

City of Gainesville

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



Meeting Agenda

February 19, 2009

1:00 PM

City Hall Auditorium

City Commission

*Mayor Pegeen Hanrahan (At Large)
Mayor-Commissioner Pro Tem Jack Donovan (District 3)
Commissioner Thomas Hawkins (At Large)
Commissioner Jeanna Mastrodicasa (At Large)
Commissioner Scherwin Henry (District 1)
Commissioner Lauren Poe (District 2)
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 - 1:04 PM**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****080776. Legal Office Expenses from State Law Enforcement Contraband Forfeiture Trust Fund for Remainder of FY 2009 (NB)**

Explanation: The requested \$15,000 of funding is needed to cover the Gainesville Police Department's Legal Office expenses related to case filing fees, publication requirements, and storage fees for seized property for the remainder of FY 2009.

Fiscal Note: The \$15,000 expenses are necessary for the processing of forfeiture cases. If this request is not paid from the Law Enforcement Contraband Forfeiture Trust Fund, it would need to come from the general fund. Funds are currently available in the State Law Enforcement Contraband Forfeiture Trust Fund account and is allowable under F.S. 932.7055(4)(a). The balance of the account is \$109,974.00.

RECOMMENDATION

The City Commission authorize the Gainesville Police Department to appropriate \$15,000 from the State Forfeiture Fund account (108-2710) into line item 108 810 H105 5210 3910.

Alternative Recommendation A:

The City Commission appropriate funds from the General Fund for these expenses. The fiscal impact is \$15,000.

080783.

Request for Funding - Connect Free Program (B)

This item proposes to request City Commission authorization to provide Connect Free Program funding in the amount of \$37,500 to Neighborhood Housing & Development Corporation, Inc. (NHDC) to provide water extension and connection services to its new affordable housing development, Ernie's Chips, located in northeast Gainesville.

Explanation: Effective October 1, 2001, GRU began collecting a 25 percent surcharge on connection charges for customer connection to the water and wastewater system outside of the city limits. On July 28, 2003, the City Commission passed Resolution #030223 specifying that one-half of the surcharge monies from this source would be used to extend water, wastewater, and reclaimed water services within the City. Further, the resolution specified the program funding would be allocated to address water and wastewater needs as follows: 1) 20% Public Health, Safety and Environmental; 2) 20% Affordable Housing; and 3) 60% Programmed Water/Wastewater Extensions. Program funding not expended in the Public Health and Safety and Affordable Housing set-asides by the end of each fiscal year is rolled over to the Programmed Extensions set-aside.

The City's Connect Free Committee (CGCFC), comprised of General Government and GRU staff members, proposes to allocate Connect Free Program funds for a new affordable housing project developed by Neighborhood Housing & Development Corporation (NHDC). On September 8, 2008, the CGCFC received a request from NHDC for water extension and connection funding for its new affordable housing project, Ernie's Chips. The Ernie's Chips development is an affordable housing development and will contain 5 new homes for eligible first-time income eligible homebuyers located at the following addresses:

Lot 1 - 718 NE 12th ST

Lot 2 - 716 NE 12th ST

Lot 3 - 714 NE 12th ST

Lot 4 - 712 NE 12th ST

Lot 5 - 710 NE 12th ST

If approved, this funding will assist in reducing the construction costs of the homes and pass the savings directly to the first-time income eligible homebuyers. NHDC will also leverage the Connect Free Program funds with other public/private funding sources.

The CGCFC is recommending for NHDC to receive \$37,500 for the Ernie's Chips development, which equates to a maximum of \$7,500 per unit. The funds will be awarded to NHDC on a reimbursement basis.

Fiscal Note: Funds are available from the Connect Free Program, Programmed Extensions set-aside allocation.

RECOMMENDATION

The City Commission: 1) approve the allocation of \$37,500 in Surcharge Connection Funds to NHDC for the Ernie's Chips development; and 2) authorize the

City Manager or his designee to execute a sub recipient agreement and all necessary documents to award the Connect Free funds to NHDC, subject to approval by the City Attorney.

080794.**Settlement of Worker's Compensation Claim - Thomas A. Lewis (NB)**

This item involves the full and final settlement of Thomas A. Lewis' workers' compensation claim(s), which will include all future medical and indemnity payments. The total settlement amount is \$56,000 and represents a significant cost advantage to the City.

Explanation: While employed by GFR, Mr. Lewis was diagnosed with hypertension. This led to ongoing medical treatment for a cardiovascular condition.

Recently, the City and Mr. Lewis attempted to mediate a settlement of his worker's compensation claim. Mr. Lewis and his attorney, Anthony Salzman, have agreed to the proposed settlement. The City Attorney's Office, the Risk Management Department, GFR, Special Counsel and our Worker's Compensation servicing agent all concur as to the full and final settlement of this claim. The total amount, \$56,000, includes all attorney fees, future medical costs, past and future indemnity payments, taxable costs.

Fiscal Note: The settlement of this case in the amount of \$56,000 will be paid out of the General Insurance Fund.

RECOMMENDATION

The City Commission authorize Special Counsel to prepare and execute the appropriate documents for a lump-sum settlement of the Worker's Compensation claim of Mr. Lewis, in the amount of \$56,000.

080796.**Contract for State of Florida Lobbying Services (NB)**

Explanation: Doug Bruce & Associates has provided the City with lobbying services since March 1, 2005. In that time, Mr. Bruce has provided the City of Gainesville with satisfactory service lobbying the State of Florida on behalf of the City. At this time it is necessary for the City of Gainesville to enter into a new contract agreement with Doug Bruce & Associates. The new contract will begin on February 7, 2009 and continue through February 6, 2010. The recommended contract amount is \$49,440, which is a 3% increase from the previous contract amount of \$48,000.

Fiscal Note: The contracted cost for State of Florida Lobbying Services is \$49,440 and funds are included in the current fiscal year budget.

RECOMMENDATION

The City Commission: 1) Approve the contract for State of Florida Lobbying Services provided by Doug Bruce & Associates; and 2) authorize the City Manager or designee to execute the contract as approved by the City Attorney as to form and legality.

GENERAL MANAGER FOR UTILITIES, CONSENT AGENDA ITEMS**080801. Reimbursement for Oversizing of Wastewater Facilities at SoHo Apartments Phase 1 (NB)**

Reimburse Biltmore Corporation of Gainesville, developer of SoHo Apartments Phase 1, for the oversizing of wastewater facilities in accordance with provisions of the City of Gainesville Code of Ordinances, Chapter 27-179 Oversized Facilities.

Explanation: SoHo Apartments Phase 1 is a proposed infill/redevelopment project located in the 4100 block of SW 20th Avenue. A wastewater system must be constructed to provide wastewater service for the project.

In order to properly serve adjacent undeveloped parcels, GRU is requiring Biltmore Corporation of Gainesville to construct oversized wastewater facilities. The developer's engineer accommodated this in the development design. The developer's incremental cost to oversize the wastewater system, for which reimbursement is being sought, is \$92,885.00.

The recommended amount of \$92,885.00 includes all design, construction, labor, and materials associated with the wastewater system oversizing to satisfactorily complete the work.

Fiscal Note: Monies for this project are available in the FY 09 Water and Wastewater Capital Improvements Budget.

RECOMMENDATION

The City Commission authorize the General Manager or his designee to negotiate and execute an agreement for reimbursement to Biltmore Corporation of Gainesville for the oversizing of wastewater facilities in an amount not to exceed \$92,885.00 subject to approval of the City Attorney as to form and legality.

080802. Amendment to the Contract for Financial Advisor Services (NB)

Staff recommends amending the contract to Public Financial Management for the Utility's financial advisor services.

Explanation: The Utility employs the services of a financial advisor to assist in developing and implementing strategies to meet the Utility's long-term capital financing needs. The financial advisor also assists staff in evaluating financial options, assists in technical aspects of designing financing arrangements and instruments, and assists in representing the Utility's interest in financial market dealings.

The City Commission awarded a contract to Public Financial Management (PFM) on February 13, 2006 as a result of a Request for Proposals. The contract with PFM expires on April 6, 2009 and provides for an additional

three year extension of the contract upon mutual agreement of the parties and negotiation of the contract pricing and terms.

Despite increased operational costs, PFM has agreed to maintain the same rates for the extension. PFM has provided the Utility with excellent professional support during the past three years, advising GRU on the past three bond issues, with the last one occurring during a period of market upheaval. PFM has also been able to provide specialized support and advice on GRU's Lease In Lease Out transaction. Given the current environment, upcoming bond issues, and PFM's solid performance, staff believes that it is in GRU's best interest to extend the contract. PFM continues to be recognized as one of the top financial advisory firms in the country.

Fiscal Note: Funds for these services are available in the FY 2009 GRU budget and will be requested in future fiscal years, subject to final appropriation of funds for each year of the contract.

RECOMMENDATION

The City Commission: 1) authorize the General Manager, or his designee, to negotiate and execute a three year amendment to the contract with Public Financial Management for financial advisor services, subject to the approval of the City Attorney as to form and legality; and 2) approve the issuance of purchase orders to Public Financial Management in amounts not exceeding budgeted amounts for these services for each year of the contract, subject to final appropriation of funds for each year of the contract.

080803.

GenTrader Production Cost Software License (NB)

Staff recommends converting the GenTrader Production Cost Software annual license to a perpetual license.

Explanation: In 1996 the City Commission approved the purchase of "Scheduler" software from Power Costs, Inc. (PCI) to assist GRU in the management of its generation assets by asset optimization, asset valuation and risk management of asset portfolios. PCI no longer supports the Scheduler software and has replaced it with GenTrader. GRU contracted with PCI for the GenTrader license on an annual basis, for \$39,000 annually which was below the dollar threshold required for Commission approval. Staff evaluated the benefit of converting to a perpetual license and determined that cost benefits would be realized within four years. Staff therefore recommends transitioning from an annual license fee to a perpetual license fee.

RECOMMENDATION

The City Commission: 1) authorize the General Manager, or his designee, to convert the annual license to Power Costs Inc. (PCI) for the GenTrader Power Production Cost Software to a perpetual license at a one time cost of \$85,800; and 2) approve the issuance of purchase orders to PCI for each year of the agreement for the perpetual license for software

maintenance and service, as required, subject to the annual appropriation of funds for each fiscal year.

CITY ATTORNEY, CONSENT AGENDA ITEMS

080777. Azie Young vs. City of Gainesville, a municipal corporation; Eighth Judicial Circuit, Court Case No. 01-2009-CA-75 (B)

Explanation: On January 28, 2009, the City was served with a Summons and Complaint filed by Azie Young in the Circuit Court. Ms. Young alleges that on or about January 13, 2005, she fell into an uncovered water meter and sustained serious injuries. She claims to have sustained bodily injury, loss of capacity for the enjoyment of life, expenses for medical care and nursing care and treatment in the past and in the future, and the loss of ability to earn money. Ms. Young seeks money damages.

RECOMMENDATION

The City Commission authorize the City Attorney to represent the City of Gainesville in the case Azie Young vs. City of Gainesville, a municipal corporation; Eighth Judicial Circuit, Court Case No. 01-2009 CA-75

080781. CITY OF GAINESVILLE vs. O'STEEN BROTHERS, INC.; ALACHUA COUNTY CIRCUIT COURT (NB)

Explanation: On or about April 19, 2005, employees of O'Steen Brothers negligently accessed a City sewer line while they were working at a construction site. Their use blocked the pipe which caused the sewer to backup and flood apartments in Oak Glade Apartments. The City responded and repaired the damage to the apartments and replaced personal property of the residents which was damaged by the raw sewage. The City paid out a total of \$71,104.84 in damages and is entitled to recover that amount from O'Steen Brothers. The City has attempted to collect this money from O'Steen Brothers and their insurance company but has been unsuccessful.

RECOMMENDATION

The City Commission authorize the City Attorney to file suit and represent the City in the case styled City of Gainesville vs. O'Steen Brothers, Inc.; Alachua County Circuit Court.

CLERK OF THE COMMISSION, CONSENT AGENDA ITEMS

080806. City Commission Minutes (B)

RECOMMENDATION

The City Commission approve the minutes of January 29, 2009 and February 5, 2009, as circulated.

EQUAL OPPORTUNITY DIRECTOR, CONSENT AGENDA ITEMS**COMMITTEE REPORTS, CONSENT AGENDA ITEMS****RECREATION, CULTURAL AFFAIRS AND PUBLIC WORKS COMMITTEE,
CONSENT****070806. Rail Spur Property Liquidation (B)**

At the City Commission meeting held on January 14, 2008, the City Commission referred disposition of the Deerhaven Rail Spur property to the Recreation, Cultural Affairs and Public Works (RCAPW) Committee for recommendations.

Explanation: In 1993, the City Commission authorized the GRU General Manager to acquire properties needed to facilitate the construction of a rail spur connecting the Deerhaven Generating Station to the Norfolk Southern Railway in Lake Butler. Subsequently, approximately 19 parcels were acquired and/or leased in Alachua and Union Counties for the construction of the rail spur. In 1994, staff successfully negotiated a long term contract with CSX Transportation for the transportation of coal to the Deerhaven Generating Station, eliminating the need for the construction of the rail spur at that time.

Of the 19 parcels acquired and/or leased by the City, 16 were acquired in fee ownership, and permits or lease agreements were secured over the remaining three. In accordance with legal agreements between the City and the property owners, two of the fee owned parcels reverted back to the original land owners in 2003. There are 14 parcels remaining that are owned in fee by the City. Two of those parcels are located in Alachua County, one of which is a 95 acre parcel on the Santa Fe River, and remaining parcels are located in Union County. Complaints of trespassing and illegal dumping have been, and continue to be received from the abutting land owners and other area land owners.

Over the last several years, staff has received inquiries from organizations and individuals expressing interest in purchasing the 95 acre parcel and the linear corridor owned by the City between Hasan (Alachua County) and CR 18 in Union County (See attached drawing). The linear corridor primarily covers an old CSX railroad right-of-way.

Because of the need to protect the City's investment and the original intent of the acquisition, staff has evaluated relinquishing the City's fee ownership in this section of the corridor. This could only be done if the appropriate land rights to construct, operate and maintain utility related facilities are retained by the City, and the utility receives fair market value.

Staff has issued letters to the original land owners or abutting land owners of the linear corridor to determine interest in purchasing back the property, subject to an easement retained by the City for utility related facilities. There is interest by these landowners to purchase this property under the necessary

terms determined by the City.

ACT has expressed interest in acquiring the linear corridor for use as a recreational trail. Several options for the transfer of the property were proposed by ACT to staff throughout 2008 and the parties have agreed to proceed as recommended above.

Since 1998 staff has received inquiries from the Suwannee River Water Management District (SRWMD), Alachua County Forever, and ACT about the possible sale of the 95 acre parcel by itself. This has prompted the recommendation to offer any property not purchased by ACT to another public agency or public interest entity having land conservation as its principle purpose.

Staff made presentations to the RCAPW committee at their February 7, 2008, August 14, 2008 and January 8, 2009 meetings.

The Recreation, Cultural Affairs, and Public Works Committee Recommends: 1) find and declare the Deerhaven Rail Spur property as surplus; 2) authorize the General Manager or his designee to enter into a one year Option Agreement with Alachua Conservation Trust (ACT) with the option to extend for one year, for the sale of the portion of the rail spur, for fair market value as determined by the City of Gainesville, that extends from the southernmost part beginning in Alachua County to the Godwin property, located in Union County, including the 95 acre parcel on the Santa Fe River, reserving appropriate easements. Provided, however, should ACT decline to purchase any portion of the above described property, authorize the General Manager, or his designee to offer the same to another public agency or public interest entity having land conservation as its principle purpose; and, 3) authorize the General Manager or his designee to enter into Purchase and Sale Agreements, in accordance with GRU's Real Property disposition guidelines, for the sale of the portion of the rail spur beginning at the northernmost point of the Godwin Property, extending to SR 100 in Union County (as shown in blue on the attached map), with the adjacent property owners, or any other interested parties, reserving appropriate easements.

Fiscal Note: Staff anticipates receiving payments based on the fair market values of the properties over the next few fiscal years for the sale of the subject property.

RECOMMENDATION

The City Commission accept the recommendation to: 1) find and declare the Deerhaven Rail Spur property as surplus; 2) authorize the General Manager or his designee to enter into a one year Option Agreement with Alachua Conservation Trust (ACT) with the option to extend for one year, for the sale of the portion of the rail spur, for fair market value as determined by the City of Gainesville, that extends from the southernmost part beginning in Alachua County to the Godwin property, located in Union County, including the 95 acre parcel on the Santa Fe River, reserving appropriate easements. Provided, however, should ACT decline to purchase any portion

of the above described property, authorize the General Manager, or his designee to offer the same to another public agency or public interest entity having land conservation as its principle purpose; and, 3) authorize the General Manager or his designee to enter into Purchase and Sale Agreements, in accordance with GRU's Real Property disposition guidelines, for the sale of the portion of the rail spur beginning at the northernmost point of the Godwin Property, extending to SR 100 in Union County (as shown in blue on the attached map), with the adjacent property owners, or any other interested parties, reserving appropriate easements.

Legislative History

1/14/08	City Commission	Approved as Recommended (6 - 0 - 1 Absent)	
1/14/08	City Commission	Referred	Recreation, Cultural Affairs and Public Works Committee
2/7/08	Recreation, Cultural Affairs and Public Works Committee	Discussed	
8/14/08	Recreation, Cultural Affairs and Public Works Committee	Deferred	
1/8/09	Recreation, Cultural Affairs and Public Works Committee	Approved	

COMMUNITY REDEVELOPMENT AGENCY, CONSENT ITEMS

080828.

Cade Museum Update (B)

MODIFICATION TO THE AGENDA - ADDED 2/18/2009

Explanation: Over the last several months, the Cade Museum Foundation and City of Gainesville have made significant progress on the museum development. The project has reached an important and exciting stage that will advance fund raising and development of the project.

Last summer, the Boston-based architecture firm of E. Verner Johnson joined the project team as the museum designer. The landscape architecture firm Carol R. Johnson and exhibit designers Amaze teamed with the architect to brainstorm conceptual ideas and in the fall, the firms completed a building concept that captures the essence of the museum's organizing principles - Inspiration, Invention, and Innovation. The conceptual design is a 3 story, 50,000 square foot building located on the west side of Depot Park.

The City of Gainesville continues to make progress on the Depot Park project.

Work is underway on formalizing a Letter of Intent between the City and the Cade Museum Foundation, which will set forth terms of use for the Depot Park site. The agreement will allow the Cades to refine the building program and museum concept. The CRA has obtained architecture services for the depot building rehabilitation design. In March, the CRA will select a park designer to complete the park construction documents. Remediation is scheduled to begin in July 2009 with a completion of all remedial work anticipated by February 2010. The park will begin construction in late 2010.

The next step for the Cade Museum Foundation is to initiate the capital campaign. This will be aided by color renderings of the museum building and will be led by a professional fundraiser. The Cade Foundation has compiled extensive donor research that it will use to approach potential investors.

Fiscal Note: The City of Gainesville General Government, the CRA, and GRU have committed approximately \$28 million for park improvements including recreation elements, depot building rehabilitation, stormwater system, and Depot Avenue roadway upgrades as well as site remediation.

RECOMMENDATION

CRA to the City Commission: Request Mayor Hanrahan to issue a letter of support on behalf of the City Commission to the Cade Museum Foundation.

Legislative History

2/16/09	Community Redevelopment Agency	Approved as Amended (5 - 0 - 2 Absent)
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END OF CONSENT AGENDA

ADOPTION OF THE REGULAR AGENDA

CHARTER OFFICER UPDATES

CLERK OF THE COMMISSION

CITY MANAGER

080778. Sixth Street Corridor Rail Trail Project - 90% Design Presentation (B)

This item is a presentation by the Public Works engineering staff on the Sixth Street Corridor Rail Trail, which is currently at the 90% design stage.

Explanation: The Sixth Street Corridor Rail Trail project is underway and this presentation is intended to inform the City Commission of the design progress on this project and present the design intent and projected direction, including the current project schedule.

Fiscal Note: There is no fiscal impact to the City of Gainesville at this time.

RECOMMENDATION

The City Commission: 1) hear the staff presentation; and 2) provide input and guidance as appropriate.

080780.

Proposed Transfer of San Felasco County Park and Forest Park from Alachua County to the City of Gainesville (B)

This item involves a request to accept the transfer of San Felasco County Park from Alachua County to the City of Gainesville in FY 2010, effective October 1, 2009, contingent upon sufficient City funds being available for the operation and maintenance of the park. It also involves a request for conceptual approval for the future transfer of Forest Park from Alachua County to the City of Gainesville in FY 2011 .

Explanation: At their May 27, 2008, meeting the Alachua County Board of County Commissioners directed County staff to engage in formal discussions with the City of Gainesville for the City to accept ownership and maintenance of four county parks. The parks were identified for transfer due to their proximity to City limits. The four parks are: Copeland Park, 7020 NE 27th Avenue; Forest Park, 4501 SW 20th Avenue; San Felasco County Park, 6400 NW 43rd Way; and Squirrel Ridge Park, 1603 SW Williston Road.

City and County staff met and discussed in detail the four parks including their location in conjunction to the City limits, the City/County population served and the estimated operating and maintenance costs for each park. San Felasco County Park is located in the City limits and Forest Park was recently approved to be annexed into the City limits effective June 1, 2009. Both Squirrel Ridge Park and Copeland Park are outside the City limits. Based on a review of these factors, City staff believes it is appropriate for the City to consider accepting the transfer of San Felasco County Park and Forest Park to the City.

San Felasco County Park is a 194-acre resource-based park with nature trails, picnic area, and a playground. Typical activities include hiking, field trips by groups such as the YMCA, and private events such as birthday parties. It serves as a regional park, attracting both City and County residents. There is an open-air interpretive shelter currently under construction, and two boardwalk/overlooks are soon to be constructed. These new facilities will complete requirements of the Utilization Plan submitted to the National Park Service at the time Alachua County obtained the property from the Park Service.

Current service levels by Alachua County include: 1) maintenance - contract mowing once a week during growing season and as-needed in the winter; 2) janitorial services - also contractual: open and closing of the interpretive shelter and the park's access gate, and once-daily restroom cleaning; 3) cleaning and paper supplies - provided by Alachua County; 4) trash collection; 5) playground maintenance; 6) trail maintenance; and 7) tree trimming. Currently the City already provides water service to the park.

Forest Park is a 26-acre community park with three soccer fields, two basketball courts, two sand volleyball courts, two picnic shelters, an off-leash dog area and a restroom. A number of soccer practices and games are played at the park and it is also used for tournaments in conjunction with other soccer fields in the area. The park is heavily used by the student population and there are occasional special events.

The current service level by Alachua County includes: 1) maintenance - contract mowing once a week during the growing season and as needed during the winter; 2) athletic fields - these are maintained through a contract and are mowed three times a week as well as fertilize, pesticide, herbicide, aerate and top dress as needed; 3) janitorial services - restrooms are cleaned once a day; 4) cleaning and paper supplies - provided by Alachua County; 5) trash collection; and 6) tree trimming. Currently the City already provides water service to the park. The soccer fields are irrigated and an onsite well provides the irrigation water.

Fiscal Note: Figures provided by Alachua County for costs at San Felasco County Park for FY 2008 total \$37,980. This includes \$28,194 (labor), \$2,600 (equipment and materials), and \$7,186 (contractual). Allowing for a standard cost increase of 5% per fiscal year and maintaining current service levels at the park results in an estimated cost projection of \$41,873 for FY 2010.

Figures provided by Alachua County for costs at Forest Park for FY 2008 total \$78,398; this includes \$19,072 (labor), \$3,640 (equipment and materials), and \$55,686 (contractual). Allowing for a standard cost increase of 5% per fiscal year and maintaining the current service levels at the park results in an estimated cost projection of \$90,755 for FY 2011.

RECOMMENDATION

Recommended Motion: The City Commission: 1) authorize execution of a quitclaim deed with Alachua County for the transfer of San Felasco County Park effective October 1, 2009 contingent upon: a) City allocation of \$41,873 in recurring operating funds beginning in FY 2010 and b) approval by the City Attorney as to form and legality; 2) approve in concept the transfer of Forest Park in FY 2011 contingent upon: a) City allocation of \$90,755 in recurring operating funds beginning in FY 2011 and b) approval by the City Attorney as to form and legality (if approved in concept, a separate agenda item will be placed on the Commission agenda next year).

080128.

Update on the One-Half Percent Infrastructure Sales Surtax (Wild Spaces & Public Places) Implementation Plan for Capital Improvement Projects and Sensitive Lands Acquisition (B)

This item involves an update on the One-Half Percent Infrastructure Sales Surtax (Wild Spaces & Public Places) Implementation Plan for Capital Improvement Projects and Sensitive Lands Acquisition to acquire and

improve conservation lands and create, improve and maintain parks and recreational facilities.

Explanation: On June 3, 2008 the Alachua County Commission held a special meeting for the purpose of discussing the Quality of Life Coalition's request to place a measure on the November 4, 2008, ballot to fund protection of drinking water sources; the water quality of rivers, lakes, and streams; wildlife habitat; environmentally sensitive lands, natural areas and forests; and to create, improve and maintain parks and recreational facilities. This initiative would be funded through a 0.5 percent local government infrastructure sales surtax for a two year period beginning January 1, 2009 and ending on December 31, 2010.

In order to move forward with this initiative, the City of Gainesville was asked to develop and submit a priority list of Parks, Recreation and Cultural Affairs capital improvement projects and sensitive lands acquisition. This list was developed and submitted to both the Public Recreation and Parks Advisory Board and the Nature Centers Commission for review. Both boards reviewed the proposed list at their June 2008 board meetings and endorsed and approved it.

On July 14, 2008, the City Commission heard an update from the Department of Parks, Recreation and Cultural Affairs. At that meeting, the City Commission approved forwarding the proposed City Capital Improvement Projects list to the County Commission as submitted, and to continue the process of selecting projects for the sensitive lands list. A finalized sensitive lands list was subsequently reviewed and approved by the City Commission on November 20, 2008.

On July 28, 2008 the City Commission approved the Interlocal Agreement between Alachua County and the City of Gainesville for the Distribution of the Local Government Environmental Lands, Parks and Recreation One-Half Percent Infrastructure Sales Surtax.

On August 12, 2008 the County Commission approved the surtax ordinance and in November Alachua County voters approved the surtax that became known as "Wild Spaces & Public Places".

Currently City staff is in the process of developing an Implementation Plan. The plan will identify an overall approach for completing capital projects and purchasing conservation lands. It will also outline the resources needed for project management and land acquisition. Staff will also update the Commission on discussions with Alachua County regarding the creation of a Citizen Oversight Committee.

Fiscal Note: The One-Half Percent Infrastructure Sales Surtax is projected to generate \$39,710,808 over the two-year period. If current projection estimates are correct, the City would receive \$14,181,502 to acquire and improve conservation lands and create, improve and maintain parks and recreational facilities.

RECOMMENDATION

The City Commission: 1) approve funding for projects currently underway; 2) provide direction on set-aside

of \$1,150,000 to cover operating expenses for those projects with estimated annual operating costs of \$50,000 or less; 3) direct the city manager to work with advocacy groups for a) Cone Park track and multi-purpose fields; b) Northeast Pool heating/cooling; and c) Northwest Soccer Complex to determine if these groups would be able to fund ongoing operating costs associated with these projects; and 4) direct staff to return to the City Commission by April 16, 2009 to provide an update on discussions with the advocacy groups and to seek funding approval for additional projects.

Alternative Recommendation: The City Commission provide other direction as appropriate.

Legislative History

7/14/08	City Commission	Approved as shown above (Divided Question) (7 - 0)
7/28/08	City Commission	Approved as Recommended (5 - 0 - 2 Absent)

050196.

Smokey Bear Park Acquisition (B)

This item involves an update on the proposed acquisition of the State's Division of Forestry property known as Smokey Bear Park located at the corner of NE 15th Street and NE 23rd Avenue.

Explanation: On August 22, 2005, the City Commission heard a request to exchange a portion (10 acres) of the City-owned Wacahoota property with the State's Division of Forestry (DOF) property known as Smokey Bear Park. Smokey Bear Park consists of 9.83 acres of park land with an office complex, and a vehicle and maintenance compound located at the corner of NE 15th Street and NE 23rd Avenue. The matter was referred to the Recreation and Cultural Affairs Committee (now know as the Recreation, Cultural Affairs and Public Works Committee). In their referral, the City Commission specifically directed that staff bring back additional information on the proposed exchange and "that Alachua County Forever be given the opportunity to express their interest in the Wacahoota property."

On December 12, 2005, the City Commission heard the Committee report and approved a motion that indicated the City's intent to move forward with the exchange with DOF, unless the property were to be acquired through Alachua County Forever. However; on January 22, 2007, the City Commission directed staff to work with Alachua County Forever for the sale of the entire Wacahoota site, so the property exchange between the City of Gainesville and DOF did not occur.

During that time, City staff communicated in writing with DOF regarding the City's continued interest in acquiring the Smokey Bear Park property once it became available. Since that time, the DOF has acquired other lands for their new forestry office and is ready to surplus the property. During the discussion

concerning the property exchange, the DOF property had an appraised value of \$449,000 as of September 2005. City staff is currently working with DOF and received a revised appraised price of \$469,000.

Fiscal Note: As part of the One-Half Percent Infrastructure Sales Surtax Capital Improvement Projects list, an estimated \$600,000 was projected for the land acquisition costs and park improvement of Smokey Bear Park. Funds for the acquisition and park improvements will be available in the Wild Spaces and Public Places Capital Improvement Fund. The closing on this property is to occur no later than July 31, 2009.

RECOMMENDATION

That the City Commission: 1) approve the purchase of Smokey Bear Park from the Division of Forestry for the appraised value of \$469,000 and the associated closing cost; and 2) authorize the City Manager to execute a Purchase Agreement with the Division of Forestry for Smokey Bear Park, subject to review and approval by the City Attorney as to form and legality.

Alternative Recommendation: The City Commission decline the opportunity for acquisition of Smokey Bear Park from the State's Division of Forestry.

Legislative History

7/25/05	City Commission	Approved as Recommended (6 - 0 - 1 Absent)	
7/25/05	City Commission	Approved as Recommended and Referred	Recreation and Cultural Affairs Committee
8/4/05	Recreation and Cultural Affairs Committee	Heard	
8/22/05	City Commission	Referred (6 - 0 - 1 Absent)	City Manager
12/12/05	City Commission	Approved, as shown above (Second Motion)	
2/27/06	City Commission	Approved, as shown above (Second Motion)	
1/22/07	City Commission	Approved as Recommended (7 - 0)	

080835.

Acceptance of US Department of Transportation FAA - AIP Grant # 3-12-0028-28-2009

This item seeks the City of Gainesville acceptance of a 2009 US Department of Transportation FAA - AIP Grant to the Gainesville Regional Airport in the amount of \$346,816 for Phase IID renovation and rehabilitation of a portion of the passenger terminal building (construction only) at the Gainesville Regional Airport.

MODIFICATION TO THE AGENDA - ADDED 2/18/2009.

Explanation: The US Department of Transportation has made a grant offer to the Gainesville Regional Airport for Phase IID renovation and rehabilitation of a portion of the passenger terminal building (construction only) at the Gainesville Regional Airport.

The Grant Offer consists of fiscal year 2009 funds from the Airport Improvement Program (AIP) administered by the Federal Aviation Administration (FAA) and is currently \$346,816.

Because the City of Gainesville retains title to the land upon which Gainesville Regional Airport operates, the City of Gainesville, in addition to the Gainesville-Alachua County Regional Airport Authority (GACRAA), must formally accept all federal grant offers. GACRAA did approve a Resolution accepting the \$346,816 grant at a Special Meeting scheduled on February 18, 2009.

The City Attorney's Office has noted that there are concerns regarding the fact that the Gumroot Swamp Park property continues to be listed upon the FAA approved Airport Layout Map and advises that this property should not be subject to FAA jurisdiction and control. City staff has suggested to Airport staff that the subject property should be removed from the Airport Layout Map in order to avoid any further restriction on the use of the land by the FAA to the disadvantage of the City.

Due to time constraints associated with grant acceptance, the City Attorney's office has not had an opportunity to review the Resolution or back-up associated with this item; therefore, the City Attorney recommends that the City Commission defer action on the Grant request until the City Attorney has determined the request complies with legal form.

Fiscal Note: This US Department of Transportation FAA - AIP Grant is in the amount of \$346,816 with proceeds for the listed improvements to be received by the Gainesville Regional Airport.

RECOMMENDATION

The City Commission: 1) hear a brief presentation from staff regarding this request; 2) direct City staff to continue to work with the FAA to remove the Gumroot Swamp Park property from the FAA approved Airport Layout Map; and 3) determine whether it is appropriate to adopt the proposed FAA- AIP Grant Resolution and if so, authorize the Mayor and City Attorney to execute said Grant Agreement and the City Clerk to certify said Grant Agreement.

GENERAL MANAGER FOR UTILITIES

080805.

Lease In/Lease Out Termination; Financing of Capital Costs (B)

This item is in regards to the termination of the Lease In/Lease Out transaction in connection with Deerhaven Units 1 and 2.

Explanation: Pursuant to City Commission authorization given on September 14, 1998, GRU staff negotiated entering into a LILLO transaction in connection with the Plant. In accordance with that City Commission authorization, bids were taken for an equity provider, equity credit enhancer and debt provider for the transaction.

These bids resulted in the selection of The Bank of New York (BNY), through a special purpose limited liability company, as equity provider and affiliates of Ambac Assurance Corporation (Ambac) as equity credit enhancer and debt provider.

As part of the LILO financing structure, the City entered into two "Head Leases" of the Plant to an owner trust formed on behalf of BNY, as equity investor. The owner trust prepaid a substantial portion of the rent under the Head Leases to the City in a lump sum at the closing, with proceeds coming from the equity provider and the debt provider. The trust then leased the Plant back to the City under a fairly conventional "net" lease for a shorter term (the Lease), which granted to the City an option to purchase back the remaining term of the Head Leases at the end of the Lease term for a fixed purchase option price.

The transaction was closed on December 10, 1998, and the net proceeds received by the City totaled \$35.6 million. Of this amount, \$5.1 million was transferred to the City's General Fund under the General Fund Transfer formula. The remaining funds were used to pay down generation debt of the Utility.

As provided in the Participation Agreement entered into in connection with the LILO transaction, the City is required to provide additional credit support for the benefit of the equity investor in the event of a downgrade in Ambac's credit ratings. On November 19, 2008, Standard & Poor's lowered its rating on Ambac from "AA" to "A." As a result of that downgrade, GRU had 30 days in which to provide the additional credit support under the Participation Agreement. BNY, as equity investor, has provided GRU with several extensions of time, allowing us to evaluate our options for securing additional credit support and/or to consider a buyout and termination of the LILO transaction.

GRU staff have been working closely with our Bond Counsel and our Financial Advisor, as well as an advisory firm specializing in this type of transaction. The team canvassed the market for replacement credit support providers and at the same time commenced negotiations with Ambac and BNY to determine the buyout price. The only bona fide proposal for credit support came from Berkshire Hathaway Assurance Company at an expensive rate that was equivalent to a present value cost of approximately \$15.2 million. Based upon the additional expense and considering that GRU would retain ongoing credit exposure to Ambac if the LILO transaction continues under a guaranteed investment contract (GIC) that was entered into in connection with the LILO transaction for the payment of rent and funding of the City's fixed price purchase option under the Lease, GRU staff have determined that the termination of the LILO transaction is the most appropriate action.

GRU staff have negotiated with BNY to reduce the equity portion of the termination price from approximately \$214 million (the stipulated "Termination Value" under the Lease) to \$138.4 million, assuming that the buyout occurs in February of 2009. In addition, the value of the Ambac GIC has increased to approximately \$125.2 million. The difference in these amounts, approximately

\$13.2 million, is an obligation of the City. The difference will need to be paid by GRU upon the closing of the LILO termination. Included in the buyout will be a pay-off of a loan provided originally by Ambac which was economically defeased by a separate deposit with another affiliate of Ambac. This loan, which has a current balance of approximately \$58 million, will not require any additional payment from GRU upon the termination of the LILO transaction.

In order to provide for the termination of the LILO transaction, the City will need to enter into a Termination Agreement with, among others, the Delaware limited liability company that owns the Head Leases, BNY, Ambac and certain Ambac affiliates. The Termination Agreement, a draft of which is attached, will provide for the payment to the equity investor, discharge of debt, release of leaseholds, mortgages and security interests and termination of certain documents entered into by the City in connection with the LILO transaction. We recommend that the City Commission approve the form of the Termination Agreement attached hereto and authorize the General Manager to execute and deliver the Termination Agreement on behalf of the City, in substantially the form attached hereto and with such changes thereto as the General Manager approves as being necessary or desirable and in the best interests of the City, such approval to be evidenced conclusively by the execution thereof. In addition, the City will have to execute various other implementing releases and terminations of property interests and UCC termination statements. The City will retain liability under certain general and general tax indemnity provisions contained in the Participation Agreement and certain federal tax indemnity provisions contained in the Tax Indemnity Agreement entered into in connection with the LILO transaction with respect to circumstances or conditions occurring or existing on or prior to the effective date of the termination.

GRU staff, in consultation with our Financial Advisor and Bond Counsel, have evaluated different options to fund the termination payment and associated costs and expenses. Given recent and current market conditions, we recommend that the City Commission approve the financing of the termination payment and associated costs and expenses through the issuance of not to exceed \$14,500,000 in aggregate principal amount of commercial paper notes, which is a form of variable rate debt. These notes are not currently experiencing problems in the market. The notes must be taxable given the current tax status of the LILO arrangement.

The Utility has maintained in effect since 2000 a taxable commercial paper program that currently permits the Utility, upon authorization of the City Commission, to issue up to \$25,000,000 in aggregate principal amount of Series D CP Notes at any one time outstanding. There are no amounts currently outstanding under the Series D CP Note program. Since all of the documentation for that program already is in place, upon approval by the City Commission, staff will be able to move quickly to issue the Series D CP Notes and meet the deadline imposed by BNY. Given the current low variable interest rate environment, the debt service payments would be relatively low as compared with fixed rate debt.

If, at some point in the future, there is a need to issue long-term fixed rate debt

for regular construction needs, staff may come back to the City Commission for authorization to refund the Series D CP Notes to be issued to finance the LILO termination payment and associated costs and expenses with fixed-rate debt, in order to bring certainty to the Utility's future debt service payments and to take advantage of the bond deal size.

Although a termination payment was not the desired outcome when the LILO transaction was entered into, a substantial portion of the net benefit from this transaction remains.

We also are recommending that Ordinance O-99-16, Item #980766 be repealed. This ordinance was enacted to facilitate the LILO transaction and, once the LILO transaction is terminated, should be repealed.

In addition, in conjunction with the authorization of additional Series D CP Notes to finance the termination of the LILO transaction, GRU staff have determined that it would be desirable that GRU staff be authorized to issue additional Series D CP Notes from time to time in order to fund other Utility capital projects that, under applicable federal income tax laws and regulations, may be financed only on a taxable basis. Accordingly, we also are recommending that GRU staff be authorized to issue additional Series D CP Notes from time to time in an aggregate amount not to exceed \$25,000,000 at any one time outstanding, in order to finance the Cost of Acquisition and Construction (as defined in the City's Utilities System Revenue Bond Resolution) of capital projects that, under applicable federal income tax laws and regulations, may be financed only on a taxable basis; provided, however, that (a) such capital projects are included in GRU's then-approved capital budget and (b) [taking into account all material considerations that the General Manager determines to be relevant (including, without limitation, then-current market conditions, GRU's then-current and anticipated future financing requirements and GRU's then-current outstanding debt), the General Manager determines that the financing of such projects through the issuance of Series D CP Notes is consistent with Prudent Utility Practice (as defined in the Utilities System Revenue Bond Resolution) and advantageous to the City, which determination shall be confirmed by the firm serving as GRU's financial advisor at the time].

The Clerk of the Commission, the General Manager or other Authorized Officers of the City (as defined in the Utilities System Revenue Bond Resolution) may be required to take certain other actions and hire certain other professionals to proceed with the transactions described above. Therefore, we recommend that these officials be authorized to take such other actions as may be necessary or desirable to proceed with the termination of the LILO transaction and the issuance of Series D CP Notes in accordance with this City Commission authorization.

Fiscal Note: Projected debt service payments for the Series D CP Notes to be issued to finance the termination of the LILO transaction and associated costs and expenses will be covered within the FY09 budgeted dollars. Alternatives to the recommendation, while less expensive upfront, could prove to be much costlier in the future given current risks.

RECOMMENDATION

The City Commission: 1)Authorize (a) the termination of a "Lease In/Lease Out" (LILO) transaction previously entered into by the City in connection with Deerhaven Units 1 and 2 and shared common facilities (the Plant) and (b) the execution and delivery of certain documents in connection therewith, including the Termination Agreement described below; 2)Authorize the issuance of additional taxable Utilities System Commercial Paper Notes, Series D of the City (Series D CP Notes) in an aggregate principal amount to be outstanding at any time not to exceed \$25,000,000 for the purposes of (a) financing the payment required to be made by the City in order to terminate the LILO transaction and associated costs and expenses and (b) subject to the limitations set forth below, financing certain other GRU capital projects; 3) Authorize the Clerk of the Commission, the General Manager and other Authorized Officers to execute such other documents as may be necessary to proceed with the transactions authorized above, and to take such other actions as may be necessary or desirable to proceed with such transactions in accordance with this City Commission authorization: and 4) Authorize the City Attorney to prepare and the Clerk of the Commission to advertise an ordinance repealing Ordinance O-99-16, Item #980766.

080813.**GRU Deerhaven Properties - Proposed Land Use Change Application (B)**

This item involves a request for the City Commission to discuss a proposed land use change application for city owned properties surrounding the GRU Deerhaven Generating Station. According to Comprehensive Plan Future Land Use Element Policy 4.4.1, an appropriate city future land use designation must be assigned to all properties that are annexed into the City of Gainesville. The approximately 2,300(+/-) acre subject property was annexed in February 2007. GRU staff proposes a change in the future land use change designation from Alachua County 'Rural/Agriculture' to City of Gainesville 'Public Facilities' (see exhibit A). The item provides an opportunity for GRU staff to receive feedback and direction from the City Commission regarding this issue.

Explanation: The subject property encompasses approximately 2,300(+/-) acres and was purchased by the City of Gainesville incrementally in 2001, 2002, 2003 and 2005 (see Exhibits A and B). Currently, the property has an Alachua County future land use designation of 'Rural/Agriculture.' In February 2007, the property was annexed into the City of Gainesville. As required by the City, subsequent to the annexation of a property, an appropriate City future land use designation must be applied to the property. As this property may be developed in the future as an expansion area for the Deerhaven Generating Station, GRU staff is of the opinion that the appropriate future land use designation for the

property is 'Public Facilities,' which is identified in the City of Gainesville Comprehensive Plan as the appropriate designation for utility facilities and associated activities. In addition, the current power plant site contains the same 'Public Facilities' designation.

In February 2008, GRU submitted an application to the City Planning Department to change the future land use designation for the subject property from Alachua County 'Rural/Agriculture' to City of Gainesville 'Public Facilities' and 'Conservation.' The proposed future land use designation is the same as what is currently applied to the existing Deerhaven Generating Station and the purpose of this change is to bring the property into an appropriate City future land use designation which will allow for expansion of GRU facilities in the future. Specifically, the majority of the property would be given a Public Facilities designation and a 100-foot wide buffer strip of Conservation land use would be applied along the eastern property line. In addition, GRU representatives held a neighborhood meeting to inform neighboring property owners of the proposed land use change application.

Planning staff has indicated that they would prefer that the application contain more specificity, particularly regarding a more specific list of future development activities and a plan to identify and address the on-site wetland areas. In response, GRU retained Ecosystem Research Corporation to prepare an environmental assessment (completed March 2008) to delineate and describe the upland and wetland habitat types and land use, and a general evaluation of threatened and endangered animal species. The report revealed that the previous property owners have planted and harvested pine timber since the early 1900's on-site and the area is currently actively managed for timber and is in planted pines. Therefore, the past and current silvicultural activities have altered the entire site from its historical habitat. It should also be noted that Plum Creek Timberlands still owns timber rights on the subject property that would allow them to harvest timber in the future. In addition, approximately 947 acres of wetlands exist on the subject property. The environmental assessment categorizes the wetlands into several categories, based on size and quality.

Following the preparation of the environmental assessment, GRU staff and consultants met with City planning staff in July 2008 to present to City planning staff a revised land use change application, with the intent to address the City staff's concerns. The summary of the proposal is included in the recommendation section of this agenda item.

GRU representatives believe that the revised land use change application strikes a balance between establishing appropriate environmental protection measures and doing so in a cost effective manner given the status of the timber rights and need for flexibility in future planning. The proposed land use change will set aside the highest quality wetlands (approximately 30% of the 2,300(+/-)

acre subject property) and prohibit any future development activities within this area. It should be noted that timber rights do exist that could impact these areas. The remaining wetlands will be governed by the existing City Land Development Regulations regarding wetland protection and potential mitigation. This set aside is a level of protection above and beyond what is typically seen at the land use change application stage.

City planning staff suggested that this plan should be presented to the City Commission for review and comment prior to the re-submittal of this application. This approach will allow staff to receive feedback from the Commission prior to the significant task of preparing the revised application materials.

Fiscal Note: The proposed land use change application will provide a more cost-effective approach that achieves the goals of GRU for future facility expansion and also addresses the issues regarding environmental protection. The unnecessary task of delineating and designating on-site wetland areas with a Conservation future land use designation would require the City of Gainesville to purchase the timber rights currently held by Plum Creek Timberlands. The estimated cost to purchase the timber rights on this property is approximately \$1.7 million. In addition, delaying the wetland delineation and surveying for the property until the zoning or development review stage will save at least \$250,000 in consultant costs.

RECOMMENDATION

The City Commission; 1) Receive a report regarding the proposed land use change application by GRU staff and representatives, 2) Authorize the General Manager, or designee, to initiate a petition on behalf of the City Commission to change the future land use designation on the approximately 2,300(+/-) acre subject property from Alachua County 'Rural/Agriculture' to City of Gainesville 'Public Facilities' with the addition of the following specific regulations for future site development to be implemented in the Comprehensive Plan: A) Request a Public Facilities future land use designation for the entire 2,300(+/-) acre property as shown in Exhibits A and B; B) Set aside highest quality wetlands, identified as 'Wetlands Type 1, 2, 3 & 4' in the report prepared by Ecosystem Research Corporation (ERC) dated May 15, 2008. This area constitutes approximately 30% (708(+/-) acres) of the entire property and will be removed from any future development area (with the exception of existing roadways if deemed necessary for ingress/egress). The ERC delineation map will be included as an exhibit to the land use change ordinance (see Exhibits C and D); C) Future development activities may occur in 'Wetland Type 5' as identified in the ERC report but will be proposed in full compliance with all applicable wetland regulations outlined in the City LDR's; D)The actual

delineation and surveying of these wetlands would be provided at the rezoning stage; E) The list of permitted uses will be general in nature as described in the Comprehensive Plan under Public Facilities. As stated in Future Land Use Element Policy 4.1.1, these uses include 'administrative and operational governmental functions such as government offices, utility facilities and storage facilities'. Activities in this area may include solar and eco-development projects; F) Upon the approval of the land use change, GRU will submit a rezoning application to 'Public Services' (PS) within 10 years of the approval. The zoning will include a detailed plan regarding proposed type, location and intensity of on-site development. No development activity shall occur on the subject property until such time as the PS zoning is approved by the City Commission; G) Site specific text will be included in the Comprehensive Plan to govern the future development of the property and will incorporate the provisions listed above. This text would also state that a 100-foot wide natural and/or planted buffer shall exist along the common property line between the proposed development to the east and the subject property.

CITY ATTORNEY

CITY AUDITOR

EQUAL OPPORTUNITY DIRECTOR

COMMITTEE REPORTS (PULLED FROM CONSENT)

ADVISORY BOARDS/COMMITTEES (APPOINTMENTS/REPORTS)

080812. Nomination - Library District Board of Trustees (B)

RECOMMENDATION

The City Commission nominate Ms. Field, Mr. Litsey and Mr. Mulligan for consideration for appointment by the Library District Governing Board.

080654. State Housing Initiatives Partnership Program (SHIP)-City of Gainesville Affordable Housing Advisory Committee (AHAC) Incentive Review and Recommendation Report Follow Up (B)

This item requests the City Commission consider recommendations made

by the City SHIP AHAC in their Incentive Review and Recommendation Report that was originally presented to the City Commission on December 18, 2008; and to provide staff direction regarding the recommendations.

Explanation: The AHAC Recommendation Report provides various recommendations for encouraging and facilitating affordable housing in the City of Gainesville. The AHAC is required to address specified areas for review and may recommend a wide range of affordable housing incentives. The City Commission accepted the AHAC's Incentives and Recommendations Report on December 18, 2008. Due to time constraints, the report was not fully discussed. Within 90 days after the date of receipt of the AHAC's report, the City Commission must adopt an amendment to its Local Housing Assistance Plan (LHAP) to incorporate the local housing incentive strategies it will implement. Staff is requesting City Commission direction regarding the AHAC's recommendations as presented in the report. Staff will return to a subsequent meeting in March 2009 to incorporate the City Commission's approved recommendations through an amendment to the City's LHAP, as required by Florida Statutes. Any recommendations adopted by the City Commission must be incorporated in the City's LHAP by March 31, 2009.

The SHIP AHAC's main purpose is to triennially review and evaluate established policies, procedures, ordinances, land development regulations, the adopted comprehensive plan, and eleven affordable housing incentives, and to recommend actions or initiatives to the local governing body to encourage or facilitate affordable housing while protecting the ability of property to appreciate in value. At a minimum, the SHIP AHAC shall submit a report to the City Commission that includes recommendations and evaluates the implementation of affordable housing incentives in the following areas:

- 1) The processing of approvals of development orders or permits, as defined in s. 163.3164 (7) and (8), F.S., for affordable housing projects is expedited to a greater degree than other projects;*
- 2) The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing;*
- 3) The allowance of flexibility in densities for affordable housing;*
- 4) The reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons;*
- 5) The allowance of affordable accessory residential units in residential zoning districts;*
- 6) The reduction of parking and setback requirements for affordable housing;*
- 7) The allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing;*
- 8) The modification of street requirements for affordable housing;*

9) *The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing;*

10) *The preparation of a printed inventory of locally owned public lands suitable for affordable housing; and*

11) *The support of development near transportation hubs and major employment centers and mixed-use developments.*

There were additional recommendations reviewed as requested by the City Commission and at the request of the AHAC as follows:

12) *Other Affordable Housing Incentives:*

*Energy Efficiency;
SHIP Staff Support;
Property Taxes and Insurance;
Community Land Trust; and
Mobile Homes.*

In accordance with 420.9076(6), F.S, incentives (a) and (b) must be adopted by the City Commission. All of the housing incentives and recommendations (a)-(p) are referenced in the attached AHAC Incentive Review and Recommendation Report.

Fiscal Note: None

RECOMMENDATION

The City Commission: 1) discuss the SHIP AHAC Incentive Review and Recommendation Report; and 2) direct staff as to which recommendations outlined in the SHIP AHAC Incentive Review and Recommendation Report should be brought back to City Commission to be adopted by resolution in the City's LHAP by March 31, 2009.

Legislative History

12/18/08 City Commission Heard

OUTSIDE AGENCIES

080382.

Mom's Kitchen Site Redevelopment (B)

This item involves accepting a referral from the Community Redevelopment Agency (CRA) to the City Commission to explore the acquisition of the property known as "Mom's Kitchen" and hear a presentation from Staff on the purchase of the property.

MODIFICATION TO THE AGENDA - ADDED 2/18/2009

Explanation: Mom's Kitchen, an established restaurant dating back to the 1960's, is located

at 1008 N.W. 5th Avenue in the Fifth Avenue/Pleasant Street (FAPS) redevelopment area (See Exhibit A). The owner closed the business and has engaged Rodney Long Real Estate of Gainesville, Florida as its agent and broker. Mr. Long has registered with the City's Clerk as a Lobbyist/Agent.

On December 15, 2008, the Community Redevelopment Agency referred the purchase of Mom's Kitchen to the City Commission for their review and consideration. A copy of the CRA's analysis and minutes are attached as Exhibit B. The CRA wishes to explore the acquisition of the property. The CRA has determined that the purchase of the property is important to the FAPS district and is supported by the FAPS Redevelopment Plan.

The CRA procured the services of a real estate appraisal firm to evaluate the Mom's Kitchen property. The firm's appraisal came in at \$220,000. The owner's appraisal value of the property was \$300,000. In addition, the CRA engaged services of a contractor who estimated the renovation cost at \$279,500. The CRA determined that it had only \$39,361 currently budgeted for acquisition options and that significant funding is necessary to purchase and renovate the building. Therefore, CRA is requesting the City further explore the acquisition of Mom's Kitchen.

City Staff conducted an analysis of the site which included the procurement of a third appraisal which came in at \$165,000 as is, and \$240,000 with renovations (See Exhibit G). The analysis included (1) Comparable sales in the area (2) City purchases of properties in the area including a map, and (3) Public benefit/value of the property.

Comparable Sales/ Tax Assess Values (TAV) (See Exhibit C) - The City Staff evaluated comparable sales in the area. Four (4) properties were identified, however only two (2) properties were similar in size. The Tax Assess Values (TAV) for the two properties ranged from \$91,300 to \$131,500. The TAV for Mom's Kitchen is \$87,100. The purchase price ranged from \$90,000 to \$169,000, which is far below the appraisal value by the owner and CRA.

City Owned Parcels - Since 1972 the City has purchased a total of 4 properties in the area (mainly vacant land - See Exhibit C). The purchase price has ranged from \$550 to \$68,000 in the area. The CRA recently purchased a property in the area for \$29,000.

Public Benefit/Values - The CRA has determined the purchase of the property is important to the redevelopment of FAPS District and the project supports the CRA Redevelopment Plan.

The subject site (Mom's Kitchen) is zoned for commercial utilization under the MU-1 zoning category (See Exhibit D). The property has a past history of being utilized as a neighborhood restaurant. However, the property could be used for other retail uses in the area. Uses within the immediate area are oriented toward commercial uses and the nearby Seminary Lane Apartment complex is in the process of being vacated in May 2009. The Seminary Lane property provided an opportunity for other development projects in the area. The

building is of a size of similar structures within the area. The highest and best use of the property is commercial utilization under the MU-1 zoning.

The City also contacted other entities (Alachua County School Board, Alachua County Commission Administrative Staff, The Supervisor of Elections, and Alachua County Library Administration) to see if there was any level of unmet need in the area of the project. At this time, there were no real unmet needs in the area, but there were suggestions for the use of the property including as an African-American Cultural Center and a Youth Tutoring Center.

The City Commission must determine if the purchase of the property would be a public benefit/meet a public need and the project would aid in the redevelopment efforts in the area. Based on the City's current proposal, a total amount of \$444,500 (purchase price 165,000 and \$279,500 renovation cost) is needed for the project. This cost is based upon maintaining the existing building. If the City wishes only to utilize the land, the cost of purchasing and demolishing the building is approximately \$173,550.

Neither of the two (2) proposals have been budgeted for FY09. If the City Commission wishes to purchase Mom's Kitchen, funding would have to come from the City's Reserves and/or the Capital Improvement Plan must be amended to delete/delay a project of equal value.

City Staff contacted the agent/owner with an offer to purchase the property at a cost of \$165,000 subject to City Commission approval and identification of the funds for the project (See Exhibit E). City Staff received an acceptance letter from the agent/owner on February 11, 2009 (See Exhibit F).

Fiscal Note: The Mom's Kitchen project is not identified in the FY09 budget. If the City Commission wishes to participate in the purchase and renovation of the building, and/or the purchase and demolition of the building, the funding must come from the City's Reserve Fund and/or the Capital improvement Plan must be amended to delete/delay Capital Improvement Plan project(s) of equal value, and add the Mom's Kitchen project to the Capital Improvement Plan.

RECOMMENDATION

Recommendation A: The City Commission: 1) accept the referral from the Community Redevelopment Agency (CRA) to the City Commission to explore the acquisition of Mom's Kitchen; 2) hear a presentation from staff on the purchase of the property; 3) if the City Commission determines that there is a public benefit in purchasing Mom's Kitchen, authorize the City Manager or an authorized designee to finalize the purchase of Mom's kitchen and execute the purchase contract with the agent/owner and execute any necessary closing documents subject to approval from the City Attorney's Office as to form and legality of said documents; and 4) amend the FY09 City Capital Improvement Plan to add Mom's Kitchen to the plan and delete/delay other Capital Improvement Plan project(s) of equal value from the plan.

Recommendation B: The City Commission: 1) accept the referral from the Community Redevelopment Agency (CRA) to the City Commission to explore the acquisition of Mom's Kitchen; 2) hear a presentation from staff on the purchase of the property; 3) authorize the City Manager or an authorized designee to explore other resources to assist the CRA and the agent/owner in the redevelopment of the property in the FAPS Districts; and 4) request the agent/owner to re-list the property on local MLS for a period of six months.

Recommendation C: The City Commission does not accept the referral from the Community Redevelopment Agency (CRA) to explore the acquisition of Mom's Kitchen.

Legislative History

9/15/08	Community Redevelopment Agency	Approved as Amended and Referred to (6 - 0 - 1 Absent)	Fifth Avenue/Pleasant Street Redev Adv Bd
12/15/08	Community Redevelopment Agency	Approved as shown above (motion) and referred (7 - 0)	Fifth Avenue/Pleasant Street Redev Adv Bd
12/15/08	Community Redevelopment Agency	Referred	Fifth Avenue/Pleasant Street Redev Adv Bd

MEMBERS OF THE CITY COMMISSION

080800. Commissioner Thomas Hawkins - Form Based Coding (B)

RECOMMENDATION *The City Commission hear a brief presentation on Form Based Coding.*

080834. Mayor Pegeen Hanrahan - "Private Fundraising to Support Gainesville's Efforts to Address Climate Change" (B)

Explanation: In late 2008, The Climate Communities (www.climatecommunities.us <<http://www.climatecommunities.us/>>) invited Gainesville to take a leadership role in a new organization intended to bring all types of local governments together to advocate for climate change legislation and funding in Washington. Mayor Hanrahan participated in a summit at the Rockefeller Estate in Tarrytown, NY in November, 2008, using private funding, where a Climate Blueprint was developed and adopted. That blueprint has since been endorsed by over 400 local government officials, including Mayor Hanrahan and all five Alachua County Commissioners. Members of the Gainesville City Commission were also invited to endorse the blueprint late last year, and are again encouraged to do so. Because of our excellent progress toward our climate change goals, and the fact that we are on track to meet the Kyoto protocol

standard of reducing greenhouse gases to 7% below 1990 levels by 2013, Gainesville was also asked to present part of the blueprint to the Obama transition team during a January conference call, and Mayor Hanrahan was invited to introduce President Obama's Climate Director, Carol Browner, during recent meetings in Washington.

In 2008, using private funding provided by the Rockefeller Brothers Fund, Mayor Hanrahan helped to organize two Florida local government workshops on addressing climate change at the local level. These were held in Doral at the annual meeting of the Florida Association of Counties and in Tampa at the annual meeting of the Florida League of Mayors and Florida League of Cities. Altogether approximately 150 local officials, staff and citizens participated, and Gainesville's progress was again highlighted. Gainesville was also just one of three local governments invited to present at Governor Crist's Climate Change Summit last summer, to an audience of several hundred.

As a longstanding member of ICLEI, Gainesville's dues to The Climate Communities would be at half the full cost for a government of our size, or \$4,000. Because of our serious budgetary constraints, and because of our community's strong support for our energy efficiency and alternative energy efforts, rather than providing city funding for these efforts, this proposal provides a framework to raise the funds privately, from citizens, businesses, or other interested parties who wish to support our leadership role in this important policy arena. A proposed donation schedule is attached, but could be modified as desired by the City Commission. A realistic goal might be to raise a total of \$10,000, in an effort to both join Climate Communities and also cover travel, printing, and other related costs toward communicating our policy support and actions toward reducing greenhouse gas emissions. Specific expenditures beyond the dues for Climate Communities would be brought back to the City Commission for approval on the consent agenda. Funds could be applied toward any climate-related activity brought forward by any of Gainesville's elected officials, staff or citizens. While this is intended primarily as a way to control municipal expenditures, it has a secondary benefit of giving our citizens an outlet for support of local climate actions as well. Donations to the City of Gainesville are considered tax deductible.

It should be noted that the lobbying efforts underway on behalf of The Climate Communities have been and will continue to be coordinated with Marion Turner of MWW Group, the City's federal lobbyist. Gainesville's participation should be fully communicated to our lobbying firm so the message and outreach to members of Congress on behalf of the city remains consistent. Mr. Turner participated in several of the meetings between Mayor Hanrahan, Commissioners Long and DeLaney, and members of Congress that took place in early February.

RECOMMENDATION

Hear presentation regarding the proposal to raise private funds to support climate change legislation and promote Gainesville's progress toward this goal. Review, amend if desired, and adopt a donation schedule for this purpose. Alternative recommendation: Allocate \$4,000 from fund balance

for Gainesville to join The Climate Communities, and consider additional funding as necessary for travel and other efforts needed to support this initiative.

COMMISSION COMMENTS (if time available)

RECESS - 5:09 PM

RECONVENE - 5:45 PM

PLEDGE OF ALLEGIANCE (5:30pm)

PROCLAMATIONS/SPECIAL RECOGNITIONS

080814. Entrepreneurship Week - February 21-28, 2009 (B)

RECOMMENDATION

Buchholz Academy of Entrepreneurship Chief Information Officer Ryan Sullivan, Gerald Wathen, Jazz Maris, and Vice President of DECA Competitive Events Gabby Rose to accept the proclamation.

080815. Lashawn Dixon Day - February 19, 2009 (B)

RECOMMENDATION

Lashawn Dixon, and Public Recreation and Parks Board Chair Mark Wellner to accept the proclamation.

080816. John and Ann Ives Day - February 19, 2009 (B)

RECOMMENDATION

John Ives, Ann Ives, and Public Recreation and Parks Board Chair Mark Wellner to accept the proclamation.

CITIZEN COMMENT (6:00pm) - Please sign on sign-up sheet

PUBLIC HEARINGS

ORDINANCES, 1ST READING- ROLL CALL REQUIRED

ORDINANCES, 2ND READING- ROLL CALL REQUIRED

070268. THE GAINESVILLE TRAFFIC SAFETY ENHANCEMENT ACT (B)

Ordinance No. 0-08-71

An Ordinance of the City of Gainesville, Florida; amending Chapter 26, Article II of the Gainesville Code of Ordinances by establishing "Divisions" for Article II; titling existing provisions as "Division 1. Generally" and creating a new Division 2 to be titled "The Gainesville Traffic Safety Enhancement Act" by establishing a red light traffic safety program; providing purpose and findings; authorizing the use and implementation of image control technologies/recorded images to enforce red light infractions; providing definitions; providing for adherence to red light traffic control signals; requiring signage; providing procedures for disposition and enforcement of infractions; providing that the registered owner of the motor vehicle involved in the violation is responsible and liable for payment of the fine; providing penalties; providing for collection of penalties and costs; providing for appeals; amending Appendix A, Schedule of Fees, Rates and Charges, providing for a public awareness campaign and grace period; providing for severability; providing a repealing clause; and providing an immediate effective date.

Explanation: PUBLIC SAFETY COMMITTEE REPORT

This item was referred to the Public Safety Committee at the July 26, 2007 City Commission budget hearing. The Public Safety Committee discussed this referral at its November 15, 2007 and February 7, 2008 meetings. The Committee's recommendation was then heard by the City Commission on March 24, 2008, at which time the item was postponed due to pending state legislation. Both house and senate bills failed. The Committee discussed this item again at its June 25, 2008 meeting.

The Committee requested that staff research the number of intersections where the City would consider using the cameras, and research companies who provide these services and the costs. A list of the ten top intersections was compiled by GPD and Public Works staff and a draft ordinance was written. Staff has met with five companies who provide this service. On March 24, 2008, the City Commission, after hearing presentation from City staff, referred the matter to the City Manager.

Fiscal Note: Expenses of the program shall be borne by the revenue from the program.

CITY ATTORNEY MEMORANDUM

The City Commission, on August 11, 2008, after hearing presentation from GPD staff, authorized the City Attorney's Office to draft and the Clerk of the Commission to advertise an ordinance establishing The Gainesville Traffic Safety Enhancement Act and authorized staff to initiate the RFP process for a service provider.

Under the ordinance:

- (1) For the first 90 days following installation and operation of the first red light cameras, the City Manager will engage in a public awareness campaign and provide courtesy notices of violation to vehicle owners.*
- (2) After a red light infraction is recorded, the images will be reviewed by a*

police traffic infraction review officer to ensure accuracy, the integrity of the recorded images and that the images conform to the requirements of the Act.

(3) Notice of infraction will be sent to the owner of the vehicle. The notice of infraction will contain detailed information on the violation including at least two images evidencing the violation. One of the images will show the license tag of the vehicle. The Notice will also include a link to a website with photographs and/or moving images of the violation, the penalty imposed, payment process and procedure for contesting violation.

(4) Hearings will be conducted by a special magistrate in an administrative proceeding.

(5) There are specified grounds for requesting a hearing including, but not limited to, the vehicle being stolen at the time of the violation, or the malfunction of the traffic control signal.

(6) Vehicle owners may submit an Affidavit of Non Responsibility requesting dismissal of the infraction under specific grounds.

(7) Penalties are set at \$125.00 for the first and second violations and \$175.00 for third and subsequent violations. The special magistrate may also assess administrative costs.

This ordinance requires two readings. Should the Commission pass this ordinance on first reading, second and final reading will be held on February 19, 2009. The Gainesville Police Department will then solicit proposals from a qualified service provider to install and operate the cameras.

As of the date of this memorandum, another bill has been filed in the state legislature that would expressly authorize a local government to enforce red light infractions through the use of recorded images. The likelihood of this bill passing both houses is uncertain at this time.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

Legislative History

7/26/07	City Commission	Referred (7 - 0)	Public Safety Committee
3/24/08	City Commission	Referred (7 - 0)	City Manager
8/11/08	City Commission	Approved as Amended (5 - 2)	
2/5/09	City Commission	Adopted on First Reading (Ordinance) (5 - 1 - 1 Absent)	

RESOLUTIONS- ROLL CALL REQUIRED

080784. SMALL CLAIMS CASES (B)

A CONTINUING RESOLUTION OF THE CITY OF GAINESVILLE, FLORIDA, AUTHORIZING THE CITY ATTORNEY'S OFFICE TO REPRESENT THE CITY IN ANY FUTURE COUNTY COURT CLAIMS, WHICH INCLUDES SMALL CLAIMS, IN WHICH THE CITY IS NAMED AS A DEFENDANT AND TO AUTHORIZE PROSECUTION OF COUNTY COURT CLAIMS, INCLUDING SMALL CLAIMS; AND PROVIDING AN EFFECTIVE DATE.

Explanation: From time to time the City of Gainesville is named as a defendant in a county court proceeding and from time to time the City Attorney's Office is requested to prosecute county court claims on behalf of various departments within the City of Gainesville. The County Court's jurisdiction encompasses monetary claims that do not exceed \$15,000. The cases are generally routine in nature and necessarily below the settlement authority of the City Attorney. Updates as to the status and resolution of these cases are included in the annual litigation report of the City Attorney.

Section 3.03 of the Gainesville City Charter authorizes the City Attorney to represent the City in such cases.

RECOMMENDATION *The City Commission adopt the proposed resolution.*

080791.

COLLECTION OF JUDGMENTS (B)

A continuing resolution of the City of Gainesville, Florida, authorizing the City Attorney's Office to file lawsuits and take other appropriate action on behalf of the City to collect money judgments; and providing an immediate effective date. B)

Explanation: From time to time the City of Gainesville is a party in a court proceeding and awarded monetary judgments for damages, costs, and attorney fees. These monetary judgments are awarded to make the City whole for damages or costs incurred.

RECOMMENDATION *The City Commission adopt the proposed resolution.*

080804.

GRU Electric Operations and Planning Compliance Policy and Administrative Guideline (B)

GRU is required to comply with applicable reliability standards promulgated by the North American Electric Reliability Corporation (NERC), and a supporting commitment from the City Commission is an important consideration by FERC as to the GRU's intent and commitment to comply

Explanation: The Energy Policy Act of 2005 broadened the powers of the Federal Electric Regulatory Commission (FERC) to certify and oversee the nation's Electric Reliability Organization (ERO), regulating reliability aspects of the bulk power generation and transmission grid. FERC has since certified the NERC to serve as the ERO, with certain functions delegated to regional entities. In Florida, NERC has delegated compliance monitoring and enforcement to the Florida Reliability Coordinating Council (FRCC). Subject to review and approval by FERC, NERC is responsible for promulgating mandatory reliability standards and rules of conduct applicable to "all users, owners and operators of the bulk-power system," which includes generation, transmission, and, in some cases, distribution facilities.

In the conduct of its electric business, the City of Gainesville, Florida, doing business as Gainesville Regional Utilities (GRU), owns and operates facilities which are part of Florida's bulk power electrical transmission grid and, in turn, relies upon the grid for power supply and reliability services and is required to comply with all applicable reliability standards and rules promulgated by FERC, NERC, and/or FRCC. Compliance with all applicable reliability standards and rules is monitored and enforced by NERC and FRCC through 1) periodic or random compliance audits; 2) self-reporting of non-compliance; and 3) specific post-event investigations. Non-compliance with applicable reliability standards may result in monetary penalties. FRCC has scheduled GRU for an on-site compliance audit beginning April 20, 2009.

Fiscal Note: Non-compliance with applicable reliability standards may result in monetary penalties. Management of GRU's Compliance Program may require the occasional hiring of consultants and experts.

RECOMMENDATION

The City Commission adopt the proposed resolution stating the City of Gainesville's commitment to the policy of compliance with the applicable reliability standards promulgated by the North American Electric Reliability Corporation (NERC).

PLAN BOARD PETITIONS

DEVELOPMENT REVIEW BOARD PETITIONS

SCHEDULED EVENING AGENDA ITEMS

080511. Ironwood Golf Course Update (B)

The Recreation, Cultural Affairs and Public Works Committee report to the City Commission on Ironwood Golf Course.

Explanation: During FY 09/10 budget deliberations, the City Manager appointed a team to explore options for the future of Ironwood Golf Course. The team prepared a status report including a wide range of possible options for City Commission consideration.

On November 6, 2008, City staff presented the status report to the City Commission and recommended the Commission: 1) direct the City Manager to arrange for an appraisal of the Ironwood Golf Course property; 2) direct the City Manager to solicit proposals for the sale, lease, or management of the Ironwood Golf Course property; 3) refer the issue to the Recreation, Cultural Affairs & Public Works Committee; and 4) provide any other feedback and guidance as appropriate. Based on the information presented on November 6, 2008, the City Commission moved and approved that the issue of the Ironwood Golf Course be referred to the Recreation, Cultural Affairs and Public Works Committee and directed the City Manager to begin developing a Request for

Proposals (RFP).

At their January 8, 2009 meeting, the Recreation, Cultural Affairs and Public Works Committee received an update from staff on the RFP development and received input from Committee members on how they felt the process should proceed. The Committee was not comfortable recommending Commission consideration of a comprehensive RFP, preferring consideration of a more limited RFP that does not include possible sale of the property. The Committee also discussed recommending to the City Commission that the City proceed with needed capital improvements to the greens utilizing the \$2 per round surcharge revenues in order to improve playability of the course.

Fiscal Note: The fiscal impact is identified in the power point presentation provided as backup.

RECOMMENDATION

The City Commission 1) consider directing the City Manager to solicit proposals for the lease or management of the Ironwood Golf Course property, 2) pursue capital improvements by closing down the operations of the golf course to rebuild the greens, and 3) if the City Commission agrees to retain the golf course, determine the level of general fund subsidy the Commission is comfortable carrying.

Legislative History

11/6/08	City Commission	Approved as shown above and Referred (7 - 0)	Recreation, Cultural Affairs and Public Works Committee
1/8/09	Recreation, Cultural Affairs and Public Works Committee	Approved as Amended	

UNFINISHED BUSINESS

COMMISSION COMMENT

CITIZEN COMMENT (If time available)

ADJOURNMENT - 11:15 PM