AGENDA STATEMENT

*"Citizens are encouraged to participate in City of Gainesville meetings. In general, speakers will be limited to 3 (three) minutes per agenda item. Additional time may be granted by the Mayor or by the City Commission as directed. The City of Gainesville encourages civility in public discourse and requests that speakers limit their comments to specific motions and direct their comments to the Chair. Signs or Props are not permitted in the meeting room. Citizens are encouraged to provide comments in writing to the Clerk of the Commission before meetings and/or during meetings for inclusion into the public record. Citizens may also provide input to individual commissioners via office visits, phone calls, letters and e-Mail, that will become public record. In some instances, i.e., Quasi-Judicial Hearings, these particular contacts may be prohibited."*

## ROLL CALL

## INVOCATION

## CONSENT AGENDA

## CITY MANAGER, CONSENT AGENDA ITEMS

### 070004.

#### **Funding of Master Plan Consultant for the Area Surrounding Depot Park (NB)**

*Explanation: The City Commission has established a goal of creating a master plan for the area surrounding Depot Park, including the potential GRU development site. The majority of the Depot Park/GRU area lies within the College Park University Heights, Downtown, and Eastside CRA areas. Staff, therefore, recommended in 2006 that the CRA request the City Commission to allow the CRA to take the lead on this project, as the development surrounding the park within the CRA districts will be crucial to the success of the CRA and the surrounding area. Each of the CRA Advisory Boards involved with this project have recommended funding as part of their FY 2007 budgets. Further, the adopted redevelopment plans for each affected CRA district support this type of planning activity. Representatives of GRU and City Planning staff have participated on the consultant evaluation team and would also be included on the project team as work goes forward. However, there are portions of the project area that do not fall within the CRA and will require funding.*

*The RFP was issued on November 3, 2006 with a deadline for receipt of January 19, 2007; a pre-bid meeting was held on December 1, 2006. Ten proposals were received with one being disqualified for lack of pricing. A meeting to evaluate and rank the written proposals was held on February 16, 2007. The four top ranked firms were: Folsom Group, Genesis Group, Pizzuti Solutions and Wood & Partners, Inc. Oral presentations were held on March 20, 2007. Wood & Partners, Inc. was selected for the proposal.*

*Fiscal Note: The CRA approved funding in the Fiscal Year 2007 budget for three redevelopment districts; CPUH (618-790-W736-5520) \$50,000; Downtown (610-790-W736-5520) \$25,000; and Eastside (621-790-W736-5520) \$10,000. The funding is based on how much of the redevelopment area falls within the proposed projects' boundaries. The general government funding portion would be \$25,000 (from personnel savings from vacancies in the Community Development Department), and the GRU funding portion would be \$25,000 (equal shares between GRU and General Government for the portion of the depot park perimeter not within the CRA).*

**RECOMMENDATION**

*City Manager to the City Commission: 1) Recommend that the general government portion of the consultant fee, \$25,000, be paid from the Community Development Department through savings from personnel vacancies; and 2) Recommend that the GRU portion of the master plan, \$25,000, be authorized.*

**070005.****Tenth Amendment to the Commerce Project Development Agreement (B)**

*Explanation: Construction of Phase Two of Regents Park is in progress. The current default date for the completion of construction, as per the Development Agreement, is August 1, 2007. The developer, Gainesville Commerce Center Limited Partnership has indicated that this date will need to be extended. In order to keep the Development Agreement current, the dates in the original agreement need to be amended. On March 19, 2007 the CRA voted to approve the amendment and to further recommend it to the City Commission. The proposed completion date for Phase Two will move from August 1, 2007 to December 31, 2007.*

*Fiscal Note: None at this time*

**RECOMMENDATION**

*CRA to the City Commission: 1) Approve the amendment to the Development Agreement and authorize the Clerk to attest and the Mayor to execute the amendment.*

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**070019.****Schedule for Development of A Plan for Orderly Annexations (B)**

**This item presents a schedule for developing a plan for orderly annexations as required by the "Transition of Services Agreement between the City of Gainesville and Alachua County"**

*Explanation: The City of Gainesville and Alachua County entered into an agreement on March 13, 2007 for Transition of Services Upon Annexation by the City of Gainesville within its Municipal reserve Area. Section XIII of the agreement required the City and the County to jointly develop a plan for the orderly annexation of the City's Urban Reserve Area.*

*A Steering Committee consisting of two City staff and two County staff have met and agreed on a schedule for plan development. The proposed schedule includes the following key milestones to be completed in a period of approximately 12 months.*

- 1. Appointment of an Interlocal Team by both Managers*
- 2. Goal Setting and Development of a Team Charter*
- 3. Team Orientation to the Annexation Process*
- 4. Discussion and development of plan concept alternatives*
- 5. Development of collaborative work elements for City and County*
- 6. Development of Annexation Plan for Approval by City and County*

*The final plan will include identifying five targeted areas for annexations within the next 3-5 years, balanced geographically within the Urban Reserve Area and developing collaborative work elements that promote success.*

*Fiscal Note: There is no fiscal impact.*

**RECOMMENDATION**            *The City Commission accept the proposed schedule.*

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## **070058.**

### **Annexation of City-owned Parcels Adjacent to Lake Kanapaha (B)**

**This is the submission of a petition for voluntary annexation of City-owned property in the area south of Lake Kanapaha.**

*Explanation: The City of Gainesville owns six parcels totaling 1.39 acres adjacent to Lake Kanapaha. These parcels are located south of the City Limits, west of Parcels 06911-025-000 and 06911-026-000, north of SW 46th Place and east of Parcel 06909-002-000. Staff has reviewed the requirements of the Boundary Adjustment Act and found that this area meets the requirements of the Act and is appropriate for annexation. The parcels are vacant.*

*In order to annex these parcels into the City limits, the owner must submit a petition to the City of Gainesville for voluntary annexation. As the owner, the Mayor, on behalf of the City, must execute a petition for voluntary annexation.*

*Fiscal Note: The fiscal impact of this annexation will be addressed in the Urban Services Report.*

**RECOMMENDATION**            *The City Commission: 1) authorize the Mayor, as agent for the City, to sign the petition for voluntary annexation; 2) receive the petition for annexation and make findings that it contains the signature of the property owner or authorized agent; 3) direct the City Manager to analyze the area; and 4) authorize the City Attorney to prepare and the Clerk of the Commission to advertise ordinances relating to the annexation of the area, if appropriate.*

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**070060.**

**Bid Award - SW 5th Avenue, 1200 Block, Triangle Streetscape Project Construction (B)**

**This item involves a request for the City Commission to authorize the bid award to Anglin Construction Company for the SW 5th Avenue, 1200 block, Triangle Streetscape Project construction in the amount of \$169,500.**

*Explanation:* On April 2, 2007, the City Purchasing Division solicited bids for the SW 5th Avenue, 1200 block, Triangle Streetscape Project construction. Three (3) firms responded with bids. Anglin Construction Company was the lowest responsible and responsive bidder in the amount of \$169,500.00

*Fiscal Note:* The funding in the amount of \$169,500.00 is available through the approved Community Redevelopment Agency Capital Improvement Plan and budget, account number 618-790-W727-5520.

**RECOMMENDATION**

*Recommended Motion: The City Commission: 1) authorize the bid award to Anglin Construction Company for the SW 5th Avenue, 1200 block, Triangle Streetscape Project construction; and 2) authorize the City Manager to execute the contract and issue a purchase order in an amount not to exceed \$169,500.00*

*Alternative Recommendation A: The City Commission deny the request for the bid award to Anglin Construction Company and direct the City Manager to withdraw the SW 5th Avenue, 1200 block, Triangle Streetscape Project.*

*Alternative Recommendation B: The City Commission deny the request for the bid award to Anglin Construction Company and direct the City Manager to rebid the SW 5th Avenue, 1200 block, Triangle Streetscape Project construction. This would result in project delays and additional administrative costs.*

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**070065.**

**Conveyance of Tax Parcel 14479-000-000 to Gainesville Community Redevelopment Agency (B)**

**This item involves authorization for the Mayor to execute a Special Warranty Deed conveying Tax Parcel 14479-000-000, 414 Northwest 5th Avenue, onto City of Gainesville Community Redevelopment Agency**

*Explanation:* On May 6, 1977, the City acquired Tax Parcel 14479-000-000 consisting of Lots 10 and 11, the South half of Block 26, Brush's Addition to Gainesville from Leon

*H Robbins, Alex Robbins, Robert Robbins and Irvin Robbins by Warranty Deed, Official Records Book 1065, page 340. This parcel is currently zoned Mixed-Use Low Intensity (MU-1) and vacant. The City of Gainesville Community Redevelopment Agency proposes to relocate two residential structures, available from Santa Fe Community College on Lots 10 and 11, renovate and market to home buyers.*

*Fiscal Note: Funds for preparation of the Special Warranty Deed and recording fees will not exceed \$200.00.*

**RECOMMENDATION**

*Recommended Motion: The City Commission: 1) authorize the City Mayor to execute the Special Warranty Deed conveying Tax Parcel 14479-000-000, 414 Northwest 5th Avenue, onto City of Gainesville Community Redevelopment Agency, subject to approval by the City Attorney as to form and legality.*

*Alternative Recommendation A: Deny the request from the City of Gainesville Community Redevelopment Agency for Tax Parcel 14479-000-000, 414 Northwest 5th Avenue, retaining ownership and maintenance.*

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**070076.**

**Edward Byrne Memorial Justice Assistance Grant Program FY 2007 Local Solicitation. (NB)**

**The City Commission will hold a public hearing on the proposed use of \$94,022 Edward Byrne Memorial Justice Assistance Grant funds and will approve the grant application for these funds.**

*Explanation: The U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance, has announced available grant funds to local units of government through the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The City of Gainesville is eligible to receive \$94,022 in funding through this grant. The JAG program allows local governments to support a broad range of activities to prevent and control crime. The funding distribution is based on population and crime statistics, as well as law enforcement expenditure data. The JAG Program blends the previous Byrne Formula and Local Law Enforcement Block Grant (LLEBG) programs to provide agencies with the flexibility to prioritize and place justice funds where they are needed the most. The Gainesville Police Department proposes to utilize the funds received under this grant to continue the production of the Gainesville Police Department television show "Police Beat," acquire additional digital in-car video cameras for patrol vehicles, and purchase other technical equipment for enhancements either to the Laptop project or the Data Trac process.*

*Fiscal Note: The \$94,022 in grant funds provided by the U.S. Department of Justice through the Edward Byrne Memorial Justice Assistance Grant is distributed up front instead of on a reimbursement basis. The award can fund projects beyond a four year period, allowing successful initiatives to receive funding to continue and expand their efforts. There are no required local matching funds for this*

*grant award.*

**RECOMMENDATION**

*The City Commission: 1) Approve the acceptance of \$94,022 in grant funds provided by the U.S. Department of Justice through the Edward Byrne Memorial Justice Assistance Grant; 2) authorize the City Manager to apply for, accept, and execute the grant award and any other necessary documents, subject to approval by the City Attorney as to form and legality; and 3) approve the expenditures as outlined in the approved grant award.*

*Alternative Recommendation*

*The City Commission decline the available Edward Byrne Memorial Justice Assistance Grant Funds in the amount of \$94,022 and advise staff not to apply for and accept these funds.*

**070086.**

**Award of Medical Services Contract to First Care of Gainesville (B)**

**This item involves awarding a contract to provide medical services to the City of Gainesville for pre-employment, bi-annual and five year physicals.**

*Explanation: The current contract to provide physical examinations and medical consulting services expires on June 30, 2007. While the current contract allowed for an additional three years, in an effort to foster competition and improve the City's ability to ensure taxpayers were getting the service at the lowest available pricing, staff developed a Request for Proposal (RFP) that was provided via Demand Star and direct notification to all Urgent Care Facilities within the Gainesville/Alachua County area. The physical examinations provided as part of the contract include pre-employment, age-related, periodic, and disability examinations required by City ordinance, and State and Federal legislation. Consulting services include collaboration on medical protocols and the rendering of medical opinions as requested by the City. Despite the direct notification and additional efforts by both the Purchasing Staff and the Risk Management Staff, only one vendor responded to the RFP.*

*The bid received was evaluated by staff based on the pre-determined criteria set forth in the RFP and the following percentages:*

<i>Past Performance and/or References</i>	<i>10%</i>
<i>Ability to Provide Expedient Service</i>	<i>20%</i>
<i>Price for Service</i>	<i>30%</i>
<i>Location/Physical Condition of Facility</i>	<i>20%</i>
<i>Degree of Compliance other Specifications</i>	<i>10%</i>
<i>Unacceptable Deviations or Exceptions</i>	<i>10%</i>
<i>Total</i>	<i>100%</i>

*An additional 5% was awarded for local vendors. This is a service that must be provided locally since it involves employees and applicants to be seen physically*

by a qualified medical professional. After the review of the response, staff has determined that First Care of Gainesville's response meets all the criteria set forth in the RFP. The new contract with includes increases in the cost of ranging from 5 to 20% depending on the level of physical examination. This is the first increase in the cost of these services.

*Fiscal Note:* The funds of approximately \$80,000 for this program have been budgeted in the General Insurance Funds for FY 2007 and FY 2008 budgets.

**RECOMMENDATION**

*The City Commission: 1) approve the selection of First Care of Gainesville as the City's provider of medical services for physical examination; 2) authorize the City Manager, or his designee to negotiate with and enter into an three-year agreement July 1, 2007 with the possibility for one two year extension, subject to approval of the City Attorney as to form and legality; and 3) authorize the issuance of a purchase order in an amount sufficient to cover the estimated costs associated with this service.*

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**070087.**

**FY 2007 and FY 2008 City Commission Strategic Goals and Objectives - Status Update (B)**

**This item provides a progress update on the City Commission's adopted goals and objectives for FY 2007 and FY 2008.**

*Explanation:* The City Commission Strategic Goals and Objectives for FY 2007 were adopted on January 23, 2006, and updated on February 12, 2007 to include initiatives for FY 2008. This is a progress update for the three month time period from January 2007 through March 2007 (second quarter of the fiscal year).

*Fiscal Note:* None

**RECOMMENDATION**

*The City Commission receive a report from the City Manager on the current progress towards the City Commission Strategic Goals for FY 2007 and FY 2008.*

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**070091.**

**Contract for Departmental Medical Director Services for the Gainesville Fire Rescue Department. (B)**

**This item requests approval to renew the "Agreement Between the City of Gainesville and the University of Florida for Assistant Medical Director" for a three-year period to meet statutory requirements for the provision of advanced life support services by Gainesville Fire Rescue.**

*Explanation:* The City of Gainesville was granted a Certificate of Public Convenience and Necessity by Alachua County to provide advanced life support services, an

important improvement in the level of medical care provided by Gainesville Fire Rescue companies. The Fire Rescue Department has successfully provided advanced life support (ALS) emergency medical services since January 1990. Florida State Statute 401.265 Medical directors-- requires each advanced life support service provider to employ or contract with a medical director. The original Agreement for medical director services between the City of Gainesville and the University of Florida went into effect September 1989. The Agreement provides the City with medical direction for emergency medical services through the appointment of an Assistant Medical Director. The Medical Director performs responsibilities pertaining to medical consultation and supervision of paramedics, emergency medical technicians, and chief officers of Gainesville Fire Rescue. A minimum of 16 hours per month is dedicated to the medical direction of the City's emergency medical program as outlined in the Agreement. The Agreement provides for cancellation by either party without cause with 60-days notice.

*Fiscal Note:* Funding for the first year of the three-year contract renewal in the amount of \$19,500 is available in the Department's FY 08 Professional Services account.

**RECOMMENDATION**

*The City Commission: 1) authorize the contract with the University of Florida for the benefit of the Department of Anesthesiology, College of Medicine to provide a Departmental Medical Director for the period of September 1, 2007, through August 31, 2010; and 2) approve the issuance of a purchase order to the University of Florida, Contracts and Grants for Departmental Medical Director services not to exceed \$58,500 for the period of September 1, 2007, through August 31, 2010.*

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**070115.**

**Annexation of Parcel Numbers 06684-000-000, 06828-000-000, 06820-000-000, 06830-000-000 (B)**

**This is the submission of a petition for voluntary annexation for the above referenced parcel numbers, which are located in the vicinity of SW 20th Avenue, Interstate 75, SW Archer Road and Kanapaha Lake.**

*Explanation:* Mable Barnes, property owner, has submitted a petition to the City of Gainesville for voluntary annexation. The properties are generally located south of the City Limits and the vicinity of SW 20th Avenue, west of the vicinity of Interstate 75, north of the vicinity of SW Archer Road, and east of Kanapaha Lake, also identified as Tax Parcel 06836-004-000. Staff has determined that the petition bears the signature of the property owner or authorized agents. Staff has reviewed the requirements of the Boundary Adjustment Act (BAA). This area meets the requirements of the Act and is appropriate for annexation. The area is approximately 193 acres.

*Fiscal Note:* The fiscal impact of this annexation will be addressed in the Urban Services Report.

**RECOMMENDATION**

*The City Commission: 1) receive the petition for*

*annexation; and make findings that it contains the signature of the property owner or authorized agents; 2) direct the City Manager to analyze the area; and 3) authorize the City Attorney to prepare and the Clerk of the Commission to advertise ordinances relating to the annexation of the area, if appropriate.*

*Alternative Recommendation: The City Commission deny acceptance of the petition.*

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## **070116.**

### **Annexation of Parcel Number 06832-000-000 (B)**

**This is the submission of a petition for voluntary annexation for the above referenced parcel number which is located in the vicinity of SW 20th Avenue, Interstate 75, SW Archer Road and Kanapaha Lake.**

*Explanation: Olive Branch Home Buyers LLC, property owner, has submitted a petition to the City of Gainesville for voluntary annexation. The property is generally located south of the City Limits and the vicinity of SW 20th Avenue, west of the vicinity of Interstate 75, north of the vicinity of SW Archer Road, and east of Kanapaha Lake, also identified as Tax Parcel 06836-004-000. Staff has determined that the petition bears the signature of the property owner or authorized agents. Staff has reviewed the requirements of the Boundary Adjustment Act (BAA). This area meets the requirements of the Act and is appropriate for annexation. The area is approximately 7 acres.*

*Fiscal Note: The fiscal impact of this annexation will be addressed in the Urban Services Report.*

#### **RECOMMENDATION**

*The City Commission: 1) receive the petition for annexation; and make findings that it contains the signature of the property owner or authorized agents; 2) direct the City Manager to analyze the area; and 3) authorize the City Attorney to prepare and the Clerk of the Commission to advertise ordinances relating to the annexation of the area, if appropriate.*

*Alternative Recommendation: The City Commission deny acceptance of the petition.*

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## **GENERAL MANAGER FOR UTILITIES, CONSENT AGENDA ITEMS**

## **070119.**

### **Kelly Generating Station Remodeling Project (B)**

**Staff recommends awarding a contract to BBI Construction Management, Inc. for construction of the Kelly Generating Station Remodeling Project.**

*Explanation:* The project consists of infilling the two openings within the northern portion of the second floor turbine area. At the western opening a new stairway is to be provided down to the first floor. The northern portion of the second floor is to be remodeled into an office area, including a conference/training room with new restroom facilities. Existing offices are to be reconstructed with modifications to the control room and the construction of additional offices. The project contains concrete and steel demolition, new concrete, carpet, ceramic tile, gypsum board, acoustic ceiling, insulation, a rooftop gas pack, an outdoor air pre-conditioning unit and exhaust fans.

Invitations to Bid for the Kelly Generating Station Remodeling Project were sent by Utilities Purchasing to thirteen companies that perform this type of work. A mandatory pre-bid was held with six contractors represented. Three contractors responded with bids. BBI Construction Management, Inc. submitted the lowest bid. A tabulation of the bids received is attached for your information.

*Fiscal Note:* Funding for this work is available in the FY 2007 Energy Supply budget.

**RECOMMENDATION**

The City Commission 1) authorize the General Manager, or her designee, to execute a contract with BBI Construction Management, Inc. for construction of the Kelly Generation Station Remodeling Project, and 2) approve the issuance of a purchase order to BBI Construction Management, Inc. in an amount not to exceed \$655,743.00.

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**070120.**

**Load Research Equipment (NB)**

**Staff recommends establishing a contract with Enetics, Inc. for load research equipment.**

*Explanation:* The ability to capture information about their customers' use of electricity allows utilities to better understand the usage and needs of individual and multiple electric customers. This "load research" data can be used by a utility for generation planning, rate development, demand side management (measurement and verification), distribution planning and marketing. In addition, load research can provide essential information that is necessary for projecting the effects of various demand side management programs. To capture this data, a recorder is installed under the meter which records the customer's usage information. The information is collected via a phone line modem and run through algorithms which transform the whole house readings into end use appliance load shapes. This is done by matching the changes present when appliances turn on and off to existing appliance models to determine which appliances are being used and when. Each recorder is calibrated based on the appliance present at that location. Staff has conducted a small scale pilot project to test three different recorders with the associated software over a three month period for the purpose of establishing this program. The result of the pilot project revealed that Enetics SPEED recorders offered the best overall process with reliable appliance level load research most cost effectively. The other systems tested required installation by a licensed electrician which increased the

overall cost significantly and the research results were not as accurate because of the different means of capturing the data. Based on the results of the pilot, staff recommends negotiating a contract with Enetics, Inc. for the purchase of 200 recorders and related equipment and software.

*Fiscal Note: Funds are available in the FY 2007 Utility budget.*

**RECOMMENDATION**

*The City Commission: 1) authorize the General Manager or her designee to negotiate and execute a contract for load research meters and associated equipment from Enetics, Inc., a specified source, to develop a load research program; and 2) approve the issuance of a purchase order for load research meters and equipment from Enetics, Inc. in an amount not to exceed \$320,000.*

**070121.**

**Springhill Operations Center Improvements (B)**

**Staff recommends awarding a contract to Robert L. Kelly Construction, Inc. for construction of the Springhill Operations Center Improvements.**

*Explanation: The project consists of four smaller improvements that were combined to gain procurement leverage. It consists of a covered loading dock addition, driveway and parking improvements, a bathroom addition as well s a covered bulk storage containment area and converting two bays of the T & D Equipment Building into a multi-purpose meeting/training room with an approximate area of 1,775 square feet.*

*Invitations to Bid for the Springhill Operations Center Improvement Project were sent by Utilities Purchasing to thirteen companies that perform this type of work, with three responding. Robert L. Kelly Construction, Inc. submitted the lowest responsive, responsible bid. A tabulation of the bids received is attached for your information.*

*Fiscal Note: Funding for this work is available in the FY 2007 Energy Delivery budget.*

**RECOMMENDATION**

*The City Commission 1) authorize the General Manager, or her designee, to execute a contract with Robert L. Kelly Construction, Inc. for construction of the Springhill Operations Center Improvements, and 2) approve the issuance of a purchase order to Robert L. Kelly Construction, Inc. in an amount not to exceed \$546,300.00.*

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**070122.**

**Environmental Consulting Services Agreement (NB)**

**Staff recommends amending a contract for additional consulting services for the Poole Roofing/CSXT Manufactured Gas Plant (MGP) Remediation**

**project.**

*Explanation:* Over the last two years, Focus Environmental, Inc. has performed extensive work to establish operational criteria for the proposed thermal treatment unit (TTU), the ambient air monitoring levels and soil clean-up target levels (SCTL's) to be used in the remediation work. GRU, with the assistance of Focus Environmental, Inc. has been working closely with the State (FDEP) and County (ACEPD) regulatory agencies on these issues, and earlier this year submitted an Updated Remedial Action Plan (URAP) prepared to a large extent by Focus Environmental, Inc. Because of this experience, Focus Environmental is uniquely qualified to provide remedial design assistance including responding to regulatory agency comments on the URAP. They will assist with regulatory negotiations on specifics of remediation, and issuing addenda to URAP. The anticipated scope of work includes the revision of existing technical specifications to incorporate changes in scope and details of the remediation project based on regulatory agency review of the Updated Remedial Action Plan, the revision of the FDEP/GRU Funding Allocation Agreement and the constructability review of existing specifications. Focus Environment, Inc. is also uniquely qualified to assist GRU staff with contractor procurement support including development of Request for Proposal documents, participation in bid solicitation (pre-bid meeting, communications with bidders), evaluation of responses to RFP and assistance with contract negotiations.

*Fiscal Note:* Funding for this request is included in the Gas Acquisition Cleanup within the Capital Improvements budget.

**RECOMMENDATION**

The City Commission authorize the General Manager or her designee to negotiate and execute amendments to the agreement with Focus Environmental, Inc., as a specified source, for consulting services on an as-needed basis associated specifically with issues related to the Poole Roofing/CSXT Manufactured Gas Plant (MGP) Site Remediation in an amount not to exceed \$125,000.

**CITY ATTORNEY, CONSENT AGENDA ITEMS****070117.****Gator Lodge #67, Fraternal Order of Police and John Torres vs. City of Gainesville; Eighth Judicial Circuit, Court Case No. 2007-CA-002095 (B)**

*Explanation:* On May 31, 2007, the City was served with a Summons and Petition for Declaratory Judgment and Injunctive Relief filed by Gator Lodge #67, Fraternal Order of Police, and John Torres in the Circuit Court. The Petition alleges that a Gainesville Police Department Internal Affairs investigation has continued past the time constraints contained in the contract between the City and the Fraternal Order of Police, and provided in Florida Statutes Law Enforcement Officer's Bill of Rights. The petition is seeking injunctive relief from further internal investigation of Mr. John Torres in case #IA-06-057-E.

**RECOMMENDATION**

The City Commission authorizes the City Attorney

*and/or Special Counsel if insurance coverage is available, to represent the City of Gainesville in the case Gator Lodge #67, Fraternal Order of Police and John Torres vs. City of Gainesville; Eighth Judicial Circuit, Court Case No. 2007-CA-002095*

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**070118.**

**Victor H. Delgado vs. City of Gainesville, a municipal corporation, and Norman Botsford, in his official capacity as Chief of the Gainesville Police Department; Eighth Judicial Circuit, Court Case No. 01-2007-CA 906(B)**

*Explanation: On June 1, 2007, the City was served with a Summons and Complaint filed by Victor H. Delgado in the Circuit Court. Mr. Delgado alleges that he was a driver of a vehicle involved in an automobile accident with a City of Gainesville Police Department vehicle. He claims to have sustained bodily injury, loss of capacity for the enjoyment of life, expenses for medical care and treatment in the past and in the future, loss of earnings and ability to earn money. Mr. Delgado seeks money damages and attorney's fees.*

**RECOMMENDATION**

*The City Commission authorize the City Attorney and/or Special Counsel if insurance coverage is available, to represent the City of Gainesville and City employees acting in the course and scope of their employment and with the consent and waiver of potential conflict by the City employees, in the case Victor H. Delgado vs. City of Gainesville, a municipal corporation, and Norman Botsford, in his official capacity as Chief of the Gainesville Police Department; Eighth Judicial Circuit, Court Case No. 01-2007-CA-906*

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**CLERK OF THE COMMISSION, CONSENT AGENDA ITEMS**

**070090.**

**City Commission Minutes (B)**

**RECOMMENDATION**

*The City Commission approve the minutes of May 7, 2007, May 10, 2007, & May 21, 2007 (Special Meetings); and May 14, 2007 (Regular Meeting); as circulated.*

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**070093.**

**Resignation of Gainesville/Alachua County Cultural Affairs Board Member**

Erica Briggs (B)

RECOMMENDATION

*The City Commission accept the resignation of Erica Briggs from the Gainesville/Alachua County Cultural Affairs Board effective immediately.*

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**070094.**

**Resignation of Citizens' Advisory Committee for Community Development Member Jeff Jones (B)**

RECOMMENDATION

*The City Commission accept the resignation of Jeff Jones from the Citizens' Advisory Committee for Community Development effective immediately.*

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**070111.**

**Resignation of Gainesville Energy Advisory Committee Member Joel Islam (B)**

RECOMMENDATION

*The City Commission accept the resignation of Joel Islam from the Gainesville Energy Advisory Committee effective immediately.*

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**070112.**

**Resignation of Gainesville Energy Advisory Committee Member Anthony B. Brennan, PhD (B)**

RECOMMENDATION

*The City Commission accept the resignation of Anthony B. Brennan, PhD from the Gainesville Energy Advisory Committee effective immediately.*

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**070129.**

**Resignation of Regional Transit System Advisory Board Member Philip W. Michel (B)**

RECOMMENDATION

*The City Commission accept the resignation of Philip W. Michel from the Regional Transit System Advisory Board effective immediately.*

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**EQUAL OPPORTUNITY DIRECTOR, CONSENT AGENDA ITEMS**

**COMMITTEE REPORTS, CONSENT AGENDA ITEMS**

## PUBLIC SAFETY COMMITTEE, CONSENT

### 060725.

#### **Citizen Proposal - Monitoring Yard Parking Violations (B)**

*Explanation: At the May 14, 2007 City Commission, citizen Carol Daly expressed concerns with the Standard Operating Procedure (SOP) presented for the Codes Enforcement staff to follow to incorporate citizen participation in yard parking violations. The City Commission sent this issue back to the Public Safety Committee for clarification. There has also been concern expressed by some citizens that this procedure would have citizens policing other citizens. Mrs. Daly is concerned about creating a more adversarial environment between landlords and tenants and that because a tenant might get the warning or citation, points will be assessed against the landlord. All points may be appealed, however there is no appeal of warning citations.*

*Ron Combs, Senior Assistant City Attorney highlighted to citizens wishing to utilize this process that there is greater responsibility on them than just taking pictures and passing them on to the code officer. They must also be willing to execute and affidavit and testify if need be. The goal is to deter those who may wish to agitate by filing frivolous complaints against landlords and property owners.*

*Jim Garrett, Codes Enforcement Manager, explained that this authority has always been available to his department but a procedure had not been in place to use it. After the issue was referred to the Public Safety Committee he developed the SOP to insure that all Codes Enforcement officers are following the same procedures. It is the internal procedure to handle complaints. This procedure is not for yard parking violations only. Consistent with statutory authority, the SOP is written so that it can be used for other types of violations as needed in the future.*

*Fiscal Note: None*

#### **RECOMMENDATION**

*The City Commission 1) approve this procedure as clarified by staff and 2) remove this item from the Public Safety Committee referral list.*

#### **Legislative History**

11/13/06	City Commission	Referred (6 - 0 - 1 Absent)	Public Safety Committee
12/21/06	Public Safety Committee	Discussed	
3/29/07	Public Safety Committee	Continued	
5/14/07	City Commission	No Action Taken	
5/17/07	Public Safety Committee	Recommended for Approval	

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## AUDIT, FINANCE AND LEGISLATIVE COMMITTEE, CONSENT

**070098.****Review of Youth Sports League Concession Operations (B)**

*Explanation: In accordance with our Annual Audit Plan, we have completed a Review of Youth Sports League Concession Operations in the Recreation Division. Our report, which includes a response from the City Manager, is attached for your review.*

*We request that the Committee recommend the City Commission accept our report and the City Manager's response. Also, in accordance with City Commission Resolution 970187, Section 10, Responsibilities for Follow-up on Audits, we request that the Committee recommend the City Commission instruct the City Auditor to conduct a follow-up review on recommendations made and report the results to the Audit, Finance and Legislative Committee.*

**RECOMMENDATION**

*The City Commission: 1) Accept the City Auditor's report and the response from the City Manager; and 2) instruct the City Auditor to conduct a follow-up review on recommendations made and report the results to the Audit, Finance and Legislative Committee.*

**Legislative History**

6/4/07      Audit, Finance and      Recommended for Approval  
    Legislative  
    Committee  
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**070104.****Fiscal Year 2007 Operating Funds Quarterly Monitoring Report - Quarter Ending March 31, 2007 (B)**

*Explanation: The City's General Government Budget Policy requires staff to prepare and submit a quarterly Budget compliance report in substantially the same form as the final budget document, for all major operating funds, including the status of General Fund fund balances, to the Audit and Finance Committee.*

**RECOMMENDATION**

*The Audit, Finance, and Legislative Committee review and recommend that the City Commission receive the quarterly budget monitoring report for the quarter ended March 31, 2007.*

**Legislative History**

6/4/07      Audit, Finance and      Recommended for Approval  
    Legislative  
    Committee  
 070104\_20070604.pdf

**070096.****GRU's Quarterly Financial Report - Gainesville Regional Utilities (B)**

**RECOMMENDATION**

*The City Commission receive the GRU Quarterly Financial Report as of March 31, 2007.*

**Legislative History**

6/4/07      Audit, Finance and      Recommended for Approval  
                  Legislative  
                  Committee  
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**070099.****Report on the Status of Outstanding Audit Recommendations for June 2007 (B)**

*Explanation: City Commission Resolution 970187, City Auditor Responsibilities and Administrative Procedures, requires the City Auditor to notify the appropriate Charter Officer of recommendations projected for implementation in the following six months. The responsible department managers prepare a written status report to the appropriate Charter Officer who then provides this information to the City Auditor. The City Auditor's Office verifies that corrective action has been taken and summarizes the results to the Audit, Finance and Legislative Committee.*

*During the past several months, the City Auditor worked with the appropriate Charter Officers in preparing a status report on 33 outstanding audit recommendations. We have reviewed management's feedback on the implementation of outstanding recommendations and prepared the attached status report summarizing the results of our review.*

*We would like to express our thanks to the City Manager, General Manager for Utilities, Equal Opportunity Director and the various departments participating in this review process.*

**RECOMMENDATION**

*The City Commission: 1) Accept the City Auditor's report; and 2) refer the issue of lobbyist registration to the Charter Officers for further development and a recommendation back to the Audit, Finance and Legislative Committee.*

**Legislative History**

6/4/07      Audit, Finance and      Recommended for Approval  
                  Legislative  
                  Committee  
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**070100.****Sale of Brownfield Voluntary Cleanup Tax Credits (B)**

*Explanation: In January 2000, the City Commission established a Brownfields Redevelopment Area in the City of Gainesville to include the former Gainesville Manufactured Gas Plant and portions of the proposed Depot Avenue Stormwater Park, for the purposes of environmental remediation, rehabilitation and economic*



**CLERK OF THE COMMISSION****CITY MANAGER****061148.****Flood Zone Status Update (B)**

**This item involves the presentation on the status of implementation of the revised FEMA Flood Insurance Rate Maps.**

*Explanation: The Federal Emergency Management Agency (FEMA) issued new Flood Insurance Rate Maps for Alachua County, including the City of Gainesville on June 16, 2006. A local flood study originally carried out in 1974 and updated in 1986 was incorporated into the FEMA Flood Insurance Rate Maps. The Flood Insurance Rate Map changes added 1,411 parcels to the Special Flood Hazard Area, removed 709 parcels resulting in a net increase of 702 parcels within the City of Gainesville.*

*The City of Gainesville Public Works Department has responded to citizen requests for information and provided assistance with applications for Letters of Map Change and determinations of qualification for FEMA Flood Insurance discounts under Grandfather Rules. Neighborhood Meetings on the new Flood Insurance Rate Maps were held when requested by neighborhood association leaders.*

*Local efforts are underway to modernize the Flood Insurance Rate Maps within the City of Gainesville. Flood study updates have been completed for Sweetwater Branch and Tumblin Creek. The studies are currently being reviewed by FEMA. Flood study updates for Little Hatchet Creek and Lake Forest Creek are scheduled to begin in 2008. FEMA has funding available for flood study updates through their Map Modernization Program. The Map Modernization Program is administered in Florida through the Water Management Districts. The City of Gainesville is located within both the St. Johns River Water Management District and the Suwannee River Water Management District.*

*Fiscal Note: A request for \$400,000, for the Little Hatchet Creek and Lake Forest Creek Watershed Management Plan is included in the SJRWMD 2007-2008 Legislative Initiative for the Orange Creek Basin. The Little Hatchet Creek and Lake Forest Creek Watershed Management Plan Updates are included in the 2008 Capital Improvement Plan as a \$200,000 line item.*

**RECOMMENDATION**

*Recommended Motion: The City Commission: 1) hear a presentation; and 2) authorize the City Manager to send a letter to the St Johns River Water Management District and the Suwannee River Water Management District requesting financial assistance for Flood Insurance Rate Map updates through the FEMA Map Modernization Program.*

*Alternative Recommendation A: The City Commission*

refer the FEMA Flood Zone update to the Culture, Recreation and Public Works Committee for review and direction.

*Alternative Recommendation B: The City Commission refer the FEMA Flood Zone update back to the Public Works Department for review.*

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### 070059.

#### **Eighth Annual Stop the Violence Rally - Reverend Karl Anderson (B)**

**This is a request for City Commission Contingency Funds for the People Against Violence Enterprises (PAVE) in support of the Eighth Annual Stop the Violence Rally.**

*Explanation: The People Against Violence Enterprises is hosting the Eighth Annual Stop the Violence Rally to be held on August 4, 2007. The PAVE organization is requesting \$5,558 to help defray the cost of expenses to raise an awareness to the whole community concerning violence prevention. The organization will use the funds to pay for two banners, backpacks, and Gainesville Police Department security. The City Commission contributed \$1,500 in August of 2006 in support of this special event.*

*Fiscal Note: The People Against Violence Enterprises is requesting a total of \$5,558 from the City Commission Contingency Fund.*

#### **RECOMMENDATION**

*The City Commission consider the request for funds and take action as appropriate.*

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## **GENERAL MANAGER FOR UTILITIES**

### 070123.

#### **Public Utilities Regulatory Policy Act (PURPA) Requirements (B)**

**Staff will make a presentation on the schedule and public participation procedure for consideration and determination of Standards 14 and 15 of the Public Utility Regulatory Policies Act of 1978 (as amended by the Energy Policy Act of 2005), 16 U.S.C. §2621(d)(14) and (15). PURPA jurisdictional members have until August 8, 2007, to begin consideration of time based metering and communications, and interconnection standards for distributed resources.**

*Explanation: The Public Utility Regulatory Policies Act of 1978 (PURPA) was enacted as part of the National Energy Act by President Jimmy Carter. The Energy Policy Act of 2005 (EPAct 2005) adds five additional PURPA standards that state commissions and nonregulated utilities must consider. These include (1) net metering; (2) fuel diversity; (3) fossil fuel generation efficiency; (4) time based metering and communications; and (5) interconnection standards for distributed*

resources. The City Commission took initial action to meet the PURPA requirements on July 31, 2006.

PURPA jurisdictional members have until August 8, 2007, to begin consideration of time based metering and communications (Standard 14), and interconnection standards for distributed resources (Standard 15). PURPA requires consideration by each electric utility of offering each of its customer classes, and providing to individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule, if adopted, would enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

The PURPA interconnection standards require consideration of the interconnection of electric utility distribution facilities to certain customers who have on-site generation. If the Gainesville City Commission adopts the standards, it would be required to make the system available for such interconnection and qualifying customers would be required to meet certain engineering requirements.

Staff recommends the following timeline:

June 15, 2007 - GRU staff recommendation will be released and available at the Office of the General Manager at 301 SE 4th Avenue, Gainesville, Florida 32614-7117, or by telephone at 352-393-1000. The GRU staff recommendation will also be available at the Office of the Clerk of the Commission at 200 East University Avenue, Gainesville Florida 32602-0490, or by telephone at 352-334-5015. The Notice (attached) of Hearing will be published in the Gainesville Sun.

On, or before June 25, 2007 – members of the general public planning to participate in the hearing must file a Notice of Intent to Participate in Hearing (attached) and may file written testimony and any other information in support of or in opposition to the adoption of the GRU staff recommendation. Notice of Intent may be filed at the meeting.

June 25, 2007 – public hearing shall be held at the City Commission meeting, after 6 pm.

June 27, 2007 – The General Manager shall issue a Recommended Decision for Gainesville City Commission consideration

July 9, 2007 - The Gainesville City Commission shall issue their decision adopting, modifying or rejecting the Recommended Decision regarding the implementation of Standards 14 and 15.

PURPA requires that all consideration and determination on implementation be completed by August 8, 2008. If these timeframes are not met, the utility must consider and make a determination on the standard at the first rate proceeding conducted after August 8, 2008.

**Fiscal Note:** The estimated cost for consideration and determination of PURPA requirements is included in the FY 2007-08 Budget.

**RECOMMENDATION**

The City Commission receive a presentation on the schedule for consideration and determination of Standards 14 and 15 of the Public Utility Regulatory Policies Act of 1978 (as amended by the Energy Policy Act of 2005), 16 U.S.C. §2621(d)(14) and (15) and the

*public participation procedure for PURPA standards.*

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## **CITY ATTORNEY**

## **CITY AUDITOR**

## **EQUAL OPPORTUNITY DIRECTOR**

## **COMMITTEE REPORTS (PULLED FROM CONSENT)**

## **PUBLIC SAFETY COMMITTEE**

### **050749.**

#### **Roam Towing Regulations (B)**

*Explanation: At the March 12 City Commission meeting, the City Commission referred this ordinance issue back to the Public Safety Committee for clarification on 1) time parameters for the accumulation of violations; 2) directions for corrective actions and 3) whether prohibiting trespass tow operators who have felony convictions is unreasonable and 4) authorize the City Attorney to draft and the Clerk to advertise the ordinance as amended.*

*The Public Safety Committee met with members of the towing companies at its meetings in March, April and May to go over the ordinance, make the requested clarifications and to address other issues brought up by the towing companies.*

*At the May 17 Public Safety Committee a final draft of the ordinance was presented and, after discussion with staff and members of the towing community, and some additional modification as a result of those discussions, the draft was approved by the Committee members.*

*Clarifications and modifications were made as follows: 1) defined "physically connected" for purposes of the owner/custodian returning prior to the vehicle being "physically connected"; 2) provide for registration and permit fees; 3) provider duration or replacement permits; 4) clarified that employees may change employers without having to undergo an additional permit process, though a replacement permit will have to be obtained; 5) refined disqualifying criminal history; 6) established time frame from review of permit application; 7) added "valuable consideration" terminology as used in the state statute; 8) established one-year time-frame for violations leading to suspension; 9) refined relationship of operators to the owner for purposes of suspension; 10) refined owner's responsibilities to avoid suspension for driver violations; 11) provided tiered time-frame for revocations; 12) provided for photographic evidence to be time and date stamped; 13) provided for maximum towing fees for various types of vehicles using the Towing and Recovery Association of America's Vehicle Identification guide; 14) clarified that all listed payment options be accepted. Fees are to be established by Resolution of the City Commission. Provides for initial review of such fees consistent with current*

*review schedule notwithstanding that it will occur, if requested, in less than one year; and 15) prohibited temporary storage absent a bona fide emergency.*

*Fiscal Note: None*

**RECOMMENDATION**

*The City Commission 1) hear a presentation from staff regarding the changes and clarifications made to the Roam Towing Regulations Ordinance; 2) set fee for owner registration and operator permits; 3) authorize the City Attorney to draft a Resolution, consistent with the draft included in the back-up which establishes maximum towing fees for various classes of vehicles as defined by the Towing Recovery Association of America; and 4) authorize the Clerk to advertise the ordinance as amended.*

**Legislative History**

11/28/05	City Commission	Referred	Public Safety Committee
12/15/05	Public Safety Committee	Discussed	
2/16/06	Public Safety Committee	Discussed	
3/16/06	Public Safety Committee	Discussed	
4/10/06	City Commission	Approved as Recommended (4 - 0 - 3 Absent)	
6/15/06	Public Safety Committee	Discussed	
7/10/06	City Commission	Approved as Recommended (7 - 0)	
2/26/07	City Commission	Referred (6 - 0 - 1 Absent)	Public Safety Committee
3/29/07	Public Safety Committee	Discussed	
5/17/07	Public Safety Committee	Recommended for Approval	

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## AUDIT, FINANCE AND LEGISLATIVE COMMITTEE

## EQUAL OPPORTUNITY COMMITTEE

### **051224.**

#### **Domestic Partner Registry (B)**

*Explanation: On April 3, 2006, the City Commission referred the issue of establishing a Domestic Partner Registry to the Equal Opportunity Committee for a full report.*

*Ordinances, forms, and other related information from various communities that already have Domestic Partner Registries were reviewed by the Equal Opportunity Committee and staff. Issues related to maintenance of a registry, documentation required, effect on other laws, rights and benefits, and other related issues were discussed. After discussion of these issues, the Equal Opportunity Committee recommended taking this item to the full City*

*Commission.*

*Fiscal Note: None*

**RECOMMENDATION**

*The City Commission: 1) hear a presentation of the establishment of a Domestic Partner Registry; 2) authorize the City Attorney to draft an ordinance establishing a Domestic Partner Registry; and 3) remove the item from the Equal Opportunity Committee's referral list.*

**Legislative History**

4/3/06	City Commission	Referred	Equal Opportunity Committee
5/1/06	Equal Opportunity Committee	Discussed	
6/5/06	Equal Opportunity Committee	Discussed	
7/20/06	Equal Opportunity Committee	Discussed	
10/10/06	Equal Opportunity Committee	Discussed	
1/18/07	Equal Opportunity Committee	Discussed	
3/14/07	Equal Opportunity Committee	Recommended for Approval, as shown above	

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**REGIONAL UTILITIES COMMITTEE**

**ADVISORY BOARDS/COMMITTEES (APPOINTMENTS/REPORTS)**

**OUTSIDE AGENCIES**

**MEMBERS OF THE CITY COMMISSION**

**070113.**

**Commissioner Jack Donovan - City Commission Workshops (B)**

*Explanation: The City Attorney and Clerk of the Commission have met and provided draft City Commission Rules changes which would facilitate City Commission workshops.*

**RECOMMENDATION**

*The City Commission discuss City Commission workshops and take action deemed appropriate.*

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**COMMISSION COMMENTS (if time available)**

**RECESS****RECONVENE****PLEDGE OF ALLEGIANCE (5:30pm)****Gator Detachment of the Marine Corp League****PROCLAMATIONS/SPECIAL RECOGNITIONS****070109.****Flag Day - June 14, 2007 (B)****RECOMMENDATION**

*Gator Detachment of the Marine Corp League to accept the proclamation.*

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**070110.****Code Enforcement Officers Appreciation Week - June 11-15, 2007 (B)****RECOMMENDATION**

*City of Gainesville Code Enforcement Supervisors Dave Watkins and Jim Cellon to accept the proclamation.*

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**CITIZEN COMMENT (6:00pm) - Please sign on sign-up sheet****PUBLIC HEARINGS****ADOPTION READING, ROLL CALL REQUIRED****061121.****REZONING - 727 SW 4TH AVENUE (B)****Ordinance No. 0-07-33, Petition No. 1ZON-07PB**

**An ordinance of the City of Gainesville, Florida, amending the Zoning Map Atlas and rezoning certain property within the City, as more specifically described in this Ordinance, from "Planned Development District" to "Urban Mixed Use 2 (UMU-2)"; located in the vicinity of 727 SW 4th Avenue; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

*Explanation: STAFF REPORT*

*The subject property is located at 727 SW 4th Avenue. The property proposed*

for the zoning change is approximately .10 of an acre in size. This petition is being proposed in order to bring the parcel under the Urban Mixed Use-2 zoning category, which is consistent with the surrounding properties. The parcel is also located in the University Heights Special Area Plan area. The current zoning is PD (Planned Development).

Because this property was zoned PD (Planned Development), it was not included in the zoning action that changed the surrounding properties to the UMU-2 (Urban Mixed Use-2) zoning category. At that time, the parcel was being used per the requirements of the PD zoning ordinance (3108, adopted 2/18/85) as a surgical equipment and supplies store. Currently, the store is vacant and the owner wishes to expand the available uses for this parcel, consistent with the surrounding UMU-2 zoning.

The UMU-2 zoning was placed on the surrounding parcels (and the surrounding area) by the adoption of Ordinance 041061, which was adopted 11/28/05.

Planning staff finds that the change in zoning for the subject parcel to match with the surrounding UMU-2 zoning is consistent with the Comprehensive Plan and the intent of the UMU-2 zoning district.

The property is already developed with an existing building that covers most of the lot area. It is located south of the Shands at AGH hospital site and is surrounded by developed properties. The site is served by utilities and is at the SE corner of SW 4th Avenue and SW 8th Street. Access to the building is from both SW 8th Street and SW 4th Avenue. Pedestrian access is available from sidewalks on SW 4th Avenue.

The Plan Board heard the petition and recommended that it be approved.

Public notice was published in the Gainesville Sun on April 3, 2007. Letters were mailed to surrounding property owners on April 4, 2007. The Plan Board held a public hearing April 19, 2007. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition IZON-07PB. Plan Board vote 5-0.

#### CITY ATTORNEY MEMORANDUM

The petition and ordinance are simultaneously submitted to the City Commission for approval and adoption because city staff and the plan board both recommend approval.

#### RECOMMENDATION

The City Commission: 1) approve Petition No. IZON-07PB; and 2) adopt the proposed ordinance.

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## **ORDINANCES, 1ST READING- ROLL CALL REQUIRED**

**050255.****AMENDMENT TO CLUSTER SUBDIVISION REQUIREMENTS (B)****Ordinance No. 0-05-95; Petition No. 121TCH-05PB**

**An ordinance of the City of Gainesville, Florida, amending the Land Development Code relating to cluster subdivisions; amending section 30-190, establishing criteria for classifying cluster subdivisions as either environmental or infill, establishing lot sizes, clarifying the cluster open space requirement, and modifying the criteria for the review of cluster subdivisions; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

*Explanation: COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT*

*This petition is proposed in order to update the cluster subdivision ordinance and ensure that cluster subdivisions result in better site planning than would normally occur through conventional subdivision procedures. Staff's review found that the current cluster subdivision process was adopted long before many of the regulations the City has in place today to protect environmental features, such as wetlands and creeks. Since all developments are required to protect environmental resources, such as creeks and wetlands, the cluster subdivision ordinance is being updated so that the cluster open space being provided is above and beyond those already-protected environmental features. Staff has amended the cluster subdivision provisions to establish minimum lot sizes (no minimum existed previously), to increase compatibility with existing surrounding neighborhoods. The amended chapter also requires cluster open space to be more than already protected environmental areas, and classifies cluster subdivisions as either environmental or infill, so that the objectives of any given cluster subdivision are clearer. The Plan Board reviewed the petition and recommended several changes. The Community Development Committee also provided input and direction. Public notice was published in the Gainesville Sun on August 2, 2005. The Plan Board held a public hearing August 18, 2005. The Plan Board, by a vote of 5-0, approved the Petition with modifications.*

*The City Commission heard and approved this Petition, with further modifications, on September 26, 2005. The ordinance was put on hold by staff while they finalized Petition 122TCH-05 PB, relating to approval of design plats and modifying requirements for subdivision approval.*

*At its April 23, 2007 and May 14, 2007 meetings, the City Commission continued first reading of this ordinance in order for planning staff to consider revising the ordinance to provide a threshold subdivision size over which the minimum lot sizes would not apply.*

*Planning Staff reviewed all parcels greater than 5 acres (i.e, eligible for application for a cluster subdivision) and removed from consideration all parcels that were surrounded by, and would potentially be incompatible with, established neighborhoods. After this analysis, 8 parcels remained ranging in size from 52 acres to over 1000 acres, all being isolated parcels or located at*

*the edge of the City limits. Based on this, planning staff recommends that cluster subdivisions of 50 acres or less be subject to the minimum lot sizes specified in the ordinance; while those 51 acres or larger would not be subject to minimum lot sizes. All cluster subdivisions would still be limited by the overall density allowed in the underlying zoning district.*

*CITY ATTORNEY MEMORANDUM*

*Should the Commission pass the ordinance on first reading on June 11, 2007, the second and final reading will be held on Monday, June 25, 2007.*

*Fiscal Note: None*

**RECOMMENDATION**

*The City Commission adopt the proposed ordinance.*

**Legislative History**

9/26/05	City Commission	Approved (Petition) as Modified (6 - 0 - 1 Absent)
4/23/07	City Commission	Continued (1st Reading) (6 - 0 - 1 Absent)
5/14/07	City Commission	Continued (1st Reading) (7 - 0)

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**060501.**

**LAND DEVELOPMENT CODE AMENDMENT RELATING TO MULTIPLE-FAMILY MEDIUM DENSITY RESIDENTIAL ZONING DISTRICTS (B)**

**Ordinance No. 0-06-121; Petition 142TCH-06 PB**

**An ordinance of the City of Gainesville, Florida, amending the City of Gainesville Land Development Code, relating to height requirements for RMF-6, RMF-7, and RMF-8 multiple-family medium density residential zoning districts; amending section 30-53(d), Table 3, to list the maximum building height allowed for MF buildings; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

*Explanation: COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT*

*This petition, initiated by staff, is necessary to correct a scrivener's error in the Land Development Code. Sec. 30-53(d), Table 3 (dimensional requirements for RMF-6, RMF-7 and RMF-8 multi-family medium density residential zoning districts) inadvertently and incorrectly states the building height (for MF buildings) is the minimum height; it should state the building height is the maximum height.*

*The Plan Board held a public hearing September 21, 2006. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board approved the petition by a vote of 4-0 and recommended that the City*

*Commission approve Petition 142TCH-06 PB.*

*CITY ATTORNEY MEMORANDUM*

*This ordinance requires two public hearings. If adopted on first reading, the second and final reading will be held on Monday, June 25, 2007.*

*Fiscal Note: None*

**RECOMMENDATION**            *The City Commission (1) approve Petition 142TCH-06 PB and (2) adopt the proposed ordinance.*

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**060587.**

**LAND DEVELOPMENT CODE AMENDMENT - AMENDING USES IN PUBLIC SERVICES AND OPERATIONS DISTRICT (PS) (B)**

**Ordinance No. 0-07-04; Petition 160TCH-06 PB**

**An ordinance of the City of Gainesville, Florida, amending the City of Gainesville Land Development Code, amending Section 30-75 by adding Major Group 41. - Local and Suburban Transit and Interurban Highway Passenger Transportation as uses by right in the Public Services and Operations District (PS); providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

*Explanation: COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT*

*Recently, the City of Gainesville has reviewed a development plan for a rescue station facility located in an I-1 (limited industrial district) zone. The I-1 zone allows Industry Number 4119, Local Passenger Transportation, Not Elsewhere Classified, from the Standard Industrial Classification Manual (SIC), 1987. This industry number includes the use, "Ambulance service, road." It was determined that emergency medical services (EMS) vehicles would be the only emergency vehicles allowed to operate from the property, thus, excluding the use of fire trucks from the site.*

*It was noted that an adjacent PS (public services and operations district) zoned property did not allow IN-4199 as a use. Although combined fire protection and ambulance or rescue services are allowed uses on PS-zoned property, ambulance services not associated with a fire department are not. In some communities local governments contract with private ambulance companies to provide service to the public. To allow for this possibility in Gainesville, this petition to add road ambulance service as a use to the PS zoning district was proposed.*

*After reviewing the uses allowed in the PS zone and the uses that are included within Major Group 41, Local and Suburban Transit and Interurban Highway Passenger Transportation, it was noted that bus service, including maintenance and terminal operation was classified in this major group. The City's Regional Transit System (RTS) headquarters is located just to the west of the proposed*

rescue station facility mentioned above. The zoning category for the RTS facility is PS, which presently does not allow MG-41 uses other than Group Number 415, School Buses. The other uses included under MG-41 (see attached) are generally compatible with the PS district. Consequently, the staff recommendation has been expanded to include not only "Ambulance service" as initially planned, but also the other uses listed under MG-41. Because

"Ambulance service" is listed under MG-41, no definition needs to be added to the Land Development Code.

Public notice was published in the Gainesville Sun on November 29, 2006. On December 14, 2006, the Plan Board approved the petition by a 6-0 vote and recommended the City Commission approve the petition, as revised.

#### CITY ATTORNEY MEMORANDUM

This ordinance requires two public hearings. If adopted on first reading, the second and final reading will be held on Monday, June 25, 2007.

Fiscal Note: None

**RECOMMENDATION** The City Commission (1) approve Petition 160TCH-06 PB; and (2) adopt the proposed ordinance.

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### 060858.

#### LAND DEVELOPMENT CODE AMENDMENT - PARKING REQUIREMENTS FOR LIBRARIES (B)

##### **Ordinance No. 0-07-17; Petition 201TCH-06 PB**

**An ordinance of the City of Gainesville, Florida, amending section 30-332(c), Land Development Code, changing the parking requirement for libraries to one vehicle space per 200 square feet of gross floor area; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

*Explanation:* COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

The Alachua County Library District staff has provided information to the City which indicates that the current parking requirements for public libraries are deficient. The Florida Library Association publication, "Standards for Florida Public Libraries 2004, 2006 Revision, adopted April 18, 2006," recommends one vehicle parking space per 200 square feet of gross building area as an essential standard (at the minimum level). The Florida League of Cities and the Florida City and County Management Association have endorsed the Florida Library Association standards.

The public libraries within city limits contain not only library/book facilities but also large meeting rooms that are used for educational or other public programs. The meeting room space plus basic library services being co-located

*means that parking space deficiencies are problematic for the library district.*

*The current City Code requires only one space per 1,000 square feet of gross floor area. Based on input from the local library district staff, Planning staff recommends changing the requirement to one vehicle parking space per 200 square feet of gross floor area. Planning staff recommends that the text in the Land Development Code, Section 30-332(c) for Libraries be amended as follows:*

*Libraries     1 vehicle space for each 200 square feet of gross floor area.*

*Public notice was published in the Gainesville Sun on January 30, 2007. On February 15, 2007, the Plan Board held a public hearing, and by a vote of 5-0 approved the petition.*

*CITY ATTORNEY MEMORANDUM*

*This ordinance requires two public hearings. If adopted on first reading, the second and final reading will be held on Monday, June 25, 2007.*

*Fiscal Note: None*

**RECOMMENDATION**

*The City Commission (1) approve Petition 201TCH-06 PB; and (2) adopt the proposed ordinance.*

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**060415.**

**PLANNED DEVELOPMENT AMENDMENT - METRO CORP- NW 39TH AVENUE AND 43RD STREET (B)**

**Ordinance No. 0-06-109, Petition No. 102PDA-06PB**

**An Ordinance of the City of Gainesville, Florida; amending Ordinance No. 030130, that amended Ordinance No. 3805 that amended the Planned Development commonly known as "Metro Corp" located in the vicinity of the southeast corner of N.W. 39th Avenue and N.W. 43rd Street; by allowing an additional financial institution on Lot 4; by extending the time for the development of Lots 3 and 4; by adopting revised development plan maps and a revised planned development report; amending and adopting additional conditions and restrictions as to Lot 4; providing for penalties; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

*Explanation: COMMUNITY DEVELOPMENT STAFF REPORT*

*The MetroCorp development is located at the southeast corner of Northwest 43rd Street and Northwest 39th Avenue. The development was initially approved on October 17, 1983 to establish an office development on 5.035 acres (219,357 square feet). Lots 1, 2, 3 and 4 were platted and subsequently developed in phases. The Planned Development ordinance regulating the development was revised in 1992, and again in 2003 to revalidate the Planned Development. A sizeable portion of MetroCorp development Lot 4 fronting Northwest 39th*

*Avenue has not been developed. The current petition as approved by the city plan board and city commission, is an amendment to the Planned Development to add Financial Institution as an allowed use, and to extend the deadline for development of Lots 3 and 4 and to extend Ordinance 030130 for a period of two years from the current expiration date of December 31, 2006.*

*The applicant is expected to request a new change to extend the date of the Metrocorp Center Planned Development to December 31st 2010, instead of December 31st 2008. The request is necessary in order to respond professionally to recent changes in the overall economy, the construction industry, design considerations and finalizing the existing development under construction on the remainder of the Metrocorp Lot 4. On September 25, 2006, the City Commission approved a Planned Development amendment to the Metrocorp Center Planned Development to allow an additional financial institution on the remainder of Lot 4, Metrocorp Development and to extend the valid date of the planned development.*

*The Plan Board heard the petition and recommended that it be approved, with staff conditions as modified by the petitioner and staff.*

*Public notice was published in the Gainesville Sun on August 1, 2006. Letters were mailed to surrounding property owners on August 2, 2006. The Plan Board held a public hearing August 17, 2006.*

#### *CITY ATTORNEY MEMORANDUM*

*The City Commission, at its meeting of September 25, 2006, authorized the city attorney's office to prepare and advertise the necessary ordinance amending the planned development known as "Metro Corp".*

#### **RECOMMENDATION**

*The City Commission: 1) hear a presentation from staff; and 2) adopt the proposed ordinance.*

#### **Legislative History**

9/25/06 City Commission Approved (Petition) with Staff Conditions (7 - 0)

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## **060736.**

### **LAND USE CHANGE - ALAMAR GARDENS (B)**

#### **Ordinance No. 0-07-26, Petition 179LUC-06PB**

**An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan; by changing the land use category of certain property, as more specifically described in this ordinance, annexed into the City from the Alachua County land use category of "Medium Density Residential" to the City of Gainesville land use category of "Mixed-Use Medium-Intensity (12-30 units per acre)" consisting of approximately 40.5 acres, located in the vicinity of 4400 S.W. 20th Avenue; making findings; providing a severability clause; providing a repealing clause; and providing an effective date.**

*Explanation: STAFF REPORT*

*This petition is related to zoning petition 180ZON-06 PB. The purpose of this petition is to apply a City of Gainesville land use category to land that was annexed into the City in 2006. Land use districts are recommended that either approximate those of the existing Alachua County districts or that are felt to be the most appropriate for the property based upon location, surrounding development and other factors. The County land use designation remains in effect until the proposed amendment has been adopted.*

*The annexed area includes two parcels that total approximately 40.5 acres. The Alamar Gardens Mobile Home Park currently occupies the site with 224 mobile home lots. The property is on the north side of Southwest 20th Avenue, north and west of Southwest 43rd Street. The Alachua County land use designation for the property is Residential Medium Density (greater than 4 to less than or equal to 8 dwelling units per acre) with a County zoning designation of RM (Manufactured/mobile home park). The requested large-scale land use amendment is from Residential Medium Density to the City of Gainesville land use designation of MU-M (Mixed-Use Medium-Intensity, 12-30 units per acre).*

*This petition will likely have an impact on the provision of affordable housing. Redevelopment that may occur based upon this land use and subsequent zoning change will eliminate the existing mobile home park. Provisions exist within Florida Statutes Chapter 723 concerning notice requirements to mobile home owners about zoning changes. Before a local government can approve a rezoning or any other official action that would result in the removal or relocation of mobile home owners, it must be shown that adequate mobile home parks or other suitable facilities are available for the relocation of the mobile home owners. At the time of submittal of this petition in October 2006, the petitioners indicated that of the 224 lots in Alamar Gardens, 84 were occupied by renters, 52 were occupied by mobile home owners, 51 mobile homes were vacant, and 37 lots were vacant.*

*The petitioners presented to the Plan Board a mobile home relocation program. They indicate that they have been in negotiations with several mobile home parks to arrange for the relocation of mobile homes from Alamar Gardens. Moving costs to a local mobile home park or a local private lot will be paid by Alamar Gardens. Selected parks will pay for the costs of skirting and connection fees and possibly provide rental incentive packages featuring free or reduced rent. For those tenants with mobile homes that cannot be moved, Alamar Gardens will sell them a mobile home at approximately 50% of the Blue Book value not to exceed \$7,000. The purchase will be financed for three years with zero interest and no down payment. The mobile home owner will deliver the title of the old, unmovable mobile home to Alamar Gardens, who will move or recycle the unit at their expense. Ongoing negotiations are intended to obtain minimum 2-year leases with guaranteed rental rates and 12 months free rent. Alamar Gardens will extend current leases ending May 31, 2007 to August 31, 2007 with no rent increase.*

*The Plan Board and some members of the public expressed concern about whether there were sufficient mobile home park spaces available in the local area to accommodate all of the people who wanted to move their homes to*

another park, in light of the situation at Buck Bay and Candlelight Estates. The petitioners believe that they have shown that adequate facilities do currently exist to accommodate the Alamar Gardens mobile home owners and that they have far exceeded the Florida Statute requirements for relocating these tenants. Negotiations continue with the mobile home owners to make appropriate arrangements.

The subject property is located outside the Gainesville Transportation Concurrency Exception Area (TCEA). Any new development therefore must meet the adopted roadway level of service standards. The adopted level of service standard for this segment of Southwest 20th Avenue from Southwest 62nd Boulevard to Southwest 34th Street is "D." However, the segment is currently over capacity, meaning that trips are not currently available along this road segment. The development will receive concurrency trip credits for the 224 existing lots. Transportation mitigation will be required before any additional development trips beyond the credits can be approved along this segment. Land use changes are not required to meet concurrency requirements, and do not vest for concurrency, which will be determined at the time of any future development plan approval.

The City Plan Board heard the petition and recommends approval.

Public notice was published in the Gainesville Sun on January 2, 2007. Letters were mailed to surrounding property owners on January 3, 2007. The Plan Board held a public hearing January 18, 2007.

#### CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing is held at the transmittal stage and must be advertised seven days prior to the first public hearing. The second hearing will be held at the adoption stage of the ordinance and must be advertised five days before the adoption hearing.

If adopted on first reading, the proposed amendment to the Comprehensive Plan will be transmitted to the State Department of Community Affairs (DCA) for written comment. Any comments, recommendations or objections of the DCA will be considered by the Commission at the second public hearing.

Following second reading, the Plan amendment will not become effective until the DCA issues a final order determining the adopted amendment to be in compliance in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, or until the Administration Commission (Governor and Cabinet) issues a final order determining the adopted amendment to be in compliance.

#### RECOMMENDATION

The City Commission adopt the proposed ordinance.

#### Legislative History

4/9/07 City Commission Approved (Petition) (5 - 0 - 2 Absent)

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**060737.****REZONING - 4400 S.W. 20TH AVENUE - ALAMAR GARDENS (B)****Ordinance No. 0-07-27, Petition No. 180ZON-06PB**

**An ordinance of the City of Gainesville, Florida, amending the Zoning Map Atlas and rezoning certain property annexed into the City, as more specifically described in this Ordinance, from the Alachua County zoning category of "RM, manufactured/mobile home park" to the City of Gainesville zoning category of "MU-2: 12-30 units/acre mixed use medium intensity"; located in the vicinity of 4400 S.W. 20th Avenue; making findings; providing a severability clause; providing a repealing clause; and providing an effective date.**

*Explanation: STAFF REPORT*

*This petition is related to land use petition 179LUC-06 PB. The purpose of this petition is to apply City of Gainesville zoning to land that was annexed into the City in 2006. When properties are annexed, zoning districts are recommended that either approximate those of the existing Alachua County districts or that are felt to be the most appropriate for the property based upon location, surrounding development and other factors. The County zoning designation remains in effect until the proposed amendment has been adopted.*

*The annexed area includes two parcels that total approximately 40.5 acres. The Alamar Gardens Mobile Home Park currently occupies the site, with 224 mobile home lots. The property is on the north side of Southwest 20th Avenue, north and west of Southwest 43rd Street. The Alachua County land use designation for the property is Residential Medium Density (4 to 8 dwelling units per acre) with a County zoning designation of RM (Manufactured/Mobile Home Park). The requested zoning change is from Manufactured/Mobile Home Park to the City of Gainesville zoning designation of MU-2 (12-30 units/acre mixed-use medium intensity).*

*This petition will likely have an impact on the provision of affordable housing. Redevelopment that may occur based upon this land use and subsequent zoning change will eliminate the existing mobile home park. Provisions exist within Florida Statutes Chapter 723 concerning notice requirements to mobile home owners about zoning changes. Before a local government can approve a rezoning or any other official action that would result in the removal or relocation of mobile home owners, it must be shown that adequate mobile home parks or other suitable facilities are available for the relocation of the mobile home owners. At the time of submittal of this petition in October 2006, the*

*petitioners indicated that of the 224 lots in Alamar Gardens, 84 were occupied by renters, 52 were occupied by mobile home owners, 51 mobile homes were vacant and 37 lots were vacant.*

*The petitioners presented to the Plan Board a mobile home relocation program. They indicate that they have been in negotiations with several mobile home parks to arrange for the relocation of mobile homes from Alamar Gardens. Moving costs to a local mobile home park or a local private lot will be paid by Alamar Gardens. Selected parks will pay for the costs of skirting and connection fees and possibly provide incentive packages featuring free or reduced rent. For those tenants with mobile homes that cannot be moved, Alamar Gardens will sell them a mobile home at approximately 50% of the Blue Book value not to exceed \$7,000. The purchase will be financed for three years with zero interest and no down payment. The mobile home owner will deliver the title of the old, unmovable mobile home to Alamar Gardens, who will move or recycle the unit at their expense. Ongoing negotiations are intended to obtain minimum two-year leases with guaranteed rental rates and 12 months free rent. Alamar Gardens will extend current leases ending May 31, 2007 to August 31, 2007 with no rent increase.*

*The Plan Board and some members of the public expressed concern about whether there were sufficient mobile home park spaces available in the local area to accommodate all of the people who wanted to move their homes to another park, in light of the situation at Buck Bay and Candlelight Estates. The petitioners believe that they have shown that adequate facilities do currently exist to accommodate the Alamar Gardens mobile home owners and that they have far exceeded the Florida Statute requirements for relocating these tenants. Negotiations continue with the mobile home owners to make appropriate arrangements.*

*The City Plan Board heard the petition and recommends approval.*

*Public notice was published in the Gainesville Sun on January 2, 2007. Letters were mailed to surrounding property owners on January 3, 2007. The Plan Board held a public hearing January 18, 2007.*

#### *CITY ATTORNEY MEMORANDUM*

*If the ordinance is adopted on first reading, it will be heard on June 25, 2007 on Second Reading.*

**RECOMMENDATION**            *The City Commission adopt the proposed ordinance.*

#### **Legislative History**

4/9/07            City Commission    Approved (Petition) (5 - 0 - 2 Absent)

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**060584.****STREET VACATION - SOUTHEAST 23RD STREET (B)****Ordinance No. 0-06-134, Petition 155SVA-06PB**

**An ordinance of the City of Gainesville, Florida, to vacate, abandon and close a certain portion of the right-of-way of Southeast 23rd Street running north from the northern right-of-way line of Southeast 23rd Street extension to Southeast 8th Avenue, as more specifically described in this Ordinance; reserving a public and private utilities easement; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

*Explanation: COMMUNITY DEVELOPMENT STAFF REPORT*

*The purpose of this request is to vacate the abandoned northerly portion of Southeast 23rd Street running north from the new north right-of-way line of Southeast 23rd Street to the east right-of-way line of Southeast 8th Avenue. The approximately 0.11 acre right-of-way to be vacated was platted as 30 feet wide per the New Gainesville plat, Plat Book "A", page 66 of the Public Records of Alachua County, Florida. This northerly portion of Southeast 23rd Street was abandoned as part of the Southeast 8th Avenue Extension project, as other right-of-way property was acquired to properly align the new Southeast 8th Avenue at the Hawthorne Road and Southeast 24th Street Extension. As a result, this northerly portion serves no public use, but it does serve as access to the privately owned abutting business. Upon vacation of the right-of-way, the adjacent business owner would be responsible for maintenance of this paved right-of-way. Staff has talked with the adjoining property owner who is willing to assume liability, maintenance, and beautification of the identified right of way if it is vacated.*

*Public notice was published in the Gainesville Sun on October 3, 2006. Letters were mailed to surrounding property owners on October 4, 2006. The Plan Board held a public hearing October 2006.*

**CITY ATTORNEY MEMORANDUM**

*The City Commission, at its meeting of November 27, 2006, authorized the City Attorney to draft and the Clerk of the Commission to advertise this ordinance. At the approval of the petition hearing on November 27, 2006, one or more commissioners expressed interest in the plans of the property owner to improve and maintain the vacated right-of-way. This issue will be addressed by City staff at the City Commission meeting.*

**RECOMMENDATION**

*The City Commission adopt the proposed ordinance.*

**Legislative History**

11/27/06 City Commission Approved (Petition), as amended (7 - 0)

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**051236.****PROHIBITING THE OUTDOOR STORAGE OF FURNITURE, AND PROHIBITING THE PLACEMENT OF FURNITURE AND POOLS ON ROOFTOPS (B)****Ordinance No. 0-07-14**

**An ordinance of the City of Gainesville, Florida, amending Chapter 13, Housing and Commercial Building Code, by amending Article II, Division 10, Section 13-171, revising the title; prohibiting the outdoor placement or storage of household furniture, mattresses, or other materials not designed or intended for outdoor use with certain limited exceptions; prohibiting the placement of pools, furniture or furnishings on the roof of a building or structure except as approved by the City; amending Chapter 2, Administration, by amending Article V, Division 6, Section 2-339, revising the title description as to Section 13-171; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

*Explanation: The City Commission at its meeting on July 24, 2006 authorized the City Attorney to draft and the Clerk of the Commission to advertise an ordinance prohibiting the outdoor storage of household furniture not designed or intended for outdoor use. Regulations prohibiting blight-inducing furniture in yards is recommended by the Code Enforcement Division, the Community Development Committee and the Public Safety Committee.*

*The proposed ordinance prohibits the outdoor placement or storage of household furniture between the hours of 6:00 p.m. and 7:00 a.m. Additionally, the placement of any pools or furniture on the roof of a building or structure is prohibited at all times unless the rooftop is approved for occupancy.*

*This ordinance requires two public hearings. If the ordinance passes on the first reading, second and final reading will be held on June 25, 2007.*

**RECOMMENDATION**

*The City Commission adopt the proposed ordinance.*

**Legislative History**

7/24/06 City Commission Approved as Recommended (6 - 0 - 1 Absent)

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**070107.****LANDLORD PERMITS (B)****Ordinance No. 0-07-15**

**An ordinance of the City of Gainesville, Florida, relating to landlord permits; amending section 14.5 of the Code of Ordinances; creating**

**additional owner certifications; changing the period in which points for code violations accrue; providing for revocation of permit for failure to comply with owner certifications; clarifying the process for revocation of a permit and the process for denial of a permit; amending Appendix A by changing the due dates for payment of landlord permit fees; providing for a transition permit; providing for a prorated permit fee; providing a severability clause; providing a repealing clause; and providing an effective date.**

*Explanation: The City Commission at its meeting of July 10, 2006, authorized the City Attorney to draft and the Clerk of the Commission to advertise an Ordinance increasing the period in which landlord permit points for code violations accrue from one year to three years. While drafting the ordinance, the Office of the City Attorney, along with staff from Code Enforcement and Community Development, made a number of clarifying and process-related revisions to the ordinance, such as making the permit year begin August 1, consistent with the point accrual period, and clarifying the role of the hearing officer and findings necessary for permit revocation.*

*This ordinance requires two hearings. Should the Commission adopt this ordinance on first reading, second and final reading of the ordinance will be June 25, 2007.*

**RECOMMENDATION**                      *The City Commission adopt the proposed ordinance.*

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## **070022.**

### **LOCAL BUSINESS TAX RECEIPT - NAME CHANGE (B)**

#### **Ordinance No. 0-07-18**

**An ordinance of the City of Gainesville, Florida, amending Sections 2-377, 2-379, 2-621, 6-176, 6-182, 6-193, 10-38, 10-40, 14.5-67, 14.5-96, 14.5-121, 16-98, 19-2, 19-3, 19-19, 19-54, 21-58, 21-60, 22-17, 23-57, 23-97, 25-41, 25-42, 25-43, 25-44, 25-45, 25-46, 25-47, 25-48, 25-49 25-50, 25-50.1, 25-51, 26-116, 28-1, 28-2, 28-4, 28-5, 28-14, 30-336, 30-346, 30-357, relating to Occupational License Tax; by replacing the term Occupational License Tax Act with the term Local Business Tax Act (LBTA); by changing the term "Occupational License" to "Business Tax Receipt" and defining the term "Receipt" as it relates to Business Taxes; amending Appendix A Schedule of Fees Rates and Charges; correcting scrivener's errors; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

*Explanation: On January 1, 2007, the legislature enacted Chapter 2006-152 which changed the name of the "Local Occupational Tax Act" to the Local Business Tax Act", changed the name "occupational license tax" to "local business tax", and changed the name of the occupational license issued by the City from an "occupational license" to a "business tax receipt".*

*The City Commission on May 14, 2007 authorized the City Attorney to draft and*

*the Clerk of the Commission to advertise an ordinance amending Sections of the ordinance replacing the term "occupational license" with the term "business tax".*

**RECOMMENDATION**            *The City Commission adopt the proposed ordinance.*

Legislative History

5/14/07            City Commission            Approved as Recommended (5 - 0 - 2 Absent)  
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**070023.**

**COMMUNICATION SERVICES TAX RATE INCREASE (B)**

**Ordinance No. 0-07-38**

**An ordinance of the City of Gainesville, Florida, amending section 25-81 of the Code of Ordinances of the City of Gainesville relating to the communication services tax rate; increasing the local communication services tax rate in accordance with Chapter 202.20(2) Florida Statutes; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

*Explanation: FINANCE DEPARTMENT STAFF REPORT*

*When the Communications Services Tax became effective in October 2001, it replaced a number of revenue sources including a portion of municipal utility tax revenues and certain franchise fees previously received by local governments. Inherent in the law was a promise to local governments that their revenues, at least in the year of adoption, would be unaffected by the change in the law. Local governments were permitted to measure their revenues in the first fiscal year 2002 and make adjustments to their rates, including an adjustment for the revenues that should have been received.*

*The City of Gainesville originally adopted the rate that had been estimated as a proper replacement rate by the Department of Revenue. After the first six months of the new tax, City staff estimated the underpayment that had been received and adjusted its rates accordingly. Looking back, however, and using a full year's revenue from October 2001 through September 2002, it is clear that even our previous adjustment was underestimated. Now that we have complete information from that first year, and because this particular type of emergency rate-setting is anticipated to sunset July 1 of this year under a recently adopted bill, staff has proposed this ordinance.*

*Using the provisions of Chapter 202.20(2) Florida Statutes, staff is requesting a one-year catch-up rate of 7%, which would become effective September 1, 2007, and a new permanent rate of 5.57% which would become effective September 1, 2008, absent any additional necessary changes due to further Department of Revenue audits. The rates cited above are the calculated rates plus the .12% additional rate to which the City is entitled because it does not charge construction permit fees to communications services taxpayers.*

*Fiscal Note*

*Staff estimates the additional revenue in FY08 would be in excess of \$1 million and additional revenue beginning in FY09 would approximate \$200,000 annually.*

*CITY ATTORNEY MEMORANDUM*

*At its meeting of May 14, 2007, the City Commission authorized the City Attorney to draft and the Clerk of the Commission to advertise an ordinance increasing the local communication services tax rate ordinance in accordance with Chapter 202.20(2) Florida Statutes.*

*The City Attorney requested technical advice from the Florida Department of Revenue to confirm that the City is not prohibited from adopting a second emergency rate setting ordinance. In an informal letter of technical advice dated May 25, 2007, Vincent C. Aldridge, Deputy Director of Technical Assistance and Dispute Resolution for the Florida Department of Revenue, confirmed that the City's proposed adoption of a second emergency rate setting ordinance appears to be based upon a reasonable reading of applicable law. A copy of the letter is attached hereto.*

*This ordinance requires two public hearings. If adopted on first reading, the second and final reading will be held on Monday, June 25, 2007.*

**RECOMMENDATION**            *The City Commission adopt the proposed ordinance.*

**Legislative History**

5/14/07            City Commission            Approved as Recommended (5 - 0 - 2 Absent)

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## **ORDINANCES, 2ND READING- ROLL CALL REQUIRED**

### **060734.**

#### **PLANNED DEVELOPMENT AMENDMENT - UNIVERSITY AVENUE AND 13TH STREET (UNIVERSITY CORNERS) (B)**

##### **Ordinance No. 0-07-02, Petition No. 149PDA-06PB**

**An Ordinance of the City of Gainesville, Florida; amending Ordinance No. 040657 that rezoned certain properties to the zoning category of Planned Development, commonly known as "University Corners", as more specifically described in this ordinance; generally located between West University Avenue on the South, Northwest 3rd Avenue on the North, Northwest 13th Street (US 441) on the East and Northwest 14th Street on the West; adopting revised development plan maps and a revised development report; adopting additional conditions and restrictions; providing for penalties; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

*Explanation: COMMUNITY DEVELOPMENT STAFF REPORT*

*The petitioner wishes to amend portions of PD Ordinance 040657, PD Plan*

*Report, PD Layout Plan and PD elevation all approved on May 23, 2005, for the mixed-use development known as University Corners, a 1,185,000-square-foot development located on approximately 4.4 acres of land located between West University Avenue and Northwest 3rd Avenue and between Northwest 13th Street (US 441) and Northwest 14th Street.*

*The petitioner is requesting to increase the maximum number of residential dwelling units from a total of 400 units to a maximum of 490 dwelling units without increasing the number of stories of the mixed-use buildings or the total square footage. The 490-unit total includes standard condominium units and approximately 243 condo/hotel dwelling units including approximately 243 dwelling units including condo-hotel. The proposed density for this project would increase from 90 to 112 dwelling units per acre. The petitioner intends to increase the total number of condos by decreasing the unit sizes, converting two-story townhouse units into flats, and would allow the developer the flexibility to use much of the second story as residential.*

*In addition to increasing the maximum number of dwelling units allowed, the petitioner is also proposing to increase the number of stories of the above-ground parking garage from eight to nine stories and increasing the garage height from 85 feet to 95 feet above grade level to the top of the guard rail. The additional story and height is being requested due to the loss of parking spaces in the original underground parking garage, which has been reduced in size. The new, structured parking system being proposed should house approximately 1,000 spaces, 300 less than previously approved, and have a maximum square footage of 350,000 square feet, approximately 100,000 square feet less than before.*

*The Plan Board heard the petition and recommended approval by a vote of 4-3.*

*Public notice was published in the Gainesville Sun on October 31, 2006. Letters were mailed to surrounding property owners on November 30, 2006. The Plan Board held a public hearing November 16, 2006.*

#### *CITY ATTORNEY MEMORANDUM*

*The City Commission, at its meeting of January 8, 2007, authorized the city attorney's office to prepare and advertise the necessary ordinance amending the planned development known as "University Corners".*

**RECOMMENDATION**            *The City Commission adopt the proposed ordinance.*

#### **Legislative History**

1/8/07	City Commission	Approved (Petition) with Staff Conditions, as Amended (5 - 0 - 2 Absent)
5/14/07	City Commission	Adopted on First Reading (Ordinance) (7 - 0)

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**061079.**

**VOLUNTARY ANNEXATION - BEAR ARCHERY (B)**

**Ordinance No. 0-07-21**

**An Ordinance of the City of Gainesville, Florida, annexing a portion of the City of Gainesville Reserve Area pursuant to Chapter 90-496, Special Act, Laws of Florida, as amended by Chapter 91-382 and Chapter 93-347, Special Acts, Laws of Florida, known as the Alachua County Boundary Adjustment Act; making certain findings; including within the corporate limits of the City of Gainesville, Florida, that certain compact and contiguous area comprised of Tax Parcel 07240-001-003, generally located south of the vicinity of the intersection of Interstate 75 and Archer Road, west of the City limits and Interstate 75, north of Tax Parcel 07240-000-000 and east of Tax Parcel 07240-000-000; providing for inclusion of the area in Appendix I of the City Charter; providing for land use and zoning regulations; providing for persons engaged in any occupation, business, trade or profession within the area; providing directions to the City Manager and Clerk of the Commission; providing a severability clause; and providing an immediate effective date.**

*Explanation: The adoption of an annexation ordinance is the final stage in the annexation process under the provisions of the Alachua County Boundary Adjustment Act. On Monday, November 13, 2006, at a regular City Commission meeting, the City Commission received and accepted the petition for annexation, and determined that the petition bore the signature of the owner of the property that is the subject of this annexation. On February 26, 2007 and March 12, 2007, the City Commission held advertised public hearings and adopted the Urban Services Report as mandated by the Boundary Adjustment Act.*

*ANNEXATION ORDINANCE*

*The annexation ordinance proposes to annex a contiguous, compact, unincorporated portion of the reserve area. The Boundary Adjustment Act requires the ordinance to be adopted as a nonemergency ordinance and to include one reasonably compact area.*

*In the Ordinance the City Commission makes certain findings of fact related to the area proposed for annexation. The area must meet certain standards as required by the Boundary Adjustment Act. In this regard, your attention is drawn to Section 1 of this Ordinance and the presentation by the City Manager.*

*If adopted on first reading, the second and final reading of this ordinance will be June 11, 2007. Pursuant to the Boundary Adjustment Act, notice of adoption of this ordinance was published for two consecutive weeks prior to first reading.*

**RECOMMENDATION***The City Commission adopt the proposed ordinance.***Legislative History**

5/14/07 City Commission Adopted on First Reading (Ordinance) (7 - 0)  
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**061129.****POSTPONING SCHEDULING OF THE 2008 CITY COMMISSION ELECTION (B)****Ordinance No. 0-07-28**

**An ordinance of the City Commission of the City of Gainesville, Florida, suspending the scheduling dates in Sections 9-2(b) and (c) relating to the setting of election dates for 2008; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

*Explanation: The City Commission, at its meeting of April 9, 2007, authorized the City Attorney's Office to draft an ordinance suspending the scheduling dates of Sections 9-2(b) and (c) for the setting of City Commission elections in 2008 pending the Florida Legislature's action regarding the Florida Presidential Preference Primary. The City Commission can set the 2008 City Commission election dates soon after the Florida Legislature sets the date of the 2008 Florida Presidential Preference Primary election.*

**RECOMMENDATION***The City Commission adopt the proposed ordinance.*

*CLERKS' NOTE: The City Commission has scheduled a special meeting on June 18, 2007 to discuss election issues.*

**Legislative History**

4/9/07 City Commission Approved as Recommended (5 - 0 - 2 Absent)  
 5/14/07 City Commission Adopted on First Reading (Ordinance) (7 - 0)  
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**070012.****CONSOLIDATED POLICE OFFICERS AND FIREFIGHTERS RETIREMENT PLAN (B)****Ordinance No. 0-07-22**

**An ordinance of the City of Gainesville, Florida, amending provisions relating to the Consolidated Police Officers and Firefighters Retirement Plan, Article VII, Division 8 of Chapter 2 of the Code of Ordinances, by amending section 2-596, Definitions; 2-598, Eligibility and participation; section 2-599, Contributions; section 2-600, Retirement dates and benefits; section 2-601, Optional forms of retirement income; section 2-602, Administration of the plan, section 2-606, Miscellaneous relating to beneficiaries; section 2-607, Cost of living adjustment of benefits; and section 2-633(d) of Article XI, Retiree Health Insurance Program and Trust**

**Fund, of Chapter 2 of the Code of Ordinances; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date, and limited retroactive effect.**

*Explanation: The attached ordinance is a result of lengthy negotiations between management and police and fire union representatives regarding mostly state-mandated changes to the benefit structure of the Consolidated Police Officers and Firefighters Retirement Plan. Prior to legislation adopted by the state in 1999, most cities throughout the State of Florida who operated defined benefit plans for police officers and firefighters took advantage of provisions contained in Chapters 175 (firefighters) and Chapter 185 (police officers), which allowed cities to impose taxes on property and casualty insurance premiums for policies issued within their jurisdiction. This tax (collected by the state) is remitted to the cities for the purposes of providing funding for police officer and firefighter retirement benefits. Prior to 1999, chapters 175 and 185 had provided a benefits structure for such plans, which could be adopted verbatim by a participating municipality, and these were called "chapter plans." Most municipalities, however, utilized provisions that allowed them to create their own plan design while meeting a few specific, mandated minimum requirements. These were called "local law plans." These latter plans often provided for greater benefits, i.e., multiplier, in one area than did the chapter plans, but might not provide one or more of the non-mandated chapter plan provisions.*

*The 1999 legislation modified chapter plan requirements and mandated that each and every one of these requirements as minimum benefit requirements for municipalities who wished to participate in receipt of the tax monies. While municipalities were now required to provide benefits that they had not previously provided and/or at levels they had not previously provided, the municipalities were not allowed to decrease benefits that were presently being provided at a higher than minimum level in order to offset the new benefits. Part of the 1999 legislation, however, provided that the municipalities did not have to provide the new mandated minimum benefits until additional increments of tax monies, i.e., increases in annual receipts above that which was in effect in 1997, could provide funding for the new minimums. That incremental increase since 1997 has finally allowed the City to fund amendments to the Police Officers and Firefighters Consolidated Plan, which provides the minimum benefits, and at least the amounts required. Part of this ability is based upon an agreement by the city, the state, and union representatives on the base year to be used to calculate additional incremental premium tax for the purpose of providing future extra benefits for members. Most of the ordinance involves changes to adopt all the new mandated minimum standards. A section by section analysis follows.*

*Section 1 of the ordinance updates the definitions, including providing for a slight increase in the multiplier, for months of service after October 1, 2005. This increase is not part of the "minimums" but instead a negotiated increase. Service credit rules are modified to generally conform to the "chapter minimums" regarding when such would be earned for service other than as a certified police officer or firefighter, bought back in the event of break in service, and when employee contributions may be left in the plan during a break in service.*

*Section 2 involves technical changes regarding administration of the reverse*

*DROP, discussed infra, and new benefits to be available to employees at some point in time after they separate from service prior to eligibility for immediate early or normal retirement.*

*Section 3 again deals with one aspect of the reverse DROP. It also recognizes the effect of these changes meeting the minimum benefit requirements under the 1999 legislation, and memorializes the agreed upon "base year" for future "extra benefits."*

*Section 4 adds the "Rule of 70" as a basis for normal retirement and details the new "minimums" by first changing the standard form of benefit from a life annuity to a 10 year certain and life annuity. An early retirement benefit is added as well. Technical changes to disability benefits to meet the minimum standards are further reflected in Section 4. Section 4 provides for specific death benefit and varying benefits available to an employee who terminates prior to retirement eligibility, as well as benefits available to such persons should they become re-employed. Section 4 also includes some updates attributable to recent federal legislation regarding plan qualification standards. Section 4 also modifies the deferred retirement option program (DROP), to provide for a "reverse" DROP and to provide that future regular and reverse DROP accounts will be accounted for separately within the plan with an assumed rate of return, rather than as accounts independently invested, administered by third party administrators. In a reverse DROP an employee who has already met the years of service and/or age requirements declares his or her intention to resign and have the period of employment since becoming eligible for a DROP to be treated as if he or she had already entered the DROP. The DROP benefit is calculated as if he or she had entered the DROP at this date in the past. Section 4 also provides the opportunity for plan members to "purchase" credited service under the City's plan for time spent in other public safety or military service prior to employment with the City. Members need to meet certain technical requirements and pay the full actuarial cost of such service, and are limited to purchasing up to a total of five years. Members may purchase such service using funds from other qualified plans, such as, for example, the City's 457 deferred compensation plan.*

*Section 5 provides for the optional forms of benefit (other than the standard 10 year certain and life) to meet the "minimum standards." These optional forms are the actuarial equivalent of the value of the 10 year certain and life benefit. Subsequent to the first reading of this ordinance, the City Manager has requested that the Joint Annuity Option currently available to members be retained as an additional option form of benefit. See attached. For this reason, the recommendation is to adopt the ordinance as amended.*

*Section 6 makes minor technical changes to plan administration and specifically authorizes that payments may be made from the plan to various entities, including provisions intended to take advantage of favorable tax treatment of premium payments that retired public safety officers may make to health insurance plans.*

*Section 7 provides for "minimum" standards regarding beneficiary designation and distributions.*

*Section 8 provides for a COLA beginning at age 62 for employees who retire under the Rule of 70, with less than 20 years of service.*

*Section 9 clarifies calculation of retiree health insurance subsidies for employees utilizing the reverse DROP.*

*The ordinance changes are effective prospectively, applying to employee members who have not entered a regular DROP as of ordinance adoption.*

**RECOMMENDATION**            *The City Commission adopt the proposed ordinance as amended.*

**Legislative History**

5/14/07            City Commission            Adopted on First Reading (Ordinance) (7 - 0)

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**070026.**

**MORATORIUM ON ELECTRONIC SIGNS AND ANIMATED SIGNS (B)**

**Ordinance No. 0-07-31**

**An Ordinance of the City of Gainesville, Florida, imposing a temporary moratorium on the issuance of any permit, development order, site plan approval and any other official action of the City of Gainesville having the effect of permitting or allowing the construction, operation or erection of an electronic sign or an animated sign, as more specifically described in this Ordinance, excluding approvals and permits for the maintenance of an existing electronic sign or animated sign; the temporary moratorium shall apply to all real property located within the corporate limits of the City of Gainesville; providing a procedure for extraordinary hardship; providing a severability clause; and providing an immediate effective date.**

*Explanation: CITY ATTORNEY MEMORANDUM*

*The City Commission, at its meeting of April 23, 2007, authorized the City Attorney to draft a temporary moratorium on electronic and animated signs. This ordinance imposes a temporary moratorium ending on Monday, October 22, 2007 in the City of Gainesville, as described in the ordinance.*

**RECOMMENDATION**            *The City Commission adopt the proposed ordinance.*

**Legislative History**

5/14/07            City Commission            Adopted on First Reading (Ordinance) (4 - 3)

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**RESOLUTIONS- ROLL CALL REQUIRED**

**070092.**

**Acceptance of US Department of Transportation FAA - AIP Grant #3-12-0028-022-2005 Amendment No. 2 (B)**

**This item seeks City of Gainesville acceptance of an amendment to a 2005 US Department of Transportation FAA - AIP Grant to the Gainesville Regional Airport for renovation and rehabilitation of a portion of the terminal building. Amendment No. 2 amends the scope of work to renovation and rehabilitation (construction only) a portion of the terminal building (66% of base bid and concession shell) - Phase 2A.**

*Explanation:* On August 22, 2005, the City of Gainesville accepted the US DOT FAA Grant # 3-12-0028-022-2005 in the amount of \$3,677,853 for the renovation and rehabilitation of a portion of the Airport terminal building (construction only) - Phase 2.

On April 12, 2007, at the direction of GACRAA, the Airport CEO contacted the FAA Airports District in Orlando requesting that this grant be amended. The request seeks to separate the project into two phases, 2A and 2B in order to provide greater AIP funding coverage of the project overall. Amendment No. 2 also defines the FY 2007 entitlement amount as \$1,329,920 to be committed to the project. According to Airport staff, the terminal renovation and rehabilitation project is currently underway.

On April 26, 2007, GACRAA unanimously adopted Resolution No. 07-016 accepting Amendment No. 2 to AIP Grant No. 3-12-0028-022-2005.

*Fiscal Note:* The original 2005 US Department of Transportation FAA - AIP Grant is in the amount of \$3,677,853 and the Amendment No. 2 defined FY 2007 entitlement amount of \$1,329,920 will be utilized to complete the Gainesville Regional Airport terminal renovation and rehabilitation.

**RECOMMENDATION**

*The City Commission: 1) hear a brief presentation from Gainesville Regional Airport Staff regarding this request; and 2) adopt the proposed 2005 FAA - AIP Grant Amendment Resolution and authorize the Mayor and City Attorney to execute said Grant Amendment and the City Clerk to certify said Grant Amendment subject to approval.*

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**070105.**

**Second Amendment to the FY 2007 General Government Financial and Operating Plan (B)**

*Explanation:* The purpose of this amendment is to accurately reflect and incorporate into the City's FY 2007 General Government budget those transactions and activities that were not anticipated during the budget process.

*Fiscal Note:* All of the recommended changes are funded either by increases in revenue budgets, decreases in expenditure budgets, or decreases in the appropriate fund balance.

**RECOMMENDATION**

*The City Commission adopt the resolution.*

Legislative History

6/4/07      Audit, Finance and      Recommended for Approval  
                  Legislative  
                  Committee  
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**PLAN BOARD PETITIONS****070088.****Amend Section 30-90(f) of Land Development Code (B)**

**Petition 53TCH-07 PB, City of Gainesville. Amend Section 30-90(f), Adult and Sexually Oriented Establishments, to eliminate the change of tenant or ownership requirement for a non-conforming use in this section.**

*Explanation: The City Attorney's office has advised staff that the language in Section 30-90(f) dealing with the change of tenant or ownership of non-conforming adult and sexually oriented establishments is likely unconstitutional based on recent case law and therefore should be stricken from the code. The proposed amendment is as follows:*

*Section 30-90(f) Existing establishments. Any use herein defined as a regulated use or an adult and sexually oriented establishment which, on the date this section becomes applicable to such use, is existing, in actual operation and open to the public, and which in all other respects is in full compliance with applicable laws and ordinances of the city, but which would not otherwise be permitted under the terms of this section, shall then become a permitted nonconforming use. (Remove the following language to end of paragraph)--Such uses may continue as nonconforming uses, except that any change of tenant or ownership of such nonconforming uses shall terminate that use's nonconforming status and any further operation of the use must be in full conformity with this section.*

*The Plan Board heard the petition and recommended that it be denied. The Board requested that in future petitions that involve legal issues, that the City Attorney send a representative. It is City staff's position that the petition be approved to avoid legal issues in the future.*

*Note from City Attorney: Neither staff nor any member of the Plan Board requested information on this item, or that a member of the City Attorney's Office be present at this meeting. This Office sends an attorney to a board meeting on an as-needed basis.*

*Public notice was published in the Gainesville Sun on May 1, 2007. The Plan Board held a public hearing May 17, 2007.*

*Fiscal Note: Staff anticipates that a consultant will cost \$25,000 to be paid out of FY 07 personnel vacancy savings.*

**RECOMMENDATION**

*City Plan Board to City Commission - The City Commission deny Petition 53TCH-07 PB. Plan Board*

vote 6-0.

Staff to Plan Board - Approve

City Manager to City Commission: The City retain a consultant, to be funded from the FY 07 personnel vacancy savings, to assist the City with the issues in the future.

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**070089.**

**Amend Section 30-346(d) of City of Gainesville Land Development Code (B)**

**Petition 51TCH-07 PB, City of Gainesville. Amend section 30-346(d) to clarify that the Standard Industrial Classification Manual (SIC) categories are not used in residential districts for classification purposes, and that non-conforming membership organizations in residential districts may be changed to a place of religious assembly, without a Special Use Permit.**

*Explanation: The text changes to the nonconforming section of the code are proposed to make sure that the City is in accordance with the Religious Land Use and Institutionalized Persons Act, as codified in 42 U.S.C.A. §2000cc. The Act requires that no government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person or institution is in furtherance of a compelling governmental interest and is the least restrictive means of furthering the compelling government interest. Additionally, the Act specifies that "no government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution."*

*The proposed change would allow nonconforming membership organizations such as civic and social clubs and meeting halls to be changed to a place of religious assembly without a Special Use Permit in residential districts. This amendment further clarifies that the Standard Industrial Classification Manual (SIC) categories are not used in residential districts for classification purposes.*

*The City Plan Board heard the petition and recommended that it be denied. The Plan Board requested that in future petitions that involve legal issues, that the City Attorney send a representative. It is City staff's position that the petition be approved.*

*Note from City Attorney: Neither staff nor any member of the Plan Board requested information on this item, or that a member of the City Attorney's Office be present at this meeting. This Office sends an attorney to a board meeting on an as-needed basis.*

*Public notice was published in the Gainesville Sun on May 1, 2007. The Plan Board held a public hearing May 17, 2007.*

*Fiscal Note: None*

**RECOMMENDATION**

*City Plan Board to City Commission - The City Commission deny Petition 5ITCH-07 PB. Plan Board vote 6-0.*

*Staff to Plan Board - Approve*

*Staff to City Commission - Approve*

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**DEVELOPMENT REVIEW BOARD PETITIONS****060095.**

**(Quasi-Judicial) Final Plat, Blues Creek Unit 7. Located in the 4900 Block of NW 73rd Avenue, North Side (Petition 15SUB-06 DB) (B)**

**Petition 15SUB-06DB, Alison Fetner, P.E. agent for Blues Creek Development, LT., Final Plat Review for 16 lots on 2.37 Acres. Blues Creek Unit 7. Zoned: PD (Planned Development, Residential). Located in the 4900 Block of NW 73rd Avenue, North Side.**

*Explanation: The City Commission considered a request to approve a design plat consisting of 16 lots for Blues Creek Unit 7, at a public hearing held on June 12, 2006. The Commission approved Petition 15SUB-06DB with staff conditions which have been satisfied. The subdivision is an implementation of an Alachua County approved Planned Development, which was annexed into the City of Gainesville. The lots are created to facilitate development of attached two-story townhouse units. The resulting lots will be accessed via an interior, private driveway, designed within the dedicated common area of the development.*

*Fiscal Note: None*

**RECOMMENDATION**

*Staff to the City Commission - Staff recommends approval of the Final Plat for Blues Creek, Unit 7.*

*Development Review Board to the City Commission - The City Commission approve Petition 15SUB-06 DB, with staff conditions. DRB vote 6-0.*

*Staff to Development Review Board - The Design Plat is approvable with conditions.*

**Legislative History**

6/12/06 City Commission Approved as Recommended (7 - 0)

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**SCHEDULED EVENING AGENDA ITEMS**

**UNFINISHED BUSINESS**

**COMMISSION COMMENT**

**CITIZEN COMMENT (If time available)**

**ADJOURNMENT (no later than 11:00PM - Mayor to schedule date and time to continue meeting)**