

City of Gainesville

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



Meeting Agenda

February 03, 2011

1:00 PM

City Hall Auditorium

City Commission

Mayor Craig Lowe (At Large)

Mayor-Commissioner Pro Tem Jeanna Mastrodicasa (At Large)

Commissioner Scherwin Henry (District 1)

Commissioner Lauren Poe (District 2)

Commissioner Warren Nielsen (District 3)

Commissioner Randy Wells (District 4)

Commissioner Thomas Hawkins (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

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

Prophet George Young

CONSENT AGENDA

CITY MANAGER, CONSENT AGENDA ITEMS

100609.

Lowe's Charitable and Educational Foundation Community Grant (NB)

This item requests that the City Commission authorize an application for the 2011 Lowe's Charitable and Educational Foundation Community Grant.

Explanation: The Lowe's Charitable and Educational Foundation (LCEF) was established in 1957 and contributes annually to diverse organizations across the United States for community improvement and public education. Grant awards range from \$5,000 to \$25,000 and organizations are limited to one application per year. Projects that are subject to consideration under this grant program include repairs and renovations to facilities serving the community. Safety City, located at the Gainesville Fire Rescue Administration complex, is a collection of buildings and other structures used for public education by a variety of agencies including Gainesville Fire Rescue, Safe Kids Coalition, the city's bicycle safety program, and the Gainesville and University Police Departments. If awarded, the Gainesville community and in particular Gainesville's children would benefit from this grant through enhancements to the existing facilities at Safety City.

Fiscal Note: There is no fiscal impact as the grant does not require a match.

RECOMMENDATION

The City Commission: 1) authorize the City Manager

to submit an application for the LCEF Community Grant; and 2) if awarded accept the award.

Alternative Recommendation A: The City Commission not authorize an application for the LCEF Community Grant.

100647.

City Support for Boys and Girls Club (Rotary Campus) (B)

This item involves a request to provide financial assistance to the Boys and Girls Club (Rotary Campus).

This item is a modification and was updated Feb 3, 2011 @ 11:25 AM.

Explanation: During the January 20, 2011 City Commission meeting, the Gainesville City Commission expressed a desire to support the Boys and Girls Club Rotary Campus Program, which has encountered financial challenges. Currently the Club has sufficient funds to continue operating through April 2011. The City Commission requested that City staff explore and identify alternative funding sources available to provide up to \$5,000 to the Boys and Girls Club (Rotary Campus).

On November 18, 2010, the City Commission approved Community Grant Program funding awards in the amount of \$109,174, which left a remaining balance of \$3,326 unallocated. As a part of this approval, the Boys and Girls Club (Rotary Campus) received a \$2,500 grant to provide youth programs. Since a portion of the Community Grant Program funding was unallocated, the City Commission has the authority to declare these funds as surplus, and allocate the remaining balance of these funds for services. The Community Grant Program's unallocated funds are available for this fiscal year only, and would provide a one-time allocation for services in the amount of \$3,326.

An additional \$1,674 has been identified in the FY 2011 Parks, Recreation and Cultural Affairs (PRCA) budget to award additional funds to support the Boys and Girls Club (Rotary Campus).

Fiscal Note: Unallocated funds in the amount of \$3,326 have been identified in the FY11 Community Grant Program budget. The City Commission has the authority to declare these funds as surplus, and allocate them for services. An additional \$1,674 has been identified in the FY11 Parks, Recreation and Cultural Affairs (PRCA) budget. The surplus funds from the FY11 Community Grant Program, in addition to the funds identified in the FY11 PRCA budget equates to a total of \$5,000 that the City Commission directed staff to identify to support the Boys and Girls Club (Rotary Campus).

RECOMMENDATION

The City Commission: 1) amend the motion of November 18, 2010 to declare \$3,326 unallocated funds in the Community Grant Program as surplus funds and reduce the program budget by this amount for FY11; 2) authorize the City Manager to utilize the

\$3,326 surplus funds and expend \$1,674 from the FY11 PRCA budget for a total combined award of \$5,000 to support the Boys and Girls Club Rotary Campus program; and 3) authorize the City Manager or his designee to execute any and all necessary documents, subject to approval as to form and legality by the City Attorney.

*Alternative Recommendation:
The City Commission not approve funding for the Boys and Girls Club Rotary Campus program.*

Legislative History

1/20/11 City Commission Referred (6 - 0 - 1 Absent) City Manager
100647-MOD_11182010 Minutes_20110203.pdf

GENERAL MANAGER FOR UTILITIES, CONSENT AGENDA ITEMS

CITY ATTORNEY, CONSENT AGENDA ITEMS

CLERK OF THE COMMISSION, CONSENT AGENDA ITEMS

100649.

City Commission Minutes (B)

RECOMMENDATION *The City Commission approve the minutes of January 6, 2011 and January 20, 2011, as circulated.*

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100649_jan 20, 2011_20110203.pdf

100654.

Joint Meeting at County Commission (NB)

RECOMMENDATION *The City Commission schedule joint meetings with Alachua County Commission at 3:00PM on March 31, August 29 and December 5, 2011*

100655.

Special City Commission Pension Workshops (NB)

RECOMMENDATION *The City Commission schedule two workshops on pensions in Room 16 on April 14, 2011 at 4:00PM and April 25, 2011 at 5:00 PM.*

EQUAL OPPORTUNITY DIRECTOR, CONSENT AGENDA ITEMS

COMMITTEE REPORTS, CONSENT AGENDA ITEMS

COMMUNITY REDEVELOPMENT AGENCY, CONSENT ITEMS

END OF CONSENT AGENDA

ADOPTION OF THE REGULAR AGENDA

CHARTER OFFICER UPDATES

CLERK OF THE COMMISSION

CITY MANAGER

GENERAL MANAGER FOR UTILITIES

CITY ATTORNEY

CITY AUDITOR

EQUAL OPPORTUNITY DIRECTOR

COMMITTEE REPORTS (PULLED FROM CONSENT)

ADVISORY BOARDS/COMMITTEES (APPOINTMENTS/REPORTS)

OUTSIDE AGENCIES

MEMBERS OF THE CITY COMMISSION

100671.

Commissioner Scherwin Henry - Business Development in the Inner City Core (NB)

This item is a modification to the agenda and was added Wednesday, February 2, 2011 @ 4:15 PM.

RECOMMENDATION

The City Commission hear a presentation regarding business development in the inner city core.

COMMISSION COMMENTS (if time available)

RECESS

RECONVENE

PLEDGE OF ALLEGIANCE (5:30pm)

PROCLAMATIONS/SPECIAL RECOGNITIONS

100640.

Hazardous Materials Awareness Week - February 13-19, 2011 (B)

RECOMMENDATION *Gainesville Fire Rescue Special Operations Chief Don Sessions to accept the proclamation.*

100640_HazMat_20110203.pdf
100640_HazMatFinal_20110203.pdf

100641.

School Crossing Guard Appreciation Day - February 4, 2011 (B)

RECOMMENDATION *Gainesville Police Department Specialty Units Commander Lieutenant Larry Seale and Supervisor of School Crossing Guards Sergeant Chuck Reddick to accept the proclamation.*

100641_CrossingGuard_20110203.pdf

100642.

Rosa Parks Day - February 4, 2011 (B)

RECOMMENDATION *Rosa Parks Quiet Courage Committee President and Founder Reverend Milford Lewis Griner to accept the proclamation.*

100642_RosaParks_20110203.pdf
100642_RosaParksFinal_20110203.pdf

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

PUBLIC HEARINGS

RESOLUTIONS- ROLL CALL REQUIRED

ORDINANCES, 1ST READING- ROLL CALL REQUIRED

100217.

OPEN CONTAINER VIOLATIONS (B)

Ordinance No. 100217

An Ordinance of the City of Gainesville, Florida, amending section 4.4 relating to consumption, consumption and sale and possession of alcoholic beverages; providing that the open consumption and/or possession of an open container of any alcoholic beverage on certain designated public places and motor vehicles may be enforced by civil citation; amending section 2-239, adding open consumption and/or possession of an open container of any alcoholic beverage on certain designated public places and motor vehicles to codes that may be enforced by civil citations and designating class of offense and amount of penalty; providing directions to the codifier; providing for severability; providing a repealing clause; and providing an immediate effective date.

Explanation: PUBLIC SAFETY COMMITTEE REPORT

As part of the 2011-2012 biennial budget process, the City Manager presented several proposals recommended by the Employee Budget Strategy Team. The Team recommended changing the violation for open container from a criminal offense to a civil offense.

The Team proposed an ordinance similar to the current public urination ordinance which allows enforcement by civil citation. The Team also suggests that language from the Noise Ordinance be inserted to allow the enforcement by criminal citation when circumstances deem appropriate.

Currently, an individual charged with open container must be processed through the courts, pays a fine and/or perform community service and may serve time in jail. The offense results in a criminal record. Under this proposal, most offenders would be issued a civil citation, pay a fine and corresponding court costs and avoid criminal charges.

The Public Safety Committee voted 3-0 at its November 29, 2010 meeting to proceed to the City Commission to propose the changes in the ordinance.

In addition, while revising the ordinance to include the suggested changes, the former subparagraphs (b)(3) as to the number limit for boundary extension permits was moved to appear immediately after the provision as to said permits for improved clarity and organization.

CITY ATTORNEY MEMORANDUM

Although the presentation to the Public Safety Committee on November 29, 2010, which resulted in the recommendation that the City Attorney draft and the Clerk of the Commission advertise the proposed changes in the ordinance, included estimates of cost savings and revenue increases based on a proposed fee of \$175.00, the \$175.00 amount was based upon the normal amount charged on a pretrial diversion program under a municipal ordinance violation methodology. For civil citations of this nature and kind, the violation is typically classified as a Class IV that carries a penalty of \$200.00. There is no category or class for \$175.00. The class and amount designation closest to that

used in the proposal (Class IV and \$200.00) was therefore substituted for the \$175.00 proposed amount listed. This change has been reviewed with Becky Rountree, Administrative Services Director, who concurs with this change.

The City Commission at its January 6, 2011 meeting authorized City Attorney to draft and the Clerk of the Commission to advertise the proposed ordinance as recommended by the Public Safety Committee. If approved on first reading, second and final reading will be held on Thursday, February 17, 2011.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

Legislative History

7/22/10	City Commission	Referred (7 - 0)	Public Safety Committee
11/29/10	Public Safety Committee	Discussed	
1/6/11	City Commission	Approved as Recommended (6 - 0 - 1 Absent)	

100217_OpenContainerFeesPPt_20101129.pdf
100217_DraftOrdinance_20110203.pdf

100588.

**GAINESVILLE TRAFFIC SAFETY ENHANCEMENT ACT
AMENDMENT (B)**

Ordinance No. 100588

An Ordinance of the City of Gainesville, Florida amending Chapter 26, Article II, Division of the Gainesville Code Ordinances, The Gainesville Traffic Safety Enhancement Act to comply with the “Mark Wandall Traffic Safety Act,” as codified in section 316.0083, Florida Statutes; authorizing the City of Gainesville to use Traffic Infraction Detectors to enforce violations of red light traffic control signals; amending Appendix A, Schedule of Fees, Rates and Charges, providing directions to the codifier; providing for severability; providing a repealing clause; and providing an immediate effective date.

Explanation: CITY MANAGER STAFF REPORT

On February 19, 2009, the City Commission approved and adopted Ordinance # 070268 generally known as "The Gainesville Traffic Safety Enhancement Act" which established the red light traffic safety program. Although the Commission approved the program in 2009, upon the advice of the City Attorney's Office, implementation was delayed due to the uncertainty of pending state legislation. Other Florida cities such as Orlando, Bradenton, Naples, Aventura, Pembroke Pines and Tampa adopted and implemented similar Red Light Camera Programs regardless of the pending legislation and some are still involved in legal challenges as a result.

On April 27, 2010, the Florida Senate passed HB 325, known as Mark Wandall Traffic Safety Act, establishing statewide regulation of red light cameras. This Act was signed into law on May 13, 2010 by Governor Crist and became effective July 1, 2010. The Act expressly preempts any local regulation of traffic violations involving the use of cameras. The new legislation also

establishes a mandatory \$158.00 fine for a red light camera violation with no points assessed against the driver's record. This draft ordinance comports with state law as set forth in section 316.0083, Florida Statutes (2010), "Mark Wandall Traffic Safety Program."

The City staff have issued, on January 3, 2011, the RFP requesting proposals from qualified vendors for delivery and maintenance of traffic infraction detectors, and for all necessary hardware and administrative support to ensure a credible and reliable electronic camera recording system. The bids are due by January 24, 2011. This is all based on anticipated approval of the proposed ordinance.

The City Commission desires to implement the enforcement as set forth herein in order to promote, protect and improve the health, safety and welfare of its citizens, consistent with the authority of and limitations on the City pursuant to the state Constitution and state statutes.

CITY ATTORNEY MEMORANDUM

Should this ordinance pass on first reading, second and final reading will be held on Thursday, February 17, 2011.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

Legislative History

12/16/10 City Commission Approved as Recommended (6 - 0 - 1 Absent)

100588_2-19-09 Minutes_20101216.pdf

100588_COG MuniCode_20101216.pdf

100588_FS 316.0083_20101216.pdf

100588_DraftOrdinance_20110203.pdf

ORDINANCES, 2ND READING- ROLL CALL REQUIRED

PLAN BOARD PETITIONS

DEVELOPMENT REVIEW BOARD PETITIONS

SCHEDULED EVENING AGENDA ITEMS

100634.

Petition BA-10-07 APP Appeal (B)

This item is an appeal of a recent decision by the Board of Adjustment to the City Commission regarding an administrative decision rendered by Planning staff.

This item has modified back-up. Board of Adjustment minutes added at 12:25 PM - Revised 12:53. PM.

Explanation: On November 2, 2010, the Board of Adjustment held a quasi-judicial hearing on Petition BA-10-07APP filed by Sondra Randon, Esquire, agent for Bruce Wayne

Abber, appealing an administrative decision of the Planning and Development Services Department that a dog sitting business operated at 1713 NW 7th Avenue, is not a legal non-conforming use or a use by right in the RSF-2 (4.6 units/acre single family residential district) zoning district.

The Land Development Code specifically states: "any use not permitted by right, by zoning compliance permit, by special use permit, as a special exception or as an accessory use in the zoning district shall be prohibited in such district". The records show that dog sitting businesses have never been allowed in any single family zoning districts (neighborhood) as a permitted use under any condition. Due to the nature of a dog sitting business with potential noise, odor and outdoor activity the use would not qualify as a home occupation; however the office part of such a business would qualify, when the physical activities are conducted off-site.

After hearing testimony from staff, the applicant and citizens, the Board of Adjustment voted 3-2 to allow Mr. Baber to keep animals other than as pets, with the provision that maintaining animals other than as pets at his single-family residential property cannot be done as a business, and compensation cannot be accepted for doing so.

Section 30-354(n)(2) of the Land Development code provides that "the City Commission shall consider only the evidence and testimony placed in the record before the board at its hearing and may hear oral arguments by each party in support of or in opposition to the board's finding and decision. The City Commission shall consider only whether due process was afforded all parties, whether the board applied the correct law, and whether the board's findings are supported by competent substantial evidence and shall promptly make its decision and issue a final order affirming, amending or reversing the board's decision. The decision of the City Commission shall be reduced to writing and shall constitute final administrative action. Appeals from decisions of the City Commission may be made to the courts by writ of certiorari."

Fiscal Note: No fiscal impact.

RECOMMENDATION

*Staff to the City Commission - The City Commission:
1) hear the appeal of Petition BA-10-07 APP; and, 2)
make a decision and issue a final order affirming,
amending or reversing the Board's decision.*

100634_notice of appeal_02032011.pdf

100634A_final order_02032011.pdf

100634B_staff report_02032011.pdf

100634C_exhibits 1-8_02032011.pdf

100634_appeal_20110124.pdf

100634-MOD_BOA Draft Minutes from 11-2-10_20110203.pdf

UNFINISHED BUSINESS

COMMISSION COMMENT

CITIZEN COMMENT (If time available)

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