

City of Gainesville

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



Meeting Agenda

April 15, 2010

1:00 PM

City Hall Auditorium

City Commission

*Mayor Pegeen Hanrahan (At Large)
Mayor-Commissioner Pro Tem Scherwin Henry (District 1)
Commissioner Lauren Poe (District 2)
Commissioner Jack Donovan (District 3)
Commissioner Craig Lowe (District 4)
Commissioner Thomas Hawkins (At Large)
Commissioner Jeanna Mastrodicasa (At Large)*

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

090910.

University of Florida Wayfinding Signage (B)

Explanation: In conjunction with the Archer Road and SW 16th Avenue project, the University of Florida has proposed the use of an entrance feature and wayfinding signs to assist motorists to their destinations. The University's design consultant has recommended proposed locations and designs for the entry features and wayfinding signs to be placed along Archer Road between the intersection of SW 16th Avenue and SW 13th Street. Because this is a state highway, the Florida Department of Transportation requires the local governing body approval of the placement of any wayfinding signage and entry features.

Fiscal Note: All costs associated with this item will be paid for by the University of Florida, including costs of ownership, maintenance and/or any replacement.

RECOMMENDATION

The City Commission approve the proposed locations and design of wayfinding signage and entrance features as presented.

090910a_Map_20100415.pdf

090910b_Map_20100415.pdf

090911.

Vacate a Portion of Southwest 2nd Place (B)

This item is a request for the City Commission to approve a petition to the Planning and Development Services Department to vacate a portion of

Southwest 2nd Place at the request of the Public Works Department.

Explanation: Additional right-of-way is needed as part of the Southwest 6th Street and Southwest 2nd Avenue traffic roundabout. Approximately 1,400 square feet is needed on the southwest corner of this intersection. The property needed is a portion of Tax Parcel 13327-000-000, owned by Shands Teaching Hospital & Clinics, Inc. (Shands). As a portion of its redevelopment adjacent to Southwest 10th Street, Shands has requested public interest in a segment of Southwest 2nd Place be vacated in exchange for the deed of the portion of its property needed for this project. The portion of Southwest 2nd Place is approximately 20 feet wide by 157.2 feet deep. It runs easterly from Southwest 10th Street along the south side of Lots 6, 7, and 8, Block 7, University Place, Plat Book "A", page 77 and terminates at a portion of Southwest 2nd Place which was vacated in 1972 by Ordinance No.1792.

Fiscal Note: The fiscal impact is associated with the alternative recommendation below in the amount of \$41,120 should the City decide to purchase the required 1,400 square feet of Shands property needed for the traffic roundabout.

RECOMMENDATION

The City Commission: 1) approve the request of Public Works to vacate a portion of Southwest 2nd Avenue, running easterly from Southeast 10th Street, along the south side of Lots 6, 7, and 8, Block 7, University Place, Plat Book A, page 77 for approximately 157.2 feet; and 2) authorize the Planning and Development Services Department to circulate a petition to the Plan Board to vacate a portion of Southwest 2nd Avenue, running easterly from Southeast 10th Street, along the south side of Lots 6, 7, and 8, Block 7, University Place, Plat Book A, page 77 for approximately 157.2 feet.

Alternative Recommendation: City Commission deny this request and Public Works purchases the required 1,400 square feet of Shands property needed for the traffic roundabout for \$41,120.

090911_Map_20100415.PDF

GENERAL MANAGER FOR UTILITIES, CONSENT AGENDA ITEMS

CITY ATTORNEY, CONSENT AGENDA ITEMS

CLERK OF THE COMMISSION, CONSENT AGENDA ITEMS

090924.

City Commission Minutes (B)

RECOMMENDATION

The City Commission approve the minutes of April 1, 2010, as circulated.

090924_april 1, 2010_20100415.pdf

090922.**Joint Meeting - Alachua County Commission (B)****RECOMMENDATION**

The City Commission add Fire Merger/Consolidation to April 29, 2010 meeting scheduled for 3:00 PM.

090922_jointmtg_20100415.pdf

EQUAL OPPORTUNITY DIRECTOR, CONSENT AGENDA ITEMS**COMMITTEE REPORTS, CONSENT AGENDA ITEMS****COMMUNITY DEVELOPMENT COMMITTEE, CONSENT****080579.****Landlord Licensing Late Fees (B)**

Explanation: On November 6, 2008, the Gainesville City Commission referred to the Community Development Committee (CDC) the issue of Landlord License Permit fees, particularly the amount of the fee if paid late. On March 26, 2009 members of the Code Enforcement Division (CED) met with the CDC and several citizens to discuss the issue of Landlord License Permit fees. Several of those present offered input and requested revisions to the fees associated with Landlord License Permits; specifically the increase in the fee if it is past due.

On January 12, 2010 the CDC received recommendations from staff and determined that a reduced late fee amount during the initial late time frame (1 business day to 15 calendar days late) was appropriate for new applications and renewals. The CDC is recommending that the Code of Ordinances Appendix A Schedule of Fees, Rates, and Charges be amended to include a new tier of Landlord License Permit late fee for 1 business day to 15 calendar days late set at 50% of the current 30-day late fee. Additionally, the current 1 business day to 30 calendar day late tier will be amended to add the 16 to 30 calendar days late tier.

The proposed change will require an amendment to the Code or Ordinances Appendix A Schedule of Fees, Rates and Charges. In order for the amended late fee to be in effect at the start of the 2010/2011 Landlord License Permit cycle, Appendix A will need to be amended prior to August 1, 2010.

Fiscal Note: Reducing the current landlord permit late fee for the period of 1 business day to 15 calendar days late would not result in a significant fiscal impact. Based on the current Landlord License Permit fee, permits paid for during the first 15 days late would be \$241.38 rather than the current fee of 287.75. The current base fee is \$195.00.

RECOMMENDATION

The City Commission: 1) approve the Community Development Committee's recommendation to amend the current landlord permit late fee by adding a new payment tier for 1 business day to 15 calendar days

late to 50% of the current 30 day late amount for new applications and renewals. The current 1 business day to 30 calendar day tier will be amended to 16 to 30 calendar days; 2) authorize the City Attorney to draft and the Clerk of the Commission to advertise an amendment to the Code of Ordinances amending Appendix A Schedule of Fees, Rates and Charges to implement the amended late fee prior to August 1, 2010; and 3) remove this item from the Community Development Committee referral list.

Legislative History

11/6/08	City Commission	Referred (7 - 0)	Community Development Committee
3/26/09	Community Development Committee	Approved as Recommended	
1/12/10	Community Development Committee	Approved as shown above (See Motion)	

080579_Late LLP Memo_20090326.pdf
 080579_Ordinance Excerpt_20090326.pdf
 080579_Memo_20100112.PDF
 080579_CDC Minutes_20100415.pdf

AUDIT, FINANCE AND LEGISLATIVE COMMITTEE, CONSENT

090898.

City of Gainesville Fiscal Year 2009 Comprehensive Annual Financial Report, Audited Financial Statements, Auditors' Reports, Auditors' Management Letters and Single Audit Reports, and Management's Written Response (B)

Explanation: In accordance with the City's contracts for external auditing services with Carr, Riggs & Ingram, LLC (formerly Davis, Monk and Company) and Ernst and Young, Certified Public Accountants, the following reports are presented for review by the Audit, Finance and Legislative Committee:

- 1. The Basic Financial Statements, Supplemental Information and Independent Auditors' Report, Management Letters and Single Audit Reports of the City of Gainesville, Florida for the Fiscal Year Ended September 30, 2009; which are presented in the attached Comprehensive Annual Financial Report;*
- 2. The Financial Statements, Supplemental Information and Independent Auditors' Report of Gainesville Regional Utilities for the Fiscal Year Ended September 30, 2009;*
- 3. The Financial Statements and Independent Auditors' Report on the Wild Spaces Public Places (WSPP) Funds of the City of Gainesville, Florida for the Fiscal Year Ended September 30, 2009;*
- 4. The Financial Statements and Independent Auditors' Report on the*

Employees' Pension Fund of the City of Gainesville, Florida for the Fiscal Year Ended September 30, 2009;

5. The Financial Statements and Independent Auditors' Report on the Consolidated Police Officers and Firefighters Retirement Plan of the City of Gainesville, Florida for the Fiscal Year Ended September 30, 2009;

6. The Financial Statements and Independent Auditors' Report on the Disability Pension Fund of the City of Gainesville, Florida for the Fiscal Year Ended September 30, 2009; and

7. The Financial Statements and Independent Auditors' Report on the Other Postemployment Benefits Fund of the City of Gainesville, Florida for the Fiscal Year Ended September 30, 2009.

In the opinion of the independent auditors, the financial statements referred to in items 1, 2 and 3 above present fairly, in all material respects, the financial position and changes in financial position of the City, GRU and the City's Wild Spaces Public Places Funds for the year ended September 30, 2009, in conformity with generally accepted accounting principles.

In the independent auditors' opinion, the financial statements referred to in items 4, 5, 6 and 7 above present fairly, in all material respects, the net assets and changes in net assets held in trust for benefits for the year ended September 30, 2009, in conformity with generally accepted accounting principles.

As part of the audit process the independent auditors issue "management letter comments" along with several other reports related to internal control structure; compliance with certain provisions of laws, regulations, contracts and grants, and internal control structure and certain requirements applicable to federal and state financial assistance programs. These reports are presented within item 1 above under the heading of "Single Audit Section."

The auditors' management letter related to General Government indicates that there were no recommendations in the current year. The auditors' management letter and internal control report over financial reporting related to Gainesville Regional Utilities include recommendations related to SAP accounting system user education, SAP configuration, SAP change controls configuration and FERC depreciation. The auditors also indicated that no prior year recommendations are outstanding. Management's written response to these comments indicates agreement with the auditors' recommendations and provides planned corrective action on each issue.*

In accordance with Section 6(b) of Resolution 970187, City Auditor Responsibilities and Administrative Procedures, the City Auditor has reviewed the attached statements and reports to ensure that contractual terms have been fulfilled and transmits these reports with a recommendation for City Commission acceptance.

RECOMMENDATION

The City Commission accept the subject financial report, financial statements, auditors' reports, management letters and single audit reports; and accept management's written response.

Legislative History

3/29/10 Audit, Finance and Recommended for Approval
Legislative
Committee

090898_City Auditor's Transmittal Memo for FY2009 Financial Statements.pdf
090898_Summary of FY 2009 Audit Results - General Government.pdf
090898_1 City-Wide CAFR FY2009.pdf
090898_2 GRU FY2009 Financial Statements.pdf
090898_3 WSPP FY2009 Financial Statements.pdf
090898_4 Employees Pension Fund FY2009 Financial Statements.pdf
090898_5 Consolidated Pension Fund FY2009 Financial Statements.pdf
090898_6 Disability Pension Fund FY 2009 Financial Statements.pdf
090898_7 Other Postemployment Benefits Fund FY2009 Financial Statements.pdf
090898_GRU Audit Results_FINAL_20100329.pdf

090902.**Human Resources Holiday Policy (B)****The Charter Officers seek direction on an amendment to the Human Resources Holiday Policy for non-represented employees.**

Explanation: The current Human Resources Holiday Policy observes ten paid holidays for non-represented employees. With the implementation of non-traditional work schedules across the organization, such as the 4 day, 10 hour workweek, it has become necessary to clarify the application of the policy to the workweek.

Several of the Charter Officers support amending the Holiday Policy to set forth a maximum of 80 hours of holiday pay per year, depending on the full-time status of the employee. This is the equivalent of ten paid holidays at eight hours each. This amendment provides for equitable benefits for all non-represented employees regardless of their work schedule or reporting hierarchy. A copy of this revised Policy is attached as Exhibit "A"

Soon after the approval of the 4-10 hour workweek in the Fall of 2008, the City Attorney's Office collegially developed an internal Attendance and Work Schedule Policy to implement the 4-10 workweek, specifically addressing holidays in the context of a 4-10 workweek. The City Attorney's internal policy, a copy of which is attached as Exhibit "B", only applies to the employees of the City Attorney's Office and is tailored to fit the specific needs of a professional law office. The function of a law office necessitates the actual physical presence of employees in the office to regularly produce legal documents, respond to judicial and administrative agencies, and attorneys' offices that are open 5 days per week, meet deadlines that are independent of the City's regular work schedule.

The City Attorney therefore has several concerns with the amendments proposed by the other Charter Officers. These concerns are more fully outlined in the City Attorney's memorandum to the Charter Officers dated September 22, 2009 (a copy of which is attached as Exhibit "C"). As a result of these concerns, the City Attorney recommends an alternative revision to the Human Resources Policy that would permit Charter Officers some flexibility in accommodating a 4

- 10 hour workweek in a 5 - 8 hour work environment. This flexibility is consistent with the practice of the City Manager and General Manager for Utilities, some of whose employees work a 5 - 8 hour workweek or other flexible work schedule to meet the demands of their particular functions in meeting the needs of the citizens and customers.

The City Attorney recommends a slight revision to the proposed Policy that acknowledges the current practice of the City Attorney's Office since the Fall of 2008 by adding the words "or by specific written guidelines adopted by a Charter Officer" in Article V of the Policy page 2, line 7 as shown by italics in Exhibit "D".

Fiscal Note: The amendment proposed by several of the Charter Officers does not change the current cost of providing holiday pay. The amendment proposed by the City Attorney's Office adds 10 additional hours per year for those employees in the Office on a 4-10 work schedule.

RECOMMENDATION *The City Commission adopt the Human Resources Holiday Policy (L-6) outlined in Exhibit "A".*

Legislative History

3/29/10 Audit, Finance and Recommended for Approval
 Legislative
 Committee

090902_Holiday_Policy_20100329.pdf

090899.

Review of Affirmative Action Program (B)

Explanation: In accordance with our Annual Audit Plan, we have completed a Review of the Affirmative Action Program. Our report, which includes a response from the Equal Opportunity Director, is attached for your review.

We request that the Committee recommend the City Commission accept our report and the Equal Opportunity Director'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 response from the Equal Opportunity Director; 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

3/29/10 Audit, Finance and Recommended for Approval
 Legislative
 Committee

090899_CityAuditor's Review of Affirmative Action Program with EO Response.pdf

CITY MANAGER**090923****Voluntary Separation Program (NB)**

This item requests authorization to implement a Voluntary Separation Program.

Explanation: A voluntary separation program usually involves employees voluntarily terminating their employment with an employer in exchange for severance benefits. Generally, such a program allows employers to address budget shortfalls through a reduction of workforce which does not involve involuntary termination of employment (i.e., layoffs).

It is proposed that the City Commission authorize the implementation of a Voluntary Separation Program to help address the fiscal and economic conditions facing the City. The intent of this program is to create vacancies that will provide the opportunity to eliminate budgeted positions. A successful program should mitigate the need to consider layoffs. In order to generate recurring budgetary savings it should be understood that a certain number of positions vacated will be eliminated from the budget.

The proposed Voluntary Separation Program would provide eligible employees a cash payment equal to two weeks of base pay for every full year of regular employment with the City. Eligible employees electing to participate in the City's Voluntary Separation Program would receive at least four weeks of their base pay and no more than twelve weeks of their base pay in exchange for their voluntary separation of employment from the City by July 1, 2010. Employees eligible to participate in the City's Voluntary Separation Program would generally work in those operational areas where a reduction in workforce would have the least impact on vital City services and where a reduction in workforce is needed to address projected budget deficits. Eligibility may be restricted as to specific employee classifications, organizational functions, departments, or particular skill sets. The determination of final eligibility will be set after consultation with all Charter Officers and bargaining with the applicable bargaining units as appropriate.

Eligible employees desiring to participate in the Voluntary Separation Program must do so by June 2, 2010. This will entail, among other things, submitting a letter of resignation effective no later than July 1, 2010.

Fiscal Note: The Voluntary Separation Program will be funded from budgeted personal services within each department. Each authorized position was budgeted for the full fiscal year. Eligible employees electing to participate in the Voluntary Separation Program will vacate their position effective July 1, 2010, resulting in a thirteen week vacancy period. The cash payment will be funded from the thirteen week vacancy period. Therefore, funds are available in the FY2010 budget. There is no cost to this program in FY2011. Any positions eliminated from the budget will result in a net savings to the City.

RECOMMENDATION

The City Commission authorize the implementation of a Voluntary Separation Program.

090927.**Solid Waste Management System (B)**

This item involves a request for the Commission to hear a presentation on the status of the City and County discussions regarding the need to capture control of the commercial waste stream.

Explanation: On January 25, 2010 Emerald Waste Services, Inc. (EWS) began diverting approximately 1,000 tons of commercial waste per week (29% of the total waste stream formerly taken to the Leveda Brown Transfer Facility (LBTF)). The waste is now taken to a transfer station owned by EWS where they are sorting out recyclables and then transporting the remaining waste to a privately owned landfill located in southern Georgia. This diversion of waste is creating a substantial revenue loss for Alachua County because the tipping fees at the New River Landfill increase as volume of waste decreases. In addition, the fixed costs of operation at the LBTF are spread over a lower tonnage. This will most likely result in an increased cost to the residential customers.

In October 2006, the City Commission adopted Resolution 060535 authorizing one or more exclusive franchises for the provision of solid waste services to commercial property or provide such services itself or through another local government. On March 18, 2008 during a joint meeting of the City and County Commissions a motion passed for the County and City to develop and implement flow-control ordinances within their respective jurisdictions, while continuing to pursue one or more exclusive commercial franchises as a back up.

As a follow-up to that meeting City and County staff began meeting with the local commercial haulers to alert them of the direction given. The haulers requested the opportunity to enter into non-exclusive franchise agreements with the City and County that provided a commitment to bring the waste to the LBTF. Two of the three haulers did follow through with this commitment and signed agreements with Alachua County. However, EWS did not.

Based on legal opinions provided to Alachua County and the City of Gainesville, staff believes it is necessary to now proceed with the exclusive franchise to commercial property.

Fiscal Note: There is no fiscal impact at this time.

RECOMMENDATION

Recommended Motion: The City Commission: 1) hear a presentation on the status of the City and County discussions regarding the need to capture control of the commercial waste stream; and 2) authorize the City Manager to begin the process to implement exclusive franchise to commercial property jointly with Alachua County.

090927_Franchise_20100415.pdf

090927_Resolution_20100415.pdf

090930.**Preliminary Design Approval of the Alachua County/City of Gainesville Senior Recreation Center (B)**

This is a request for the City Commission to approve the preliminary site plan, and floor plan in the design of the Alachua County/City of Gainesville Senior Recreation Center within Northside Park located at 5701 NW 34th Street, Gainesville, FL 32653

Explanation: On February 18th, 2010 the City entered into an agreement with WG Mills for the Design Build of the Alachua County/City of Gainesville Senior Recreation Center. The approximate 17,000 sf recreation center will be located within the existing Northside Park off of NW 34th Street close to the intersection of US 441. The center will be built to meet 120 MPH wind speeds, able to be used as a shelter, and achieve a USGBC LEED "Silver" level certification. The building will accommodate staff from ElderCare of Alachua County who will oversee the programming and operations of the facility as well as a large multi purpose room, a fitness area, several classroom style rooms, a library, a billiards room, and various other multi use areas to promote socialization and recreation for seniors in the community. Per Administrative Procedure No. 22A, the preliminary design is being presented to the City Commission for approval.

The design team has held a meeting with members of the Concerned Citizens for Older Adults (and related folks in the Senior Health Care field), two neighborhood workshops and a special meeting with District 1 citizens to gain a large range of input from the community. Several attendees have volunteered to serve on the design team. Though none of the volunteers were within a 400' range to be considered "neighborhood" representatives, they will still be included on the design team. The largest input received was related to the programs to be held at the Senior Center. Other input received was related to the concern to continue operations of the Frisbee Golf Course, the need for new benches, and the ability of the center for future expansion, and multi-use. A major concern for the seniors who attended the meetings was a concern for close parking with a sense of safety and comfortable seating in the center. As you will see in the presentation by the design team, a floor plan and site plan is being submitted that best addresses every possible suggestion while balancing the budget, LEED goals, and schedule restraints. (In accordance with the MOU with the State of Florida Department of Elder Affairs and the City of Gainesville, we have agreed to complete this project no later than December 31, 2011. In order to meet this deadline the design team will need to submit a site plan to the City of Gainesville Planning Department before the 100% presentation to the City Commission.) After City Commission approval, the architect will continue with the site plans and start construction drawings for review by the City Commission at the 30% stage.

Fiscal Note: This agenda item has no fiscal impact unless the City Commission recommends major changes to the building design. Funding for the project is through a State of Florida Grant with Elder Affairs, and City and County Wild Spaces Public Places funding.

RECOMMENDATION

The City Commission: 1) approve the preliminary design and instruct the architect to start construction

drawings for review by the City Commission at the 30% stage; and 2) allow the design team to submit the site plans to the City of Gainesville Planning Department.

Alternative Recommendation A: The City Commission approve the preliminary design with suggestions and instruct the architect to start construction drawings for review by the City Commission at the 30% stage; and 2) allow the design team to submit the site plans to the City of Gainesville Planning Department.

Alternative Recommendation B: The City Commission reject the recommendation and direct staff to obtain a new design plan.

090930_PPT_20100415.pdf

GENERAL MANAGER FOR UTILITIES

CITY ATTORNEY

CITY AUDITOR

EQUAL OPPORTUNITY DIRECTOR

COMMITTEE REPORTS (PULLED FROM CONSENT)

ECONOMIC DEVELOPMENT/UNIVERSITY COMMUNITY COMMITTEE

090824.

City of Gainesville - Strategic Action Plan for Economic Development Five Year Update and Council for Economic Outreach (CEO) - Innovation Gainesville (B)

This item is a recommendation from the Economic Development University Community Committee (EDUCC) requesting the City Commission endorse a five year update to the City's Strategic Action Plan for Economic Development and CEO Innovation Gainesville effort.

Explanation: In August 2004, the City Commission adopted a Strategic Action Plan for Economic Development designed to guide staff efforts in pursuing economic development with community partners. The Plan focuses on Infrastructure, Business Environment, Workforce, Diversified Economy and Quality of Life considerations. Recently, the EDUCC has spent the past few months updating the Plan in line with perceived City Commission priorities and in the context of current economic conditions.

Concurrently, the Council for Economic Outreach (CEO) unveiled its

Innovation Gainesville effort. This is a community initiative to strengthen the local economy and make Gainesville a leader in emerging technological fields. This planning effort revolves around Partnership, Communication, Connectivity and Talent Development considerations.

Over the past five years, there have been many positive developments for the City of Gainesville in terms of facilitating the Innovative Economy. The community has established a critical mass of private firms, partnership entities, physical facilities and economic development mechanisms to take the City to the next level in this regard.

These overlapping planning efforts are designed to fortify the area's Innovative Economy platform and provide a roadmap for further progress over the next several years in concert with the City's private industry, education, non-profit and economic development partners.

Fiscal Note: No fiscal impact at this time.

RECOMMENDATION

EDUCC to the City Commission: 1) hear a brief presentation from City and CEO staff on the respective economic development plans and efforts; 2) approve the five year update to the City's Strategic Action Plan for Economic Development and CEO's Innovation Gainesville effort; 3) direct staff to work to implement these efforts with community partners in subsequent years; and, 4) approve removal of the referral from the Committee's referral list.

Legislative History

3/18/10 City Commission Continued

4/1/10 City Commission Continued

090824a_Plan & EDUCC Minutes_20100318.pdf

090824b_Innovation G'ville_20100318.pdf

090824c_CEO PPT_20100318.pdf

ADVISORY BOARDS/COMMITTEES (APPOINTMENTS/REPORTS)

OUTSIDE AGENCIES

MEMBERS OF THE CITY COMMISSION

090936.

Mayor Pegeen Hanrahan - Consideration of Designation of Mayor Hanrahan to Represent the City of Gainesville as a Member of the Board of ICLEI-USA (NB)

Explanation: Mayor Hanrahan has served as a member of the board of ICLEI-USA (www.iclei-usa.org) since 2009, and is currently the Secretary of the Board. Under ICLEI-USA's bylaws, a local government may designate a former elected official or other individual to act as their representative for purposes of board membership. This does not preclude any other elected official or staff member

from being involved in ICLEI meetings or activities, in fact that would be very much welcome. For example, the City of Seattle had, until recently, designated a former City Council Member, Margaret Pageler, to serve as their representative for purposes of board membership, but Mayor Greg Nickels often participated in ICLEI meetings himself.

If Gainesville wishes to continue to have Mayor Hanrahan act as the city's representative for purposes of board membership, she will be eligible to serve out her term on the board of ICLEI-USA. Because ICLEI-USA has approximately 1100 member local governments, and typically has just 15 board members, it is unlikely that Gainesville will have a representative on the board in the immediate future if Mayor Hanrahan is not asked to continue in this role on behalf of the city.

Mayor Hanrahan's participation in ICLEI has led to substantial exposure for Gainesville's climate change mitigation efforts, including being an invited speaker by the White House at the COP15 Climate Summit in Copenhagen, and being included as an example in various ICLEI publications and videos, including "A Climate of Change," narrated by Robert Redford and shown on the Sundance Channel.

Fiscal Note: None; ICLEI-USA covers travel expenses for board members to participate in meetings and other activities.

RECOMMENDATION

Authorize a letter to be signed by the City Manager (or Mayor Pro-Tem or Mayor-Elect, as appropriate), on behalf of the Gainesville City Commission, designating Mayor Hanrahan to continue to serve as Gainesville's representative to ICLEI-USA for purposes of board membership.

COMMISSION COMMENTS (if time available)

RECESS

RECONVENE

PLEDGE OF ALLEGIANCE (5:30pm)

PROCLAMATIONS/SPECIAL RECOGNITIONS

090920.

City of Gainesville's Citizens' Academy Spring 2010 Graduates (NB)

Explanation: The City of Gainesville Communications Office offers the Citizens' Academy, dubbed "Gainesville 101," to educate Gainesville citizens on the diverse services their city government provides and inform them on how they can become more involved in their local government.

Participants in this year's Citizens' Academy went behind the scenes of city

government operations, met with government officials, toured facilities and asked questions at six weekly sessions. A unique feature of the Citizens' Academy is the emphasis on sustainability, fiscal responsibility and increased interaction. Handouts were provided primarily electronically via the Citizens' Academy Web pages.

Fiscal Note: None

RECOMMENDATION *The City Commission: 1) recognize accomplishments of Gainesville 101 Spring 2010 City of Gainesville Citizens' Academy graduates; and 2) hear brief comments from the class speaker on what they have learned.*

090889.

National Public Safety Telecommunications Week - April 12-18, 2010 (B)

RECOMMENDATION *Combined Communications Center Technical Services Division Manager Linda Jones, Technical Services Bureau Chief Patricia Ford-Thomas, Communications Commander Sylvia Armstrong, and Communications Commander Susie Westfall to accept the proclamation.*

090889_TelecommunicationsProc_20100415.pdf

090890.

Tacachale Bombers Day - April 15, 2010 (B)

RECOMMENDATION *Tacachale Bombers Athletes Kevin Mills, David Waldie, Alan Miller, Steve Mack, Carl McKinney, Elida Deboe, and Ron Johnson, Head Coach Thaddeus Merricks, and Assistant Coaches Alvin Bryant, Rod Johnson, and Curtis Pierre to accept the proclamation.*

090890_TacachaleBomersProc_20100415.pdf

090891.

National Volunteer Week - April 18-24, 2010 (B)

RECOMMENDATION *Parks Recreation and Cultural Affairs Volunteer Coordinator Gary Paul, Cultural Affairs Volunteer Ms. Rie Burton, Recreation Volunteer Ms. Peggy Shade, and Recreation Volunteer Ms. Rosa B. Williams to accept the proclamation.*

090891_VolunteerWeekProc_20100415.pdf

090892.

Friends of Nature Parks' 30th Anniversary - April 17 - June 13, 2010 (B)

RECOMMENDATION *Friends of Nature Parks President Penny Weber to accept the proclamation.*
090892_Proc_20100415.pdf

090933.**Fifth Avenue Arts Festival Days - April 16-18, 2010 (B)**

RECOMMENDATION *Cultural Arts Coalition, Inc. Director NKwanda Jah to accept the proclamation.*
090933_FifthAveArts_20100415.pdf

CITIZEN COMMENT (6:00pm) - Please sign on sign-up sheet**PUBLIC HEARINGS****RESOLUTIONS- ROLL CALL REQUIRED****090813.****Adoption of Alachua County Fertilizer Ordinance (B)**

It is proposed that the City Commission adopt a Resolution opting into Alachua County's Fertilizer Ordinance (Ordinance 09-06). The Resolution would allow Alachua County to enforce Florida Friendly Fertilizer rules within the City of Gainesville. This Resolution will satisfy Florida Legislature requirements put forth by SB494 and SB2080.

Explanation: The Florida State legislature recently adopted SB494 and SB2080 which require Florida counties and cities located within watersheds of water bodies impaired for nutrients at a minimum to adopt the Department of Environmental Protection's model ordinance for Florida Friendly Fertilizer Use on urban landscapes.

On September 22nd, 2009, the Alachua County Board of Commissioners adopted a fertilizer ordinance based on the model ordinance. The ordinance includes standards for timing of fertilizer application, training and licensing requirements, fertilizer application rates, and fertilizer-free zones.

It also requires training for all businesses applying fertilizer to turf and/or landscape plants in Alachua County. Each business must ensure that at least one employee has an appropriate "Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate by 2011. Information on training classes is provided at alachuacountywater.org.

Currently this code is only applicable in the unincorporated part of the County. As Gainesville is located within watersheds of water bodies impaired for nutrients, SB494 and SB2080 requires that the City adopt such a fertilizer code. While the state has no set timeline for adoption, this code has the potential to assist immediately in reducing pollutant loads entering local water bodies. Such

090537.**LAND USE AMENDMENT - BUTLER PLAZA AREA (B)****Ordinance No. 0-09-75, Petition PB-09-74 LUC**

An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan Future Land Use Element and Future Land Use Map; by changing the land use categories from the Alachua County Land Use Categories of Medium High Density Residential (8-14 DU/acre), High Density Residential (14-24 DU/acre), Office/Residential, Commercial, Institutional, and Industrial to the City of Gainesville underlying land use categories of Commercial (C), Office (O), Mixed-Use Medium (MU-M) and Residential Medium Density (RM) with the overlay category of Planned Use District (PUD), all as more specifically described in this ordinance on lands commonly referred to as "Butler Plaza" generally located between Southwest Archer Road and Southwest 24th Avenue, and between Southwest 40th Boulevard and Southwest 34th Street; by creating and adopting Policy 4.3.6 in the Future Land Use Element of the Comprehensive Plan to govern the Butler Plaza PUD; providing time limitations; providing directions to the City Manager; providing a severability clause; providing a repealing clause; and providing an effective date.

Explanation: The proposed area of these "Butler Plaza" comprehensive plan amendments totals approximately 264 acres, and is located generally on the north side of Archer Road and to the west of SW 34th Street. The current developed portion (approximately 108 acres) of Butler Plaza has developed over the last 30 years and contains over 1 million square feet of commercial retail uses which are contained in several adjacent shopping plazas and multiple outparcels located along Archer Road. This existing development is accessed by a series of streets and private access drives that connect from Archer Road northward to Windmeadows Boulevard.

The property was voluntary annexed into the City of Gainesville by City Ordinance 070722 adopted April 28, 2008. After the annexation in 2008, the applicant commenced the State Development of Regional Impact (DRI) process through the North Central Florida Regional Planning Council. During the review of the DRI, the State adopted Senate Bill 360, which eliminated the DRI process within communities designated as a Dense Urban Land Area (DULA). Gainesville was designated a DULA and, as the applicant had a pending DRI application, the applicant had the opportunity to continue with the DRI process or withdraw from the process. The applicant chose to withdraw from the DRI process. Until the City amends its Future Land Use Map to include this property, the existing Alachua County land use designations and zoning districts remain applicable to the property. The petitioner has initiated this land use change to bring the land area into the City's Comprehensive Plan and Future Land Use Map by assigning the property underlying City land use designations of Commercial (C), Office (O), Mixed-Use Medium (MU-M) and Residential Medium Density (RM) and applying a Planned Use District (PUD) overlay over the entire property.

The Butler Plaza PUD is further defined into three (3) subareas of development.

These areas are depicted on the map attached as Exhibit "B" to the ordinance and are generally described as follows:

Subarea 1: Existing developed Butler Plaza consisting of approximately 108 acres; generally refers to the developed portions of Butler Plaza that are, south of Windmeadows Boulevard, north of SW Archer Road, east and west sides of Butler Boulevard.

Subarea 2: Undeveloped area consisting of approximately 49 acres;; generally refers to the undeveloped areas of the project north of Windmeadows Boulevard and SW 33rd Place, generally south of the proposed SW 62nd Boulevard alignment.

Subarea 3: Undeveloped area designated as Towne Centre at Butler Plaza, generally refers to the undeveloped areas of the project including approximately 110 acres, north of Windmeadows Boulevard, south of SW 24th Avenue, generally north and northeast of the proposed SW 62nd Boulevard alignment.

The proposed land use change will remove the previous Alachua County Industrial, Commercial, Office, Residential and Institutional designations and will allow commercial, office and hotel/motel uses on the property, as well as up to 1000 residential units.

It is staff's opinion that the Butler Plaza development will serve as a regional center serving North Central Florida. Adding residential use to the development will allow for a more integrated development over time. While the applicant has indicated a limited need for residential use within the project due to the proposed redevelopment of the urban village around SW 20th Avenue, it is envisioned that the urban village area will include a mix of uses that will serve the everyday needs of the urban village residents.

Compatibility Analysis and Consistency with the Comprehensive Plan

The Butler Plaza PUD policies address density and intensity, permitted uses, access by car, foot, bicycle, and transit, trip generation and capture, environmental features, and buffering of adjacent uses. Compatibility will be achieved through coordinated application of standards, which regulate location, open space, ground coverage, height, lighting, signage, landscape and other physical design elements. The Butler Plaza PUD policies require more detailed standards as part of the implementing Planned Development (PD) zoning district. As proposed, the more intensive development activities are located away from existing residential development. The more traditional commercial components have been located adjacent to existing commercial and industrial developed properties. It is staff's opinion that the proposed ordinance is consistent with the Comprehensive Plan based on the policies included in the ordinance.

Butler Plaza development will have significant and adverse impacts on the transportation system that will have to be mitigated. The petitioner has estimated that development in the undeveloped area will generate 25,367 average daily trips and 2,424 p.m. peak hour trips. In analyzing the trip generation difference between the existing land uses in the undeveloped area

and the proposed land uses, the petitioner notes that the proposed development will generate approximately 4,019 additional average daily trips with a net reduction in p.m. peak hour trips due to the change from the current land use. It is recognized that new development in Subareas 2 and 3 will have a regional component to the trips generated. The City has had ongoing meetings and communications with Alachua County and the Florida Department of Transportation (FDOT) concerning these regional transportation impacts. The Butler Plaza PUD policies address mitigation of regional transportation impacts.

The development is located in Transportation Concurrency Exception Area (TCEA) Zone M, which is a multimodal zone. The policies and standards for mitigation in Zone M recognize that congestion in the area cannot be resolved with traditional roadway level of service. Zone M establishes requirements for a mix of solutions that include: alternative roadway construction as reliever roads for congested facilities; transit; added pedestrian facilities, park and ride facilities and smart bus bay facilities. At the time of PD zoning, the developer will be required to execute an initial TCEA Zone M Agreement for provision of required Zone M standards. The developer's requirements will be based on the proportionate share impact of the development on roadway facilities. It is further anticipated that the developer, as future phases of the development occur, will sign additional agreements with the City for provision of Zone M standards related to the relevant development phase.

In addition to the transportation impacts related to level of service and congestion, there are operational and safety impacts of the development. As stated in the Concurrency Management Element and reiterated in this Comprehensive Plan amendment, operational and safety site related impacts must be funded by the developer, and these do not count toward meeting required TCEA Zone M standards. In analyzing crash data from January 2004 through December 2006, there are already significant crash rates above the national average on the segment of I-75 from Archer Road to Newberry Road, including crashes at the interchange ramps. There are also significant crash rates on Archer Road, Newberry Road, SW 34th Street, SW 20th Avenue, SW 40th Boulevard, SW 42nd Street, and SW 43rd Street. Additional trips generated by the development can be expected to increase crashes and other operational and safety issues on these roadways. The development will be required to make site-related operational and safety modifications to lessen the impacts on facilities.

Part of the developer's TCEA mitigation will be construction of a portion of the proposed SW 62nd Boulevard extension as approved by the Metropolitan Transportation Planning Organization (MTPo) on March 2, 2009. The road design consists of four general purpose lanes plus two additional lanes in the median for bus rapid transit. Bicycle parking and storage facilities will be provided at bus rapid transit stations and park-and-ride facilities. An analysis performed indicated that an average congestion reduction in the range of 2% to 11% is anticipated as a result of this project.

Butler Plaza is currently served by four (4) transit routes with a centralized transit hub located at the intersection of Butler Boulevard and SW Archer Road. There is also a proposed Bus Rapid Transit (BRT) system that would extend

along the proposed SW 62nd Boulevard realignment and construction. Butler Plaza will integrate transit facilities into the development to efficiently accommodate non-automobile trips to and from the development. Based on 2008 ridership numbers provided by RTS, the current transit routes serving Butler Plaza accounted for over 693,300 riders or 10% of the total regular ridership of RTS. The subarea policies for the PUD require the construction of improved transit stops with amenities, a transit transfer station and a park and ride lot.

Public notice was made as required by law and public hearings were held by the City Plan Board on September 21, 2009 and September 29, 2009. On September 29, 2009, the Plan Board by a vote of 6-0, recommended that the City Commission approve Petition PB-09-74 LUC, with amendments to the policies. The City Commission heard the petition on November 19, 2009, November 30, 2009 and December 1, 2009. At its meeting of December 1, 2009, the City Commission, by a vote of 7-0, approved Petition PB-09-74 LUC with modifications.

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

11/19/09	City Commission	Continued (Petition) (7 - 0)
11/30/09	City Commission	Approved (Petition) as Modified (7 - 0)

Petitioner_BP_market study.pdf
Petitioner_BP_comprehensive plan subarea policies 11-19-09 .pdf
Petitioner_BP- PD Conditions 11-19-09 .pdf
Petitioner_BP_PP_additional information.PDF
Letter_Deborah Butler_November 19, 2009.pdf
Info_FDOT & County_Letters.pdf
Attachment (map) County Letter..pdf
Attachment (map) County Letter.pdf
C-Hawkins-EMAIL and Comments.pdf
090537A_revised plan board adopted conditions_20091130.pdf
090537B_091007 cpb action agenda_20091130.pdf
090537C_090929 cpb minutes_20091130.pdf
090537D_090921 cpb minutes_20091130.pdf
090537E_staff report_20091130.pdf
090537F_cpa map_20091130.pdf
090537G_2.0 urban activity centers policy_20091130.pdf
090537H_4.3.5 butler plaza policy_20091130.pdf
090537I_s.w. 20th ave study area_20091130.pdf
090537J_butler plaza traffic report_20091130.pdf
090537K_neighborhood workshop info_20091130.pdf
090537L_091007 cpb minutes draft_20091130.pdf
090537M_staff ppt_20091130.pdf
090537_draftordinance_2010415.pdf

ORDINANCES, 1ST READING- ROLL CALL REQUIRED

090829.

VOLUNTARY EARLY SEPARATION INCENTIVE PROGRAM (B)

Ordinance No. 0-10-10

An ordinance of the City of Gainesville, Florida, amending Article VII, Division 5 of Chapter 2 of the City of Gainesville Code of Ordinances relating to the City of Gainesville Employees Pension Plan; creating a subsection (m) of Section 2-523, providing for additional service credit or waiver of certain actuarial reductions associated with an early separation incentive; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Explanation: At its meeting on March 18, 2010, the City Commission authorized the City Attorney to draft and the Clerk of the Commission to advertise an ordinance amending the General Employees Pension Plan to provide additional credited service or waive certain actuarial reductions associated with an early separation incentive to employees participating in a voluntary early separation program.

This ordinance requires two hearings. Should the Commission adopt this ordinance on first reading, second and final reading of the ordinance will be May 6, 2010.

RECOMMENDATION

The City Commission adopt the proposed ordinance.

Legislative History

3/18/10 City Commission Approved as Recommended (6 - 1)

090829_early separation incentive ordinance_20100415.pdf

090733.**URBAN SERVICES REPORT OF CITY-OWNED PROPERTY - NW & NE 53RD AVE. (B)****Ordinance No. 0-10-08**

An Ordinance of the City of Gainesville, Florida; adopting an Urban Services Report which sets forth the plans to provide urban services to two areas owned by the City of Gainesville and comprised of Tax Parcels 07874-001-001 and a portion of 07871-000-000. Tax parcel 07874-001-001 is generally located south of tax parcel 07874-001-000 and tax parcel 07872-008-000, west of tax parcel 07872-008-000 and the vicinity of NE Waldo Road, north of the city limits and NE 53rd Avenue, and east of the city limits and tax parcel 07875-000-000. The portion of tax parcel 07871-000-000 is generally located south of tax parcels 07876-002-000 and 07876-000-000, west of the city limits, tax parcel 07875-000-000 and NE 15th Street, north of the city limits and the northern boundary of Section 21, Township 09, Range 20, and east of the city limits and tax parcel 07877-000-000; the areas are proposed for annexation by the City of Gainesville pursuant to Chapter 90-496, Special Acts, Laws of Florida, as amended, known as the Alachua County Boundary Adjustment Act; providing directions to the City Manager, the City Attorney and the Clerk of the Commission; providing a repealing clause; providing a severability clause; and providing an immediate effective date.

Explanation: The Alachua County Boundary Adjustment Act requires a municipality to prepare and adopt by nonemergency ordinance a report setting forth plans to provide urban services to any reserve area to be annexed prior to commencing the annexation procedures under the Act.

The report must generally include the following information:

- 1) a map or maps of the City and adjacent territory showing the present and proposed municipal boundaries, the present major trunk water mains and sewer interceptors and outfalls, the proposed extensions of such mains and outfalls, and the general land use pattern in the area to be annexed;*
- 2) a statement indicating to what extent services to existing residents would need to be reduced within the next 5 years because of the annexation; to what extent taxes would need to be adjusted within the next 5 years to provide services to the areas to be annexed, including services required by the comprehensive plan of the municipality; and to what extent the area to be annexed meets the criteria of Section 9 of the Alachua County Boundary Adjustment Act;*
- 3) a statement setting forth the plans of the City for extending to the area to be*

annexed each major municipal service performed within the municipality at the time of annexation, including:

- a) plans for extending urban services on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation.*
- b) plans for the extension of existing municipal water and sewer services into the area to be annexed so that, when such services are provided, property owners in the area to be annexed will be able to secure public water and sewer service according to the policies in effect for extending water and sewer lines to individual lots or subdivisions.*
- c) if extensions of major trunk water mains and sewer mains into the area to be annexed are necessary, set forth a proposed timetable for construction of such mains as soon as possible following the effective date of annexation.*
- d) set forth the method under which the City plans to finance extension of services into the area to be annexed.*

If adopted on first reading, this ordinance shall be heard on second reading on May 6, 2010. After final adoption by the City Commission, a copy of this Report will be filed with the Alachua County Board of County Commissioners.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

Legislative History

2/18/10 City Commission Approved as Recommended (5 - 0 - 2 Absent)

090733_Voluntary Annexation Petition_20100218.pdf

090733A_Voluntary Annexation Petition_20100218.pdf

090733_53rd Annexation USR Ordinance_20100415.pdf

090733_voluntary annexationpet_20100218.pdf

ORDINANCES, 2ND READING- ROLL CALL REQUIRED

090809.

VOLUNTARY ANNEXATION OF TOWER CENTER (B)

Ordinance No. 0-10-06

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 Parcels 06654-003-000 and 06654-003-001, as more specifically described in this ordinance, generally located south of the vicinity of Newberry Road, west of Interstate 75 and the City limits, north of West University Avenue, and east of Tower Road; 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 November 19, 2009, 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 January 7, 2010 and January 21, 2010, 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 April 15, 2010. 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

4/1/10 City Commission Adopted on First Reading (Ordinance) (6 - 0 - 1 Absent)

090809_Tower Center Ordinance_20100401.pdf

090643.

AMENDMENTS TO LAND DEVELOPMENT CODE RELATING TO SEXUALLY ORIENTED BUSINESSES (B)

Ordinance No. 0-10-02, Petition PB-09-124-TCH

An ordinance of the City of Gainesville, Florida, amending the Land Development Code related to sexually oriented businesses; by revising the definitions for sexually oriented businesses; by allowing certain types of sexually oriented businesses as uses by right in the Tourist-Oriented Business District (BT), General Business District (BUS) and General Industrial District (I-2); by stating the intent, purpose and findings for the regulation of sexually oriented businesses; by imposing spacing requirements and design restrictions; by allowing for limited retail sales as an accessory use to retail trade establishments; by providing for permitted nonconforming uses; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an

immediate effective date.

Explanation: PLANNING AND DEVELOPMENT SERVICES DEPARTMENT STAFF REPORT

The purpose of this ordinance is to address potential legal issues related to how the City allows adult and sexually oriented businesses. The City's current zoning regulations only allow such businesses in the Tourist-Oriented Business District (BT) and there are only a few sites available within the BT zoning district. The City Commission authorized staff to hire a consultant to review the City's land development regulations related to this issue. In 2008, the City retained Duncan Associates to assist in updating the portions of its zoning ordinance that deal with sexually oriented businesses, or adult entertainment.

The consultant advised that local governments can legitimately regulate sexually oriented businesses differently from businesses that are otherwise similar if the purpose of the regulations is to reduce "negative secondary effects" of such businesses. Measurable secondary effects frequently associated with sexually oriented businesses are reductions in market values of residential and, in some cases, commercial property, as well as increases in certain types of crime. Both types of secondary effects diminish with distance. To minimize these secondary effects, local governments typically limit sexually oriented businesses to specific industrial or commercial zoning districts and then impose additional separation or setback distances between any sexually oriented business and such sensitive uses as residential neighborhoods, places of religious assembly and schools.

One of the challenges that local governments face in developing such regulations is that the desire to separate sexually oriented businesses from these other uses must be balanced with what the courts have held to be a "reasonable opportunity" for such businesses to locate in a community. The courts have made it clear that such a "reasonable opportunity" must be based on zoning by right or something very similar and not through a process that requires issuance of a special use permit, rezoning or other discretionary decision. One of the most difficult parts of the "reasonable opportunity" principle is to determine how much land area or how many sites a community must provide for a "reasonable opportunity" to locate. In First Amendment terms, the issue is typically addressed as one of providing adequate "alternate avenues" for the communication of the lawful speech that is restricted through the zoning or other ordinances.

The consultant has made specific recommendations for amending the provisions of City's Land Development Code to provide "adequate alternative avenues" for businesses protected by the First Amendment as uses by right and including design standards, separation requirements and other provisions to limit the potential negative secondary effects of such businesses on the community.

Compatibility was the major factor considered when determining where to allow sexually oriented businesses to locate. The focus of the compatibility analysis was to restrict the use in areas where the "negative secondary effects" of such businesses would have the most impacts. Those areas include residential areas, places of religious assembly, public and private school, youth associations and parks and recreational areas. Given that a majority of the land area in Gainesville is designated for residential and educational uses, and the overall

distribution of other land uses, the City is limited in where sexually oriented business uses would be compatible. Areas designated with mixed use type land use designations were eliminated because those areas would allow residential development and are more pedestrian oriented. Business Automotive and Limited Industrial areas were also eliminated due to the close proximity of these areas to residential development and their location along major roadways such as 13th Street and Main Street. Tourist-Oriented Business District (BT), General Business District (BUS) and General Industrial District (I-2) were chosen because they provided a reasonable opportunity to locate with the least amount of negative impact on the overall community.

On October 28, 2009, the City Plan Board heard the petition and, by a vote of 7-0, recommended the City Commission approve the petition with several modifications and recommendations from the Plan Board. On January 21, 2010, the City Commission heard the petition, and by a vote of 7-0, approved the petition as modified by staff recommendation.

CITY ATTORNEY MEMORANDUM

Should this ordinance pass on first reading, second and final reading will be held on Thursday, April 15, 2010.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

Legislative History

1/21/10	City Commission	Approved (Petition) as Modified (7 - 0)
4/1/10	City Commission	Adopted on First Reading (Ordinance) (5 - 0 - 2 Absent)

090643_cpb recommendation_20100121.pdf
090643A_cpb minutes_20100121.pdf
090643B_staff report_20100121.pdf
090643C_zoning recommend_20100121.pdf
090643D_findings & recommend revision_20100121.pdf
090643E_BUS & BT 1000 ft-eligible parcels_20100121.pdf
090643F_I2-1000 ft-eligible parcel_20100121.pdf
090643G_case law 5-1_20100121.pdf
090643H_case law 5-2_20100121.pdf
090643I_case law 5-3_20100121.pdf
090643J_case law 5-4_20100121.pdf
090643K_staff ppt_20100121.PDF
090643_draftordinance_20100401.pdf

PLAN BOARD PETITIONS

DEVELOPMENT REVIEW BOARD PETITIONS

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)