



City of Gainesville Meeting Minutes

City Hall
200 East University Avenue
Gainesville, Florida 32601

Community Development Committee

Commissioner Craig Lowe, Chair
Mayor-Commissioner Pro Tem Chuck Chestnut, Member

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Thursday, September 15, 2005

10:00 AM

City Hall, Room 17

CALL TO ORDER

The meeting was called to order at 10:10 A.M.

ROLL CALL

Present: Chuck Chestnut and Craig Lowe

ADOPTION OF THE AGENDA

Approved agenda as modified.

APPROVAL OF MINUTES

050281 Minutes of August 4, 2005 (B)

RECOMMENDATION *The Committee approve the minutes of August 4, 2005.*

Approved as Recommended

DISCUSSION OF PENDING REFERRALS

001198 Graffiti Abatement (NB)

RECOMMENDATION *The Committee recommended keeping this item active for six-month updates. Staff to report back in September 2005.*

Continued

031225 Special Area Plan for Ironwood Area (NB)

John Wachtel, Neighborhood Planning Coordinator, gave an update and handed out copies of the Neighborhood Action Plan. He stated that a questionnaire had been sent to the property owners in the area, and since that time, the Neighborhood Association had adopted the Ironwood Neighborhood Action Plan and was now looking at implementation. He explained that the projects they would like to accomplish were landscaping along N.E. 15th Avenue and beautification along N.E. 15th Street. He

noted that a request for bids would be sent out for wrought-iron fencing.

Mr. Harris, President of the Ironwood Golf Course Neighborhood Association, stated that he was representing the area and was present to take back any information to the Association.

RECOMMENDATION *The Committee recommended keeping this item active for periodic updates. Staff to report back in March 2006.*

Approved as Recommended

050040 Oak View Neighborhood Association Parking Regulations (NB)

RECOMMENDATION *Community Development Committee - Staff explore parking regulations with legal staff and report back in September, 2005.*

Continued

040180 Principles of Sustainability in Significant Decisions (NB)

RECOMMENDATION *The Committee recommended keeping this item active for periodic updates. Staff to report back in September 2005.*

Continued

041082 Redevelopment (NB)

RECOMMENDATION *Community Development Committee - Staff to report back in September, 2005 with recommendations regarding the Historic Preservation Guidelines from the College Park/University Heights Advisory Board, the Historic Preservation Board, and the Fifth Avenue/Pleasant Street Advisory Board.*

Continued

040068 Development Projects Cut-Off Dates (NB)

RECOMMENDATION *Community Development Committee - Staff to report on the City Plan Board's recommendations in September, 2005.*

Continued

040912 Transportation Concurrency Exception Area (TCEA) Review (NB)

RECOMMENDATION *Community Development Committee to City Commission: 1) the City Commission hold a public hearing on Zone C changes, with revised language as proposed by staff; and 2) staff report back to the Community Development Committee at*

a subsequent meeting for further discussion about the TCEA.

Continued

NEW BUSINESS

050155 Gainesville-Alachua County Regional Airport Authority (GACRAA) Request to Transfer Title of Properties (B)

RECOMMENDATION *The Community Development Committee discuss the request to transfer title of properties to the City.*

Continued

050389 Board of Adjustment (B)

Tom Saunders, Community Development Director, stated that he reviewed the Land Development Code regulations for the Board of Adjustment and board rules. He noted the membership had changed little over a number of years. He indicated two positions on the board expired in November, and one position had been vacant for some time. He stated that the jurisdiction of the Board of Adjustment included variances, appeals of administrative staff interpretations of the Code, re-establishment of non-conforming uses, and special exceptions.

Commissioner Chestnut indicated that he had concerns regarding the Board of Adjustment's history, powers, and in the past, problems maintaining a quorum. He suggested that if the City Commission could not control the members, it should abolish the board and assign their duties to another board. He stated that if the Commission decided not to abolish the board, he would like to reduce its powers.

Mr. Saunders responded that if the City Commission chooses this course it could divide up the Board of Adjustment's responsibilities and give them to other boards. He noted, however, that another approval would be to make new appointments to the boards since their positions are being advertised.

Chair Lowe raised several issues: 1) the number of meetings by the Board of Adjustment in the last year; citizens not being recognized by the board; challenges to citizens that inhibited their ability to be forthcoming with information; challenges to legal representation for citizens who lived nearby; a motion having been made by a board member before the hearing process was completed; and the possibility that if responsibilities are transferred to another board they could see similar issues. Chair Lowe stressed the need to train board members, have a more careful selection of board members by the City Commission when board vacancies become available, and to spread the word to community members. Chair Lowe suggested that the person staffing the meeting had to defend his own decision, but then also having to be a referee of information, thereby having to play both sides.

Mr. Saunders suggested that a good approach would be to have a staff member facilitate the board's process, and another staff member to be at the meeting just for the presentation of the staff's administrative interpretation that was being appealed.

Marion Radson, City Attorney, stated that the City of Tallahassee had a procedure

where volunteer mediators from the University of Tallahassee were available to meet with neighborhoods. He stated that the neighborhoods around the University of Florida were under stress from the growth of the University, the lack of housing, and traffic problems. He suggested that it might be worthwhile to look at the Tallahassee model. He stated that Jimmie Williams, Equal Opportunity Director, would be a good mediator, and perhaps someone from the University of Florida. He noted, however, both parties in any situation would have to be willing to meet.

Chair Lowe indicated that there were options for the Committee to review: 1) reconstituting the membership of the board via appointment of three members to the vacant positions; 2) abolishing the board and reassigning the duties; 3) adding a more internal avenue of appeal for Board of Adjustment decisions; 4) having an orientation program for the Board to include how to deal with members of the public, and, the definition of 'burden of proof'; and 5) a mediation forum where Mr. Williams might contact the parties involved to see if mediation could be a possibility.

Donna Lutz, citizen, pointed out that the property in question was listed for sale at \$439,900 and is being advertised as a two-family residence.

Ms. Crosby stated that in the course of the year, approximately a dozen items had come before the Board of Adjustment. A majority of the items had been variances, which were not controversial.

Dan White, attorney representing the petitioners for the property that came before the Board of Adjustment, indicated that he couldn't speak much about the case because there may be further legal proceedings. He stated that the Board of Adjustment was a citizen's watchdog board, and as such, was asked to make difficult decisions. He indicated that his biggest concern was the lack of rules of evidence in the proceedings, which decreased its focus. He pointed out that persons from neighborhoods two miles from a subject property were permitted to give whatever testimony they wished. He agreed that there needed to be some method to give citizens more guidance because they were under a legal standard. He noted that such a method might end up precluding some citizen comment.

Mr. Radson, stated that at one time, the Board of Adjustment had rules that required four votes in favor of any decision.

Mark Goldstein, citizen stated that there was no reason to have an appeal for re-establishment of non-conforming uses.

Jimmy Harnesburger, citizen, stated that he lived in the Palm Terrace neighborhood. He stated that he believed reconstituting membership of the board is essential. He stated that the nature of the matters before the board were binding, and did not lend themselves to mediation. He noted that he hoped there was some way to deal with the house in question.

Ms. Lutz stated that her concern was the ethical procedure of the three board members. She indicated that she believes that their decision was made before the meeting because one member made a motion before the matter was completely heard. She stated that there had to be an ethical standard for board members, and if that standard was not upheld, their decisions could not be valid. She stated that the meetings did not follow due process.

Chair Lowe stated that the purpose of the Committee's discussion was to remedy the process so that similar situations would not occur in the future.

Abe Goldman, citizen, stated that he lived in the neighborhood. He stated that at the second meeting (September 1, 2005), it sounded as if the board claimed that there was no basis for a rehearing because they already made up their minds. He suggested that there should be a legal basis to challenge the decision not to have a rehearing because much of what transpired was a rehearing.

Ralph Dunn, citizen, stated that he had made an earlier suggestion to the City Commission that they purchase the house.

Mr. Goldstein agreed that the City should purchase the home. He pointed out that the property owners in the neighborhood around it had worked hard on rehabilitation and providing stability to the area along University Avenue. He suggested that the City Commission set up a negotiating committee.

Chair Lowe proposed three options:

Option A - Reconstitute the board via new appointments, (assess the membership of the board), add an appeal process to the City Commission for board decisions, institute an orientation session for board members on how to deal with members of the public on development-related issues, and add term limits for board members.

Option B - Eliminate the Board of Adjustment, eliminate appeals of administrative decisions, and reassign remaining duties to other boards, and have an education session for these boards.

Option C - Request that staff review what could be done about the situation with the house.

Commissioner Lowe stated that he is in favor of Option A.

Commissioner Chestnut indicated that he liked the idea of doing away with the Board of Adjustment and creating a Board of Variances. He noted, however, there would still be a need for some mechanism of an appeal process.

RECOMMENDATION *The Community Development Committee requested that staff report back at the October 6, 2005 meeting with different scenarios regarding the impact on other boards if they were to take some of the Board of Adjustment's responsibilities, and to bring back information what might be done concerning the house.*

Approved as Recommended

NEXT MEETING DATE

October 6, 2005 10:00 A.M.

ADJOURNMENT

The meeting adjourned at 11:55 A.M.

