

City of Gainesville

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



Meeting Agenda

January 05, 2012

1:00 PM

MODIFIED AGENDA

City Hall Auditorium

City Commission

Mayor Craig Lowe (At Large)

Mayor-Commissioner Pro Tem Thomas Hawkins (At Large)

Commissioner Scherwin Henry (District 1)

Commissioner Todd Chase (District 2)

Commissioner Susan Bottcher (District 3)

Commissioner Randy Wells (District 4)

Commissioner Jeanna Mastrodicasa (At Large)

Persons with disabilities who require assistance to participate in this meeting are requested to notify the Office of Equal Opportunity at 334-5051 or call the TDD phone

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

110583.

**Federal Law Enforcement Contraband Forfeiture Trust Fund (LECFTF)
Funding for the Gainesville - Alachua County Drug Task Force, GPD
Special Investigation Division for Nextel Communications for FY2012 (NB)**

Explanation: On November 1, 2007, the Gainesville Police Department Special Investigations Division (GPD SID) combined with Alachua County Sheriff's Office Narcotics and Organized Crime Unit (ASO NOCU), along with the University of Florida Police Department (UPD) to form the Gainesville-Alachua County Drug Task Force (DTF).

The DTF is often involved in large scale operations with other federal, state and local organizations. Nextel phone equipment has become the standard primary source of communication, especially when radio communication is not possible (such as when DTF personnel are out of the county) by all other agencies that the DTF deals with on a constant basis.

The funding request is for the operating expenses for FY2012 cellular phones used by SID. The amount requested is \$6,800.

Fiscal Note: Funds for this expenditure in the amount of \$6800 are available in the Federal Law Enforcement Contraband Forfeiture Trust Fund (LECFTF) and is allowable per the US Department of Justice "A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Enforcement Agencies". The

balance is \$2,722,767 unreserved fund balance for the nine months ended June 30, 2011.

RECOMMENDATION

The City Commission approve the appropriation of \$6,800 from the Federal Law Enforcement Contraband Forfeiture Trust Fund (LECFTF) to pay for the operating expenses of the Nextel Communications.

110588.

Bid Award - Annual Contract for Redi-Mix Concrete for FY 2011/2012 (B)

This item is a request for the City Commission to authorize the bid award to Florida Rock Industries for the annual contract for Redi-Mix Concrete for FY 2011/2012.

Explanation: On November 30, 2011 the Purchasing Division solicited bids for the Annual Contract for Redi-Mix Concrete. One (1) firm responded with a bid. Florida Rock Industries has been providing this service and the current bid is less than a 1% increase in price.

The Public Works Department Operations Division purchases approximately 2,000 cubic yards of Redi-Mix concrete for use in the routine maintenance of City streets and drainage facilities. Redi-Mix concrete is used in capital projects and in repairs to City facilities as necessitated by utility installations.

Fiscal Note: Funding sources are available and will be identified as needed through the Public Works Department FY 2012 operating budget and the City's Capital Improvement Plan capital project accounts.

RECOMMENDATION

The City Commission: 1) approve the bid award to Florida Rock Industries for Annual Redi-Mix Concrete for FY 2011/2012; and 2) authorize the City Manager to execute the contract and all related documents with Florida Rock Industries, subject to approval by the City Attorney as to form and legality.

110588_BidTab_20120105.pdf

110589.

Continuation of Employee Bus Pass Programs (B)

This item is a request for the City Commission to authorize the City Manager to execute service agreements with local agencies for employee bus pass programs.

Explanation: The employee bus pass program was created to alleviate traffic and parking problems, particularly at the University of Florida and Downtown. The program has been in effect since January 24, 2000, with University of Florida employees being the first to participate. In addition to the University of Florida, the program has grown to include, Santa Fe College, the City of

Gainesville, Alachua County, Shands Hospital, North Florida and South Georgia Veterans Health System (VA), Alachua/Bradford Regional Workforce Board, Oaks Mall, Job Corps, and University of Florida retirees.

University of Florida employees, partners, and retirees account for over 1.4 million of the 2.6+ million passengers trips completed since the Employee Pass Program began in 2000. Use of public transportation continues to increase for all agencies participating in the program. This program is now available to over 32,000 participants.

Fiscal Note: At the rate of \$6.75 per employee per year, revenue in the amount of \$216,013.50 will be collected for the continuation of these programs, and some of the individual service agreements will exceed \$55,000.

RECOMMENDATION

The City Commission: 1) approve the annual contract for continuation of the Employee Bus Pass Program for City employees through January 2013; and 2) authorize the City Manager to execute service agreements with local agencies for continuation of the employee bus pass program, subject to approval by the City Attorney as to form and legality.

110589_Report20120105.pdf

110591.

Surplus Property Sale (NB)

Staff recommends all items at Surplus Lot to be declared surplus and disposed of through contract methods.

Explanation: Each year, there are approximately 2,500 surplus property items stored at the City's Surplus Lot located at the Public Works Compound on 39th Avenue. These surplus items consist of scrap materials, office equipment and furniture, construction equipment, vehicles, abandoned and unclaimed property and miscellaneous items. In an attempt to reduce storage costs and increase revenues, staff has implemented changes to the auction process. The method of disposing of surplus property is outlined in the City's Financial Services Procedure Manual. Typical disposal methods are: transfer to other City departments; public auction; sealed competitive bids; and donation to another governmental agency. The surplus property auctions are now being held monthly or bi-monthly at the auctioneer's site or through an online auction process. This process has increased the cash flow for the surplus process as well as reduced storage and personnel costs.

Fiscal Note: As a result of monthly or bi-monthly auctions, the City expects to generate revenues in excess of \$250,000 annually. At the \$250,000 level, the cost to the City would be \$20,000 based on the 8% bid rate.

RECOMMENDATION

The City Commission declares all materials, equipment and vehicles stored at the Surplus Lot as surplus property and authorize the sale of such property for the time period covering FY2012.

GENERAL MANAGER FOR UTILITIES, CONSENT AGENDA ITEMS**CITY ATTORNEY, CONSENT AGENDA ITEMS****110570.****RONALD J. KING VS. CITY OF GAINESVILLE, FLORIDA, A
POLITICAL SUBDIVISION OF THE STATE OF FLORIDA; EIGHTH
JUDICIAL CIRCUIT, CASE NO. 2011-CA-6119 (B)**

Explanation: On December 6, 2011, the City was served with a Summons and Complaint filed by Ronald J. King in the Circuit Court. Ronald J. King alleges that he was involved in an automobile accident with a City vehicle on May 24, 2010 at the intersection of SW Archer Road and SW 13th Street, in Gainesville. Ronald J. King claims to have suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition or disease. Ronald J. King seeks money damages in excess of \$15,000.00.

RECOMMENDATION

The City Commission authorize the City Attorney to represent the City of Gainesville in the case styled Ronald J. King vs. City of Gainesville, Florida, a political subdivision of the State of Florida; Eighth Judicial Circuit, Case No. 2011-CA-6119.

110570_Ronald King Consent_20120105.pdf

CLERK OF THE COMMISSION, CONSENT AGENDA ITEMS**110590.****Appointments to City Commission Advisory Board and Committee (NB)****RECOMMENDATION**

The City Commission appoint the following:

Virgil Mathis to the Bicycle/Pedestrian Advisory Board for a term to expire 12/31/14.

Carl Ramey to the Board of Adjustment for a term to expire 11/1/14.

George Martin to the Gainesville Enterprize Zone Development Agency for a term to expire 9/30/15.

Michele LeSure to the Nature Centers Commission for a term to expire 11/1/14.

*Beverly Hill to the Student Community Relations
Advisory Board for a term to expire 2/26/14.*

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

110540.

Contract and Scope of Services associated with Land Development Code Update (B)

Explanation: On September 1, 2011, the City Commission approved a consultant ranking regarding proposed updates to the Land Development Code. The number one ranked firm approved by the City Commission is Little John Engineering.

In addition to approval of the ranking, the City Commission directed that staff clarify the initial scope of services to: 1) identify those areas of the City subject to application of a form based code through provision of a map; 2) identify those Special Area Plans that are recommended to be eliminated and replaced by a form based code; and, 3) identify areas of the existing Land Development Code that should be integrated with the form based code in order to ensure the seamlessness of a final product.

Since providing this direction on September 1st, staff has met internally with a team (inclusive of Planning, CRA and City Attorney's staff) to review the direction and provide a response (this information has been shared with Public Works and GRU staff as well). In addition, staff has met with representatives of the development community and neighborhood residents about this matter.

The contract and scope of services defines six components and separates these components into various billable tasks. Completion of the tasks and ultimately the larger components will result in an identified deliverable provided to the City. Invoices will be submitted indicating percentage completion of individual tasks over time. There is a large component of the Scope of Services that is

dedicated to meetings and public interaction that will be important to the ultimate successful conclusion of the project.

The attached map represents staff's direction on areas most suitable for application of form based code principles. A map provided by the development community that roughly follows the contours of the staff map will be provided to the Consultant as well and during the implementation of the contract the map will likely need to be slightly modified around the margins.

Existing sections of the Land Development Code, and other pertinent documents, to be integrated form based code provisions are listed in Component 3 of the Scope of Services.

Fiscal Note: The price proposal offered for the scope of services by the consultant and stated in the contract is \$187,645. Funds for this effort were provided in the FY '11 budget and are to be rolled over into the FY '12 budget.

RECOMMENDATION

The City Commission: 1) approve a contract for professional services with Little John Engineering for updates to the Land Development Code consistent with the Scope of Services attached as Exhibit "A" and further defined by the proposed form based code area map.

110540A_Agreement-Scope-Map 1__20120105 .pdf

110540B_Developers Map & Memo_20120105.pdf

110584.

Appointment of City Commissioner to Represent the City at Annual Meetings of Elected Officials regarding Coordination of Land Use and School Facilities Planning (B)

Explanation: The Updated Interlocal Agreement for Public School Facility Planning among the School Board of Alachua County (SBAC), Alachua County Board of Commissioners, and the Commission or Council of Alachua, Archer, Gainesville, Hawthorne, High Springs, LaCrosse, Micanopy, Newberry and Waldo, requires elected officials to meet at least annually in joint workshop sessions. As described in the Interlocal Agreement, the meetings are an opportunity to discuss issues of mutual concern regarding coordination of land use and public school facilities planning, including population and student growth, development trends, school needs, off-site improvements, and joint use opportunities. The meetings are to be attended by one or more official representatives from the School Board, the County Commission, each municipality that is a party to the Agreement, and a representative from the North Central Florida Regional Planning Council. Former Commissioner Jack Donovan was the City Commission's most recent representative at these meetings of elected officials.

A meeting of the Elected Officials is tentatively scheduled for January 26, 2012 to discuss proposed changes to local government Public School Facilities comprehensive plan elements and to the Updated Interlocal Agreement for Public School Facility Planning. The proposed changes are in response to

major changes to Chapter 163, Florida Statutes that were made in 2011 by House Bill 7207 (now Chapter Law 2011-139).

Staff recommends that the City Commission appoint one of the City Commissioners as the representative to the Annual Meetings of Elected Officials regarding coordination of land use and school facilities planning.

Fiscal Note: None

RECOMMENDATION

The City Commission appoint a member of the City Commission to represent the City at the Annual Meetings of Elected Officials.

110584_InterlocalAgreementSchoolCon_20120105.pdf

110606.

State of Florida Legislative Update (B)

The City Commission will be provided with an update of legislation filed during the Florida Legislature's 2012 Regular Session.

MODIFICATION - (ppt. added 1/03/2012).

Explanation: The City Commission will be provided with an update by staff on legislation that was included in the city's legislative agenda. The update will also include an overview of additional legislation that relates to the city.

Fiscal Note: None at this time.

RECOMMENDATION

The City Commission: 1) receive the legislative update; and 2) determine if issues presented necessitate action of the City Commission.

110606-MOD_PPT_20120105.pdf

GENERAL MANAGER FOR UTILITIES

CITY ATTORNEY

110596.

Settlement Agreement: Communications Workers of America, et al. v. City of Gainesville, PERC Case Nos. CA-2009-002, CA-2009-003, CA-2009-004, and CA-2009-005 (B)

Explanation: BACKGROUND INFORMATION

In response to increasing medical costs and premiums, in 1992, the City changed its payment of retirees' health insurance premiums from 100% of single coverage for the retirees to 80% of single coverage, in line with what it was paying for active employees. These changes were not bargained. The retirees filed a class action lawsuit to stop the City from doing so, arguing that they had been told the City would pay 100% of the premium for their lifetime.

After years of litigation, the Court declined to certify a class of retirees, and later held that the Plaintiff retirees had abandoned their claims and dismissed the case.

While the lawsuit was ongoing, the City commissioned an actuarial study to determine the long term cost of the City's contribution of 80% of retirees and current employees' premiums. The study estimated that the City's cost to provide this benefit from 1994 forward was 76 million dollars. As a result of this study, in 1995, the City Commission adopted an ordinance changing how it would contribute to current and future retirees health insurance benefits. The ordinance provided that the City would contribute a percentage of retirees' health insurance costs that was variable based on years of service, age at retirement, and hire date. The result of these changes reduced the City's liability to 18 million dollars. The ordinance further provided that "the percentage or amount of which payment for either retirees or dependent coverage has varied over the years and may continue to do so in the future . . ." The then-IAFF Union President demanded to bargain over the changes; however, the City declined to bargain the changes independent of the normal bargaining process. IAFF took no action in response to the City's stance and the ordinance was never challenged.

In 1999, the City adopted another ordinance which effectively lowered the benefit for those employees who entered into the DROP. Again, these changes were not bargained and the ordinance was never challenged.

In 2006, the City adopted another ordinance that converted the existing retiree health insurance program into a trust. The purpose of the trust was to provide benefits to the retirees while at the same time protect the assets of the trust from the creditors of the City. The 2006 ordinance provided that "the percentage or amount of which payment for either retirees or dependent coverage has varied over the years and may continue to do so in the future . . ." Again, these changes were not bargained and the ordinance was never challenged.

By 2008, the City concluded that the percentage method of contributing to the retiree health insurance plan had become financially unsustainable for the taxpayers and rate payers. The City desired to maintain the ability to contribute some level of premium subsidy for current and future employees, but could not do so under the 1995 formula and the escalating rise in health insurance premiums. Premiums that in 1994 were \$103 for single coverage and \$355 for family coverage, in 2008 had risen to \$300 for single coverage and \$837 for family coverage, thus raising the City's liability to 49 million dollars. Consequently, in 2008, the City adopted a plan where the City would contribute a specified dollar amount based on years of service and age rather than a percentage of the premium, thus reducing the liability to 41 million dollars.

Since at least the mid 1990's, the City has repeatedly notified its employees that the City reserves the right to unilaterally change its payments to retiree health benefits and that it might agree in the future to contribute "none, some, or all of the costs of retiree and/or dependent coverage." The City was

conscientious about providing these notifications due in part to the lawsuit in 1992 wherein retirees maintained that they had been told they would get these benefits for life. So, in 2008 when the City unilaterally changed the benefits for retirees and refused to bargain the changes for current employees until the collective bargaining agreements opened, it was acting in accord with its prior actions.

Shortly after the 2008 changes, four of the City's bargaining units (the "Unions") filed unfair labor practice charges with the Public Employees Relations Commission (PERC) for refusing to bargain. On March 2, 2010, PERC concluded that the City did not commit an unfair labor practice. In particular, PERC held that the City's retiree health insurance program had not become part of the status quo of employee benefits subject to collective bargaining before amendment. The longstanding test for determining whether a "past practice" is so established that it has become the status quo for employee benefits is whether the practice: (1) was unequivocal; (2) existed substantially unvaried for a significant period of time prior to change; and (3) could reasonably have been expected by the employees to have continued unchanged. The test is disjunctive; that is, each facet contains separate requirement. PERC concluded that the City's retiree health insurance benefits were not unequivocal and it was not objectively reasonable for City employees to believe that the benefits would remain unchanged; therefore the program was not a past practice subject to bargaining before change. This was because the language in the City's clearly ordinances warned employees that the benefit could change if the City Commission deemed it necessary and the City repeatedly warned its employees that the premium costs were subject to unilateral change.

The Unions appealed PERC's order to the First District Court of Appeal. Due to the importance of the issue on appeal, an amicus brief was filed on behalf of the City by the Florida League of Cities. On May 9, 2011, the First District Court panel by a vote of 2-1 overturned PERC, seeming to hold that the mere passage of time is sufficient to transform a unilaterally granted benefit into a past practice. In doing so, the panel ignored the expertise of the agency charged with interpreting law relating to collective bargaining and ignored long established precedent. The ruling greatly affects the ability of public employers to manage employees within the financial circumstances they face and potentially creates a host of past practices which were never intended to be conferred. The panel noted that time as little as two years can establish a past practice. In order to have avoided the result reached by the panel, the City would have to regularly change the unilaterally conferred benefit, for no reason except to prevent the creation of a past practice, which the City said over and over again it was not creating. Shortly after issuing its decision, the First District Court of Appeal also awarded the Unions appellate attorney fees without explanation.

In response to the First District Court's decision, the Cities of Cocoa, St. Petersburg, Kissimmee, West Palm Beach, and Jacksonville, the Counties of Alachua and St. Johns, and the Florida League of Cities joined the City of Gainesville in asking the panel to rehear the case, either as the panel or en banc, or to certify the issue to the Florida Supreme Court as a question of great

public importance. The appellate court declined to take such action.

On July 21, 2011, because of the significance of the First District Court's decision and its impact on the city and other public employers, the City Commission authorized the City Attorney request the Florida Supreme Court to review the First District Court of Appeal's decision. Once again, the City was supported in its appeal by the Florida League of Cities, the Cities of Cocoa, Kissimmee, and St. Petersburg, and the Counties of Alachua and St. Johns.

On September 27, 2011, the Florida Supreme Court, who is vested with narrow authority to review decisions from the district courts of appeal under the Florida Constitution, declined the City's request to accept discretionary jurisdiction in this case. Accordingly, the decision of the First District Court is final and binding on the City.

In accordance with the First District Court's decision, PERC issued an Order on Court Remand ordering the City, among other things, to rescind its changes to the formula by which the City's contribution to the future retirement health insurance premiums of employees represented by the Unions is calculated and pay to employees represented by the Unions and who have retired since implementation of the changes to the formula the amount of premium they would have not paid but for the City's changes in that formula. Both the City and the Unions appealed PERC's Order on Court Remand, and the Unions requested PERC to determine the amount of appellate attorney fees owed by the City to the Unions in accordance with the Order issued by the First District Court of Appeal.

SETTLEMENT NEGOTIATIONS AND AGREEMENT

On October 6, 2011, the City Commission heard a presentation from the City Attorney's Office regarding the status of this litigation and authorized management to implement PERC's Order on Court Remand, the City Attorney to file an appeal from PERC's Order on Court Remand, and the City Attorney to seek amicable resolution to all pending issues in the litigation.

In accordance with the City Commission's direction, since October 6, 2011, representatives of the City Attorney's Office and the Unions met on multiple occasions in an attempt to amicably resolve all pending issues in litigation. As a result of these negotiations, the parties have reached a settlement agreement contingent upon the City Commission's approval. Of significance, the parties have agreed to the following contingent upon the City Commission's approval:

1. The City shall implement PERC's Order on Court Remand. In so doing, the City shall not collect the overpayments made to any employees who are represented by the Unions and who have retired since the implementation of the changes in the formula for the City's contribution to retiree health insurance premiums the amount of premium that they would have paid but for the City's changes in that formula.

2. The City shall pay the Unions' appellate attorney fees and costs in the amount

of \$32,047.50.

3. *The parties shall dismiss with prejudice all cases related to this matter and the Unions agree that this settlement agreement finally and fully resolves all of their claims related to this matter.*

4. *The City Manager shall read to the Unions a letter of apology at the January 5, 2012 City Commission Meeting.*

This settlement agreement, a copy of which is included in the back-up to this agenda item, represents a fair settlement of all remaining claims in this litigation given the rulings of the courts and PERC on this matter. Therefore, the City Attorney recommends that the City Commission authorize the City Attorney to execute the settlement agreement contained in the back-up to this agenda item with the Unions, and authorize the City Attorney, City Manager, and General Manager to implement the terms of this settlement agreement.

RECOMMENDATION

The City Commission (1) authorize the City Attorney to execute the settlement agreement with the Unions; and (2) authorize the City Attorney, City Manager, and General Manager to implement the terms of the settlement agreement.

110596_CWA Settlement Agmt_20120105.pdf

110597.

Letter of Apology: Communications Workers of America, et al. v. City of Gainesville, PERC Case Nos. CA-2009-002, CA-2009-003, CA-2009-004, and CA-2009-005 (B)

Explanation: If the City Commission authorizes the City Attorney to execute a settlement agreement with the Unions to resolve all pending litigation related to Communications Workers of America, et al. v. City of Gainesville, PERC Case Nos. CA-2009-002, CA-2009-003, CA-2009-004, and CA-2009-005 at its meeting on January 5, 2012, permit the City Manager to read the letter of apology in accordance with the terms of the executed settlement agreement.

RECOMMENDATION

If the City Commission authorizes the City Attorney to execute a settlement agreement with the Unions to resolve all pending litigation related to Communications Workers of America, et al. v. City of Gainesville, PERC Case Nos. CA-2009-002, CA-2009-003, CA-2009-004, and CA-2009-005 at its meeting on January 5, 2012, permit the City Manager to read the letter of apology in accordance with the terms of the executed settlement agreement.

110597_Ltr of Apology-CWA_20120105.pdf

CITY AUDITOR

EQUAL OPPORTUNITY DIRECTOR**COMMITTEE REPORTS (PULLED FROM CONSENT)****ADVISORY BOARDS/COMMITTEES (APPOINTMENTS/REPORTS)****OUTSIDE AGENCIES****MEMBERS OF THE CITY COMMISSION****110607.****Search Firm RFP Authorization for City Attorney Replacement (NB)**

Explanation: On July 31, 2012, City Attorney Marion Radson will be retiring. In order to prepare for his departure, it is necessary to actively pursue a replacement. As a result, it is recommended that an RFP be written by Human Resources/Organizational Development for a search firm to fill the soon-to-be vacant City Attorney position for the City Of Gainesville.

Fiscal Note: No impact.

RECOMMENDATION

The City Commission authorize Human Resources/Organizational Development to draft and publish for bids an RFP for a search firm to fill the soon-to-be vacant City Attorney position.

110609.**Resolution Accepting the World Mayors Council on Climate Change Invitation to Join the Global Cities Covenant on Climate (Mexico City Pact) (B)**

MODIFICATION- (Moved from evening portion of the agenda to the afternoon under "Members of the City Commission".)

Explanation: The Gainesville City Commission has long recognized that cities play an important role in the fight against climate change. The Global Cities Covenant on Climate (Mexico City Pact) is a restatement of the City of Gainesville's goals to reduce CO2 emissions and mitigate the problems caused by climate change.

Fiscal Note: None at this time

RECOMMENDATION

The City Commission adopt the Resolution and appoint a Global Cities Covenant on Climate Secretariat to track the measurable, reportable, verifiable climate actions being undertaken by the City of Gainesville.

110609_resolution_mexicocitypact_20120105.pdf

COMMISSION COMMENTS (if time available)**RECESS****RECONVENE****PLEDGE OF ALLEGIANCE (5:30pm)****PROCLAMATIONS/SPECIAL RECOGNITIONS****110600.****LaDorr E. Ingersoll Day - January 2, 2012 (B)****RECOMMENDATION***Gainesville Regional Utilities LaDorr Ingersoll to accept the proclamation.*

110600_Ingersoll_20120105.pdf

110601.**Mentoring Awareness Month - January 2012 (B)****RECOMMENDATION***Office of Equal Opportunity Director Cecil Howard to accept the proclamation.*

110601_MentoringMonth_20120105.pdf

110602.**Gainesville Enrichment Mentoring Program Scholars (B)****RECOMMENDATION***The City Commission recognize The City of Gainesville Office of Equal Opportunity Gainesville Enrichment Mentoring (GEM) Program students Aiyanna Carey, Howard Bishop; Gerala Campbell, Lincoln; Quichana Foster, Howard Bishop; Trey Milne, Westwood; Dedrick Johnson, Lincoln; Maria Bautista, Lincoln and Renisha Boston, Lincoln for signing contracts and are now designated as GEM Mentees.*

110602_GEMScholars_20120105.pdf

CITIZEN COMMENT (6:00pm) - Please sign on sign-up sheet**PUBLIC HEARINGS****RESOLUTIONS- ROLL CALL REQUIRED**

110585.**Resolution for 5310 Grant Application to Purchase a Paratransit Van to Provide ADA Service to the Disabled Citizens of Gainesville (B)**

This item is a request for the City Commission to adopt a Resolution to allow the Regional Transit System (RTS) to apply for a 5310 Grant to purchase a paratransit van to provide ADA service to the disabled citizens of Gainesville.

MODIFICATION - (Revised Resolution per the City Attorney, added 1/4/2012).

Explanation: Federal funds are available annually through the Florida Department of Transportation (FDOT) to purchase a paratransit vehicle. FDOT requires that a Resolution be adopted by the City Commission authorizing the City Manager or his designee to execute and file applications for such grants. The Resolution must have specific verbiage, in the format approved by the FDOT attorney, and be adopted within 30 days of the application due date which is January 14, 2012. RTS is requesting that the City Commission adopt the Resolution allowing the application to go forward to apply for a much needed paratransit vehicle.

Fiscal Note: RTS charges MV Transportation a monthly capital replacement fee. These funds are used as the local match when applying for grant vehicles.

RECOMMENDATION

The City Commission adopt the Resolution.

110585_Resolution_20120105.pdf

110585-MOD_Resolution_20120105.pdf

110586.**Resolution for 5311 Grant Application to Purchase Demand Response Trips and to Continue to Provide the Route 23 Transportation Services to the Citizens of Gainesville (B)**

This item is to request for the City Commission to adopt a Resolution to allow the Regional Transit System (RTS) to apply for a 5311 Grant to purchase Demand Response trips and to continue to provide the Route 23 transportation services to the citizens of Gainesville.

MODIFICATION - (Revised Resolution per the City Attorney, added 1/4/2012).

Explanation: Federal funds are available through the Federal Transit Administration (FTA) and the Florida Department of Transportation (FDOT) to purchase demand response trips and to provide Route 23 that operates between the Oaks Mall and Santa Fe College. The funding is set up on a 5-year cycle and is issued either yearly or every 3 years.

RTS has obtained all of the backlogged 5311 grant money through FY2011, and now with the approval of the City Commission and the Board of County Commissioners, RTS will start the next 3 year cycle to receive funding for FY2012 through FY2015. RTS will use the funds to purchase demand response trips and provide the Route 23.

FDOT requires that a Resolution be adopted by the City Commission authorizing the City Manager or his designee to execute and file applications for such grants. The Resolution must have specific verbiage, in the format approved by the FDOT attorney, and be adopted within 30 days of the application due date which is January 14, 2012. RTS is requesting that the City Commission adopt the Resolution allowing the application to go forward to apply for much needed transportation services.

Fiscal Note: The monies for Demand Response trips and Route 23 are considered operational funds and require a 50/50 match. RTS will use monies received from Alachua County for Route 75 as their local match.

RECOMMENDATION *The City Commission 1) adopt the Resolution; and 2) allow RTS to continue to provide Route 23 transportation services to the citizens of Gainesville.*

110586_Resolution_20120105.pdf

110586-MOD_Resolution_20120105.pdf

110587.

Resolution for 5317 Grant Application to Purchase a Paratransit Van to Provide ADA Service to the Disabled Citizens of Gainesville (B)

This item is to request the City Commission to adopt a Resolution to allow the Regional Transit System (RTS) to apply for a 5317 Grant to purchase a paratransit van to provide ADA service to the disabled citizens of Gainesville.

MODIFICATION - (Revised Resolution per the City Attorney added 1/4/2012).

Explanation: Federal funds are available through the Federal Transit Administration (FTA) and the Florida Department of Transportation (FDOT) to purchase a paratransit van. FDOT requires that a Resolution be adopted by the City Commission authorizing the City Manager or his designee to execute and file applications for such grants. The Resolution must have specific verbiage, in the format approved by the FDOT attorney, and be adopted within 30 days of the application due date which is January 14, 2012. RTS is requesting that the City Commission adopt the Resolution allowing the application to go forward to purchase a paratransit van.

Fiscal Note: RTS will use capital replacement funds received from MV Transportation for use of city owned vehicles as match money to obtain the federal funds to purchase the needed vehicle.

RECOMMENDATION *The City Commission adopt the Resolution.*

110587_Resolution_20120105.pdf

110587-MOD_Resolution_20120105.pdf

110610.

Regulation of Smoking Under the Florida Clean Indoor Air Act (B)

Explanation: The state of Florida has had a preemptive state law since 1985 that prohibits

municipalities from exercising their home rule authority by enacting laws that restrict smoking in certain indoor or outdoor settings.

Fiscal Note: None at this time

RECOMMENDATION

The City commission adopt the proposed resolution and add language urging the Florida Legislature to repeal the State's preemption of City and County ordinances relating to the regulation of smoking under the Florida Clean Indoor Air Act to the list of State Legislative Priorities.

110610_resolution_cleanindooract_20120105.pdf

ADOPTION READING-ROLL CALL REQUIRED

110417.

REZONING 4 PARCELS OF LAND – 3.76 ACRES - VICINITY OF SW 34TH STREET ON THE EAST , SW 43RD STREET ON THE WEST AND NORTH OF WINDMEADOWS BOULEVARD. AND ON THE NORTH SIDE OF SW 20TH AVENUE (B)

Ordinance No. 110417, Petition No. PB-11-105PSZ

An ordinance of the City of Gainesville, Florida, amending the Zoning Map Atlas and rezoning 4 parcels of land located in the vicinity of SW 34th Street on the East, SW 43rd Street on the West and north of Windmeadows Boulevard, and on the North side of SW 20th Avenue; consisting of approximately 3.76 acres in the aggregate; from the Alachua County zoning categories of “Manufactured mobile home park (RM) district” and “Multiple family high density (R-3) district” to the City of Gainesville zoning category of “PS: Public services and operations district”; to allow utilities as defined in Section 30-23 of the Land Development Code; excepting the requirement of preliminary development plans; providing conditions on certain properties; providing directions to the City Manager; adopting a certain finding; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Explanation: STAFF REPORT

The purpose of this petition is to provide the appropriate zoning designation to implement the PF (Public Facilities) land use on the properties included in this petition. The petition includes five parcels: 06745-002-001; 06704-001-000; 06810-005-002; 06748-000-000; and 06750-001-000. The parcels are owned by Gainesville Regional Utilities (City of Gainesville). Three of the five parcels are developed with lift stations, and the two remaining contiguous parcels are vacant and were purchased to provide a pump station when needed.

Section 30-75 of the land development code requires that the specific uses permitted on the properties be specified as part of the ordinance which places the PS zoning classification on the properties. Given that the intended purpose for all the properties is to provide a utility service, the use specified for the

properties shall be utilities as defined in Section 30-23 of the land development code. The code defines utilities to mean: any water system, electrical power system, sanitary sewer system, stormwater management system, gas, telephone, television cable system, or similar system. Any proposed use of properties will also have to be approved by the City Commission. The ordinance must also specific the dimensional requirements for the proposed use on the properties and the Plan Board must recommend to the City Commission whether a preliminary development plan is required before the property is rezoned or the uses permitted on the property is changed.

The Plan Board reviewed the petition on August 25, 2011 and recommended approval of the petition with staff condition and without preliminary development plan approval. Plan Board vote 4-0. Public notice was advertised in the Gainesville Sun on August 9, 2011.

CITY ATTORNEY MEMORANDUM

The petition and ordinance are submitted simultaneously for City Commission approval.

RECOMMENDATION

The City Commission: 1) approve petition number PB-11-105PSZ; and 2) adopt the proposed ordinance.

110417B_staff report_20120105.pdf

110417C_exhibit 1_20120105.pdf

110417D_cpb minutes_20120105.pdf

110417-A_draft ordinance_20120105.pdf

100896.

COMPREHENSIVE PLAN AMENDMENT - PLANNED USE DISTRICT ON NW 13TH STREET (B)

Ordinance No. 100896; Petition No. PB-11-20 PUD

An ordinance amending the City of Gainesville Comprehensive Plan, Future Land Use Map; by overlaying the City of Gainesville land use category Planned Use District (PUD) over property located at 303 Northwest 13th Street, 1249 Northwest 4th Avenue and 1227 Northwest 4th Avenue with the underlying land use categories of "Commercial (C)", Mixed-Use Low-Intensity (8-30 units per acre) (MUL)" and "Residential Low-Density (up to 12 units per acre) (RL)"; providing conditions, restrictions and regulations; providing a severability clause; providing a repealing clause; and providing an effective date.

MODIFICATION - (Applicant ppt. added 1/4/2012).

Explanation: PLANNING AND DEVELOPMENT SERVICES DEPARTMENT STAFF REPORT

This ordinance is a request for a small-scale land use amendment to overlay the Planned Use District (PUD) future land use category over certain property with the underlying future land use categories of Commercial (C), Mixed-Use Low-Intensity 8-30 units per acre (MUL), and Residential Low-Density up to 12 units per acre (RL). The property includes three parcels that total

approximately 1.53 acres in size. The parcel at 303 N.W. 13th Street is approximately .03 acres in size, has Commercial land use and is the site of a vacant car wash. The parcel located at 1249 N.W. 4th Avenue is approximately 0.9 acres in size, has both Commercial and Mixed-Use Low Intensity (8-30 units per acre) land use designations and is the site of a bookstore, an Army National Guard recruitment office, and a place of religious assembly. The parcel located at 1227 N.W. 4th Avenue is approximately .03 acres in size, has Residential Low-Density (up to 12 units per acre) land use, is within the University Heights Historic District - North and is the site of a single-family dwelling unit that is considered a contributing structure to the historical character of the district. All three of the parcels are located within the Traditional City Special Area Plan area, as well as the Fifth Avenue/Pleasant Street Community Redevelopment Area.

This proposed land use amendment promotes redevelopment along the NW 13th Street corridor. The development proposal for this PUD includes retail, office and residential multiple-family dwellings. This unique mix of uses and compact, urban infill development make this project suitable for the PUD land use designation. The proposed PUD land use amendment includes conditions recommended by staff and the Plan Board to improve compatibility and harmony with adjacent properties.

Public notice was published in the Gainesville Sun on March 8, 2011. On March 24, 2011, the City Plan Board heard the petition and, by a vote of 6-0, recommended the City Commission approve the petition, with amendments to the conditions. The City Commission heard the petition on May 5, 2011, and by a vote of 6-0, approved the petition with further amendments to the PUD conditions.

A related petition (PB-11-08 PDV) and ordinance (100897) propose to rezone the property to the "Planned Development (PD)" zoning district.

CITY ATTORNEY MEMORANDUM

The proposed amendment to the Comprehensive Plan is treated as a small scale development activity. After the City Commission adopts the ordinance, it will be filed with the State Land Planning Agency. The state land planning agency does not review or issue a notice of intent for small scale development amendments. Any affected person may file a petition with the State Division of Administrative Hearings to request a hearing to challenge the compliance of a small scale development amendment within 30 days following the City's adoption of the amendment.

Small scale development amendments do not become effective until 31 days after adoption. If challenged within 30 days after adoption, small scale development amendments shall not become effective until the state land planning agency or the Administration Commission issues a final order that the adopted small scale development amendment is in compliance.

RECOMMENDATION

The City Commission adopt the proposed ordinance.

Legislative History

5/5/11 City Commission Approved (Petition) as amended by the Plan Board and staff (6 - 0 - 1 Absent)

100896_cpb conditions_20110505.pdf
100896A_staff report_20110505.pdf
100896B_exhibit A-1_20110505.pdf
100896C_exhibits B-1 - B-6_20110505.pdf
100896D_exhibit C1-C2_20110505.pdf
100896E_citizen letter_20110505.pdf
100896F_cpb minutes_20110505.pdf
100896G_staff ppt_20110505.pdf
100896_100897_MOD_APPLICANT_PPT_20110505.pdf
100896A_draft ordinance_20120105.pdf
100896&100897_MOD_ppt_Applicant CHW_CC1_120105.pdf

ORDINANCES, 1ST READING- ROLL CALL REQUIRED**100897.****REZONING - PLANNED DEVELOPMENT (B)****Ordinance No. 100897, Petition No. PB-11-08 PDV**

An Ordinance of the City of Gainesville, Florida; rezoning certain lands within the City, as more specifically described in this ordinance; by amending the Zoning Map Atlas to change the zoning districts from "General business district (BUS)", "Automotive-oriented business district (BA)", "Mixed use low intensity district (MU-1)" and "Residential low density district (RMF-5)" to "Planned Development (PD)" on certain property located at 303 Northwest 13th Street, 1249 and 1227 Northwest 4th Avenue commonly referred to as "Gainesville Mixed-Use on NW 13th Street PD"; adopting a development plan report and development plan maps; providing conditions, restrictions and regulations; providing for enforcement; providing a severability clause; and providing an effective date.

MODIFICATION - (Applicant ppt. added 1/4/2012).

Explanation: PLANNING AND DEVELOPMENT SERVICES DEPARTMENT STAFF REPORT

This ordinance is a request for a rezoning to change the zoning districts of certain property from "General business district (BUS)", "Automotive-oriented business district (BA)", "Mixed use low intensity district (MU-1)" and "Residential low density district (RMF-5)" to "Planned Development (PD)". The property includes three parcels that total approximately 1.53 acres in size. The parcel at 303 N.W. 13th Street is approximately .03 acres in size, has BA zoning and is the site of a vacant car wash. The parcel located at 1249 N.W. 4th Avenue is approximately 0.9-acres in size, has BUS and MU-1 zoning and is the site of a bookstore, an Army National Guard recruitment office, and a place of religious assembly. The parcel located at 1227 N.W. 4th Avenue is approximately .03 acres in size, has RMF-5 zoning, is within the University Heights Historic District - North and is the site of a single-family dwelling unit

that is considered a contributing structure to the historical character of the district. All three of the parcels that comprise the 1.53-acre property are located within the Traditional City Special Area Plan area, as well as the Fifth Avenue/Pleasant Street Community Redevelopment Area.

The purpose of the proposed rezoning (and related land use amendment) is to enable the applicant to construct a mixed-use redevelopment project that would include retail, office and multiple-family residential uses. Specifically, the planned development is proposed for 168 dwelling units, up to 26,000 square feet of commercial retail, and between 5,000 and 20,000 square feet of offices. The list of permitted uses is a subset of the uses currently permitted in the UMU-2 zoning district, omitting certain uses such as rooming houses, day care facilities, limited automotive services, and drive-throughs. The uses will be located within an eight-story building on N.W. 13th Street that will transition eastward to a lower maximum height of 60 feet and then to a small surface parking area. The development will utilize a parking garage that will be accessed from entrances on NW 3rd and 4th Avenues. Solid waste collection and freight access will be contained within the garage. A proposed masonry wall will be constructed on the east end of the development that will screen the surface parking from the street and adjacent properties.

Further details of the proposed PD are shown on the PD Layout Plan Map and described in the PD Report, both of which are made a part of this ordinance.

Public notice was published in the Gainesville Sun on March 8, 2011. On March 24, 2011, the City Plan Board heard the petition and by a vote of 6-0, recommended the City Commission approve the petition, with amendments to the conditions. The City Commission heard the petition on May 5, 2011, and by a vote of 5-0, approved the petition with changes to the PD conditions.

A related petition (PB-11-20 PUD) and ordinance (No. 100896) propose to overlay the land use category of "Planned Use District (PUD)" on this property.

CITY ATTORNEY MEMORANDUM

Should this ordinance pass on first reading, second and final reading will be held on January 19, 2012. This ordinance shall become effective immediately upon final adoption; however, the rezoning shall not become effective until the amendment to the City of Gainesville Comprehensive Plan adopted by Ordinance No. 100896 becomes effective as provided therein.

RECOMMENDATION

The City Commission adopt the proposed ordinance.

Legislative History

5/5/11	City Commission	Approved (Petition) with changes to PD conditions (5 - 0 - 2 Absent)
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100897_cpb conditions_20110505.pdf
100897A_staff report_20110505.pdf
100897B_append A_20110505.pdf
100897C_append B_20110505.pdf
100897D_append C_20110505.pdf
100897E_citizen letter_20110505.pdf
100897F_cpb minutes_20110505.pdf
100897G_staff ppt_20110505.pdf
100896_100897_MOD_APPLICANT_PPT_20110505.pdf
100897A_draft ordinance_20120105.pdf
100896&100897_MOD_ppt_Applicant CHW_CC1_120105.pdf

110505.

VOLUNTARY ANNEXATION – EASTSIDE PROPERTIES (B)

Ordinance No. 110505

An Ordinance of the City of Gainesville, Florida, annexing a portion of the City of Gainesville Reserve Area pursuant to Chapter 90-496, Special Act, Laws of Florida, as amended by Chapter 91-382 and Chapter 93, 347, Special Acts, Laws of Florida, known as the Alachua County Boundary Adjustment Act; making certain findings; including within the corporate limits of the City of Gainesville, Florida, that certain compact and contiguous area located generally in an area comprised of Tax Parcel Numbers 10890-000-000, 10889-000-000, 10889-002-000, and 10889-003-000. Tax parcel 10890-000-000 is generally located south of East University Avenue, west of the vicinity of S.E. 43rd Street, north of tax parcel 10890-002-000, and east of the Gainesville City Limits. Tax parcel 10889-000-000 is generally located south of East University Avenue, west of the vicinity of S.E. 43rd Street, north of tax parcels 16127-002-002 and 16127-002-001, and east of tax parcels 10890-000-000 and 10890-002-000. Tax parcels 10889-002-000 and 10889-003-000 are generally located south of East University Avenue, west of the vicinity of S.E. 43rd Street, north of tax parcels 16127-003-000 and 16125-001-001, and east of tax parcel 10889-000-000, as more particularly described in the ordinance; providing for inclusion of the area in Appendix I of the City Charter; providing for land use and zoning regulations; providing for persons engaged in any occupation, business, trade or profession within the area; providing directions to the City Manager and Clerk of the Commission; providing a severability clause; and providing an immediate effective date.

Explanation: The adoption of an annexation ordinance is the final stage in the annexation process under the provisions of the Alachua County Boundary Adjustment Act. On November 19, 2009, at a regular City Commission meeting, the City Commission received and accepted the petitions for annexation, and determined that the petitions bore the signatures of the owners of the properties that is the subject of this annexation. On July 7, 2011 and July 21, 2011, the City Commission held advertised public hearings and adopted the Urban Services Report as mandated by the Boundary Adjustment Act.

Subsequent to the City Commission's acceptance of the petitions, property owners of the southern segment of the proposed area for annexation withdrew

their petitions. Therefore, at this time, the City is only pursuing annexation of four parcels owned by Demetree Metro at Forest Creek LLC.

ANNEXATION ORDINANCE

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

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

If adopted on first reading, the second and final reading of this ordinance will be January 19, 2012. Pursuant to the Boundary Adjustment Act, notice of adoption of this ordinance was published for two consecutive weeks prior to first reading.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

110505_Draft Ordinance_20120105.pdf

ORDINANCES, 2ND READING- ROLL CALL REQUIRED

090538.

BUTLER PLAZA PLANNED DEVELOPMENT (PD) REZONING (B)

Ordinance No. 090538, Petition PB-09-84 PDV

An ordinance of the City of Gainesville, Florida, amending the Zoning Map Atlas by rezoning certain property within the City, commonly referred to as "Butler Plaza" and generally located between Southwest Archer Road and Southwest 24th Avenue, and between Southwest 40th Boulevard and Southwest 34th Street as more specifically described in this Ordinance, from the Alachua County zoning districts of "Automotive Oriented Business" (BA), "Retail Sales and Services" (BR), "Highway Oriented Businesses" (BH), "Manufactured/Mobile Home Park" (RM), "Manufacturing and Services Industrial" (MS), "Residential Multi-Family" (R-2), "Residential Multi-Family" (R-3), "Residential Single Family" (R-1C), "Residential and Professional" (RP) to City of Gainesville "Planned Development" (PD) zoning district; adopting a development plan report and development plan maps; providing conditions, restrictions and regulations; providing for enforcement and penalties; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

MODIFICATION - (New Recommendation, Cover Memo and E,F, G, submitted 1/4/2012 per the City Attorney).

Explanation: PLANNING AND DEVELOPMENT SERVICES DEPARTMENT STAFF REPORT

This is a request by the petitioners to rezone certain property to the City of Gainesville zoning district of Planned Development District (PD). The property, which is commonly referred to as "Butler Plaza," was voluntarily annexed into the City by Ordinance No. 070722 adopted April 28, 2008. The land use of the property was designated Planned Use District (PUD) by City Ordinance No. 090537 adopted August 5, 2010. This rezoning to PD is consistent with and is intended to implement the PUD land use.

The proposed PD totals approximately 264 acres, and is located generally on the north side of Archer Road and to the west of SW 34th Street. The PD property extends north to the newly constructed SW 24th Avenue and in one location extends west to Interstate 75. The current developed portion (approximately 108 acres) contains over 1 million square feet of commercial retail uses which are contained in several adjacent shopping plazas and multiple outparcels located along Archer Road. This existing development is accessed by a series of public and private streets that connect from Archer Road northward to Windmeadows Boulevard. The remaining undeveloped portion of the property consists of approximately 156 acres.

The PD zoning district was established specifically to allow for unique proposals which are not provided for by the standard zoning districts. Section 30-213 of the City's Land Development Code sets forth the minimum requirements for a rezoning to PD. In accordance with Section 30-216 of the City's Land Development Code, a proposal to rezone to the PD district shall also consider general conformance with the Comprehensive Plan, concurrency requirements, internal and external compatibility, intensity of development, usable open space, environmental constraints, transportation access and the provision for a range of transportation choices. The PD Report attached as Exhibit "D" to the Ordinance addresses these requirements.

In summary, this PD consists of seven "Districts" which allow for various commercial, retail, service, office, hotel/motel and multiple-family residential uses. The maximum development intensity allowed is set forth in the PUD Ordinance as 2,500,408 square feet of commercial, 250,000 square feet of office, 500 hotel/motel rooms and 1,000 multiple-family residential units. However, both the PUD and PD allow for some substitution of uses. The PD requires a number of a bicycle, pedestrian, transit and road/vehicular infrastructure and improvements to be made by the owner/developer at certain stages during the development/build-out of the PD. The PD is regulated by the conditions, restrictions and regulations set forth in this Ordinance and its exhibits, which include a PD Report, PD Layout Map, and other maps, text and graphics.

The City Plan Board reviewed both the proposed PUD land use change and the PD rezoning during three special meetings on September 21, September 29 and October 7, 2009, and the Plan Board, by a vote of 6-1, recommended the City Commission approve the PD with modified conditions.

The City Commission held public hearings on November 30 and December 1,

2009; however, the discussion focused on the PUD land use change. The City Commission directed staff to update the proposed PD conditions to be consistent with the PUD land use change.

On August 19, 2010, the City Commission heard the PD rezoning petition, revised conditions (in addition to the revisions recommended by the Plan Board) and referred various matters to staff and the petitioner for further review. On December 13, 2010, the City Commission again heard the petition and directed staff and the petitioner to work on a phasing plan and other issues. On May 9, 2011, the City Commission approved the PD rezoning petition by a vote of 6-1, and directed staff to draft this Ordinance making the PD Report and other exhibits consistent with the PD petition conditions that were discussed and approved by the City Commission.

On December 15, 2011, the City Commission heard this ordinance on first reading and adopted same with revised conditions 11 and 19 and deleted condition 23. In addition, at the hearing, a typographical error was discovered in Exhibit "F". Subsequently staff also discovered typographical errors in Condition 1.l. and in Condition 1.b.1. These errors have been corrected in the second reading version of this Ordinance. In addition, staff has clarified Section 3 of this Ordinance.

CITY ATTORNEY MEMORANDUM

This Ordinance passed on first reading on December 15, 2011 and second and final reading will be held on Thursday, January 5, 2012.

RECOMMENDATION

1) The City Commission adopt the proposed ordinance, as amended on first reading and as further revised on second reading; 2) approve the Traffic Enforcement Agreement with S. Clark Butler Properties Ltd. and the Traffic Enforcement Agreement with Regency Windmeadows Limited Partnership and authorize the City Manager to execute both Agreements, subject to review, as to form and legality, by the City Attorney; and 3) approve the Agreement to Construct Transit Transfer Station and Park-and-Ride Lot and authorize the City Manager to execute the Agreement, subject to review as to form and legality by the City Attorney.

Legislative History

11/19/09	City Commission	Continued (Petition) (7 - 0)
11/30/09	City Commission	Continued (Petition) (7 - 0)
8/5/10	City Commission	Continued (Petition) (6 - 0 - 1 Absent)
8/19/10	City Commission	Continued (Petition) (6 - 0 - 1 Absent)
12/13/10	City Commission	Continued (Petition)
5/9/11	City Commission	Approved (Petition) as revised by the City Plan Board, as amended (6 - 1)
12/15/11	City Commission	Adopted on First Reading, as revised (Ordinance) (6 - 1)

Petitioner_BP_ comprehensive plan subarea policies 11-19-09 .pdf
Petitioner_BP- PD Conditions 11-19-09 .pdf
Petitioner_BP_PP_ additional information.PDF
Letter_Deborah Butler_November 19, 2009.pdf
090538_butler plaza PD table of contents_20091130.pdf
090538A_cpb revised PD conditions_20091130.pdf
090538B_additional staff changes to PD conditions_20091130.pdf
090538C_090921 cpb minutes_20091130.pdf
090538D_090929 cpb minutes_20091130.pdf
090538E_091007 cpb action agenda_20091130.pdf
090538F_staff report_20091130.pdf
090538G_trc comments to cpb_20091130.pdf
090538H_Letters_citizen,city arborist,rts dir,ac plan dept,fdot_20091130.pdf
090538I_neighborhood workshop info_20091130.pdf
090538J_petitioner response to PD detail comments_20091130.pdf
090538K_091007 cpb minutes draft_20091130.pdf
090538L_staff ppt_20091130.pdf
090538_table of contents_20100805.PDF
090538A_cpb pd conditions_20100805.pdf
090538B_applicant version pd conditions_20100805.pdf
090538C_pt 1_A-E_pd report_20100805 pdf.pdf
090538C_pt 2_F-J_pd report_20100805.pdf
090538D_site signage plan_20100805.pdf
090538E_staff ppt_20100805.PDF
090538F_Time Extension Ltr_20100805.pdf
090538G_Airport Marker Ltr_20100819.pdf
090538_petitionform_20100805.pdf
090538a_petitionform_20100805.pdf
090538_table of contents_20100819.pdf
090538A_cpb butler plaza pd conditions_20100819.pdf
090538B_applicant version butler plaza pd conditions_20100819.pdf
090538C_Pt 1_A-D_pd report_20100819.pdf
090538C_Pt 2_E-J_pd report_20100819.pdf
090538D_site signage plan_20100819.pdf
090538E_staff ppt_20100819.PDF
090538F_extention ltr_quasai jud forms_20100819.pdf
090538G_Airport Marker Ltr_20100819.pdf
090538H_butler plaza land use signed ordinance 090537_20100819.pdf
090538i_Memo from EB&SWright_20100819.pdf
090538J_City-Object 1.3_20100819.pdf
090538K_Architectural Guideline_20100819.pdf
090538_MOD_agent for Butler_20100819.PDF
090538_MOD_C- Hawkins Butler_NOTES_20100819 (2).pdf
090538_Butler Plaza Typical Section Exhibits_07-29-10.pdf
090538_PD_Report_Exhibits_Submittal_060910.pdf
090538a_Staff Memo_20101213.pdf
090538b_Butler Plza Back-Up_20101213.pdf
090538b_Addendum to Exhibit B - Layout Plan_20101213.pdf
090538b_Addendum to Page E-3_20101213.pdf
090538c_Staff Conditions_20101213.pdf
090538d_Disputed Conditions_20101213.pdf
090538e_City Commission Minutes_20101213.pdf
090538F_Staff PPT_20101213.pdf

090538G_Petitioner Consultant Resume_20101213.pdf
090538h_Petitioner Attorney Resume_20101213.pdf
090538_MOD_Attorney Doan_Ltr_20101213.pdf
090538_MOD_Butler Plaza EIS Analysis_20101213.pdf
090538_MOD_C-Hawkins_20101213.pdf
090538_MOD_Fishkind Opinion Letter r1_20101213.pdf
090538_MOD_Legal PPT - Conditions 1 & 50_20101213).PDF
121310_MOD_APPLICANT_PPT_20101213.pdf
090538_MOD_LTR_20101213.pdf
090538A_Matrix_20110509.pdf
090538B_BP Updated Conditions_20110509.pdf
090538C_Map Subareas 1,2&3_20110509.pdf
090538D_Exh G_Pedestrian Circulation_RTS Revised_20110509.pdf
090538E_Revisions to PB-09-84 Conditions_20110509.pdf
090538F_PB-09-74 Signed Ordinance_20110509.pdf
090538G_Petitioner PPT_20110509.pdf
090538_Staff Memo_20110509.pdf
090538_20110509.pdf
090538butlerplaza_20110509.pdf
090538_CITY_ATTORNEY_SUPPLEMENTAL_REC_20110509.PDF
090538A_draftordinance_20111215.pdf
090538B_Exhibit A to ordinance-legal description_20111215.pdf
090538C_Exhibit B to ordinance-PD sketch_20111215.pdf
090538D_Exhibit C-1 to ordinance-PD uses_20111215.pdf
090538E_Exhibit C-2 to ordinance-PD development standards_20111215.pdf
090538F_Exhibit D to ordinance-development plan report_20111215.pdf
090538G_Exhibit E to ordinance-existing conditions maps_20111215.pdf
090538H_Exhibit F to ordinance-PD layout plan map_20111215.pdf
090538I_Exhibit G to ordinance-typical sections_20111215.pdf
090538J_Exhibit H to ordinance-bicycle and pedestrian circulation maps_20111215.pdf
090538K_Exhibit I to ordinance-architectural guidelines_20111215.pdf
090538_MOD_Modified Ord. Language__20111215 (2).pdf
090538_MOD_C-HAWKINS_Butler Presentation_ppt.pdf
090538_MOD_C-HAWKINS_To Comply with PUD_ppt.pdf
090538A_draft ordinance_20120105.pdf
09538B_BP Updated Conditions_20110509.pdf
090538C_traffic enforcement agreement_20120105.pdf
090538B_description of exhibits_20120105.pdf
090538D_Exhibit F to ordinance-PD layout plan map- revised_20120105.pdf
090538_MOD_revised cover memo_20120105.pdf
090538E_MOD_revised traffic enforcement agreemen_Butler_20120105.pdf
090538F_MOD_traffic enforcement agreement - Regency_20120105.pdf
090538G_MOD_transit transfer station park and ride lot agreement_20120105.pdf

110246.**COMPREHENSIVE PLAN AMENDMENT - CONSERVATION, OPEN SPACE & GROUNDWATER RECHARGE AND FUTURE LAND USE ELEMENTS (B)****Ordinance No. 110246; Petition No. PB-11-75 CPA**

An ordinance amending the City of Gainesville Comprehensive Plan; by amending the Conservation, Open Space & Groundwater Recharge

Element Policies 1.1.1, 1.1.1.b, 1.1.1.b.2, 1.1.1.b.3, 1.1.1.b.4, 1.1.1.b.11, 1.1.1.c, 1.1.1.f, Objective 2.4, and Policies 2.4.1, 2.4.2, 2.4.11, and 2.4.12; by amending the Future Land Use Element Policies 3.1.1, and 3.1.2; by creating and adding a Policy 3.2.4 to the Future Land Use Element; by deleting the Uplands map and replacing it with a Strategic Ecosystems map in the Environmentally Significant Land and Resources Map Series within the Future Land Use Map Series; providing directions to the city manager; providing a severability clause; providing a repealing clause; and providing an effective date.

MODIFICATION - (Removed the words "as amended" from the recommendation 1/03/2012).

Explanation: PLANNING AND DEVELOPMENT SERVICES DEPARTMENT STAFF REPORT

This ordinance provides Comprehensive Plan support and consistency for the proposed changes being made to the City's regulations for natural and archaeological resource protection as approved by the Plan Board on March 24, 2011 (Petition PB-10-143 TCH) and the City Commission on August 4, 2011 (Legistar #110076).

In addition to the changes made in support of the proposed environmental regulations, staff is proposing several text changes in policies for clarity or consistency with the Land Development Code.

Explanations for the changes are shown in the backup along with the proposed revisions to text in underline and strike-through. The first set of changes includes general policy amendments and additions to support the proposed new Natural and Archeological Resources Protection regulations. This involves amendments to the Conservation, Open Space and Groundwater Recharge and Future Land Use Elements. The second set of changes makes minor corrections and changes for clarity or consistency with the existing Land Development Code regulations for wetlands and other existing environmental features.

Additional changes to the Conservation, Open Space and Groundwater Recharge Element will be made in the next few months as part of a major update to the Comprehensive Plan. This set of changes reflects interim changes that staff deemed important for inclusion in the Plan.

After public notice was published in the Gainesville Sun on July 12, 2011, the City Plan Board held a public hearing on July 28, 2011 and, by a vote of 4-0, recommended the City Commission approve the petition.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing is held at the transmittal stage and must be advertised seven (7) days prior to the first public hearing. The second public hearing is held at the adoption stage and must be advertised at least five (5) days before the adoption hearing.

In accordance with Chapter 163.3184, Florida Statutes, within 10 days after the first hearing, the City must transmit the plan amendment to the Reviewing Agencies and to any other local government or state agency that has filed a written request for same. These agencies have 30 days after receipt of the amendment to forward comments concerning the plan amendment to the City. The City must consider the written comments received, if any, during the second public hearing.

If adopted on second reading, the ordinance will be sent to the state land planning agency and any party that submitted written comments, and the plan amendment, if not timely challenged, shall be effective 31 days after the state land planning agency notifies the City that the plan amendment package is complete. If the Plan amendment is challenged, the amendment will become effective on the date the state land planning agency or the Administration Commission (Governor and Cabinet) enters a final order determining this adopted amendment is in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commenced before this plan amendment has become effective

RECOMMENDATION

The City Commission: 1) receive letters of "no comment" from the North Central Florida Regional Planning Council, the St. Johns River Water Management District, the Florida Department of Education and the Florida Department of Economic Opportunity; and 2) adopt the proposed ordinance.

Legislative History

10/20/11 City Commission Approved (Petition) and Adopted (Ordinance) on Transmittal Hearing (6 - 1)

110246A_draft ordinance_20111020.pdf
110246B_staff report_20111020.pdf
110246C_exhibit 1_map 1 ecosystems_20111020.pdf
110246D_exhibit 2_application_20111020.pdf
110246E_cpb minutes_20111020.pdf
110246F_staff ppt_20111020.pdf
110246B_letters from state agenices_20120105.pdf
110246_MOD_Cover memo_20120105.pdf

110249.

COMPREHENSIVE PLAN AMENDMENT – POTABLE WATER & WASTEWATER ELEMENT (B)

Ordinance No.110249; Petition No. PB-11-93 CPA

An ordinance amending the City of Gainesville Comprehensive Plan Potable Water & Wastewater Element by updating and amending the Objectives and Policies as more specifically set forth in this ordinance; providing directions to the city manager and the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

Explanation: STAFF REPORT

On October 20, 2011, the City Commission approved this ordinance by a vote of 6-0 and transmitted this ordinance as part of the Amendment No. 11-3 package to the State Land Planning Agency.

In accordance with the new growth management statutory law (House Bill 7207), now Chapter Law 2011-139) effective June 2, 2011, the North Central Florida Regional Planning Council issued a report dated November 23, 2011, stating that there are no significant adverse impacts to regional resources and facilities, and no increase in intensities/densities of use or are not located in a Transportation Concurrency Exception Area. The St. Johns River Water Management District issued a letter dated November 10, 2011, stating they there are no adverse impacts to important state resources and facilities. The Florida Department of Education issued a letter dated November 16, 2011, stating that there are no adverse impacts on public school facilities, therefore they offer no comment. The Florida Department of Economic Opportunity issued a letter dated November 16, 2011, stating that they have identified no comment related to important state resources and facilities that will be adversely impacted.

The Potable Water & Wastewater Element was last amended in September 2003 (by Ordinance No. 020721).

The proposed amendments of the Goals, Objectives, and Policies of the Potable Water & Wastewater Element for the updated Gainesville Comprehensive Plan include those that were recommended by the old Evaluation and Appraisal Report (EAR) process (the City's EAR was adopted by the City Commission on October 21, 2010 and deemed sufficient by the Florida Department of Community Affairs on December 27, 2010), and those that reflect State statutory changes since the element was last amended.

The EAR called for various amendments (e.g., "Florida Friendly" landscaping, year-round conservation rate structure for water, better regulation of private wells, and use of reclaimed water) to the goals, objectives and policies of the Potable Water & Wastewater Element, which are proposed by this petition. Other proposed amendments include referencing water/wastewater projects in the 5-Year Schedule of Capital Improvements rather than listing them in this element, adopting a level of service for water supply, and requiring amendment of the Comprehensive Plan to include a 10-year work plan for water supply projects within 18 months of adoption of water supply plans by the Water Management Districts.

The Plan Board discussed Petition PB-11-93 CPA and recommended approval with a 4-0 vote.

Public notice was published in the Gainesville Sun on July 12, 2011. The Plan Board held a public hearing on July 28, 2011.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the

Comprehensive Plan. The second hearing will be held at the adoption stage of the ordinance and must be advertised approximately five (5) days after the day that the second advertisement is published.

In accordance with the new state growth management law (HB7207, now Chapter Law 2011-139) if the City fails to hold the second reading within 180 days of the receipt of agency comments, the amendment shall be deemed withdrawn.

This ordinance, if adopted on second reading, will be transmitted to the State Land Planning Agency and any other agencies that provided written comments to the City. The Plan amendment, if not timely challenged, shall be effective 31 days after the State Land Planning Agency notifies the City that the plan amendment package is complete. If the Plan amendment is challenged, the amendment will become effective on the date the State Land Planning agency or the Administration Commission (Governor and Cabinet) enters a final order determining this adopted amendment is in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commenced before this plan amendment has become effective.

Due to changes in state law during the last legislative session, it is advisable to amend the ordinance to more closely conform to the new state law.

Additionally, the City Commission very recently adopted an ordinance changing the name of the City's Comprehensive Plan.

RECOMMENDATION

The City Commission: 1) receive letters of "no comment" from the North Central Florida Regional Planning Council, the St. Johns River Water Management District, the Florida Department of Education and the Florida Department of Economic Opportunity; and 2) adopt the proposed ordinance as amended.

Legislative History

10/20/11 City Commission Approved (Petition) and Adopted (Ordinance) on Transmittal Hearing (7 - 0)

110249-A_draft ordinance_20111020.pdf

110249B_staff report_20111020.pdf

110249C_append A_potable water & wastewater element_20111020.pdf

110249D_append B_2010 EAR docs_20111020.pdf

110249E_append C_addendum to data analysis_20111020.pdf

110249F_append D_application_20111020.pdf

110249G_CPB minutes_20111020.pdf

110249H_staff ppt_20111020.pdf

110249-A_draft ordinance_20120105.pdf

110249-B_State Comments_20120105.pdf

110290.

COMPREHENSIVE PLAN AMENDMENT – FUTURE LAND USE ELEMENT (B)

Ordinance No. 110290; Petition No. PB-11-103 CPA

An ordinance amending the Future Land Use Element of the City of

Gainesville Comprehensive Plan; by updating and amending the Objective and Policies relating to the development of the Innovative Economy within the non-residential areas of the Gainesville Innovation Zone, as more specifically set forth in this ordinance; providing directions to the city manager and the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

Explanation: STAFF REPORT

On October 20, 2011, the City Commission approved this ordinance by a vote of 7-0 and transmitted this ordinance as part of the Amendment No. 11-3 package to the State Land Planning Agency.

In accordance with the new growth management statutory law (House Bill 7207), now Chapter Law 2011-139) effective June 2, 2011, the North Central Florida Regional Planning Council issued a report dated November 23, 2011, stating that there are no significant adverse impacts to regional resources and facilities, and no increase in intensities/densities of use or are not located in a Transportation Concurrency Exception Area. The St. Johns River Water Management District issued a letter dated November 10, 2011, stating they there are no adverse impacts to important state resources and facilities. The Florida Department of Education issued a letter dated November 16, 2011, stating that there are no adverse impacts on public school facilities, therefore they offer no comment. The Florida Department of Economic Opportunity issued a letter dated November 16, 2011, stating that they have identified no comment related to important state resources and facilities that will be adversely impacted.

This petition amends the Intergovernmental Coordination Element (ICE) by deleting Objective 1.7 and all of its policies and moving them to the Future Land Use Element. This action was recommended by the old Evaluation and Appraisal Report (EAR) that was adopted on October 21, 2010 and deemed sufficient by the Florida Department of Community Affairs on December 27, 2010.

Because the Innovation Zone is an important part of the City's strategy for redevelopment and economic development, the Objective and policies are being moved to the Future Land Use Element to give them more prominence and visibility.

The Plan Board heard a presentation on Petition PB-11-103 CPA and recommended approval with a 4-0 vote.

Public notice was published in the Gainesville Sun on August 9, 2011. The Plan Board held a public hearing on August 25, 2011.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The second hearing will be held at the adoption stage of the ordinance and must be advertised approximately five (5) days after the day

that the second advertisement is published.

In accordance with the new state growth management law (HB7207, now Chapter Law 2011-139) if the City fails to hold the second reading within 180 days of the receipt of agency comments, the amendment shall be deemed withdrawn.

This ordinance, if adopted on second reading, will be transmitted to the State Land Planning Agency and any other agencies that provided written comments to the City. The Plan amendment, if not timely challenged, shall be effective 31 days after the state land planning agency notifies the City that the plan amendment package is complete. If the Plan amendment is challenged, the amendment will become effective on the date the State Land Planning agency or the Administration Commission (Governor and Cabinet) enters a final order determining this adopted amendment is in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commenced before this plan amendment has become effective.

Due to changes in state law during the last legislative session, it is advisable to amend the ordinance to more closely conform to the new state law.

Additionally, the City Commission very recently adopted an ordinance changing the name of the City's Comprehensive Plan.

RECOMMENDATION

The City Commission: 1) receive letters of "no comment" from the North Central Florida Regional Planning Council, the St. Johns River Water Management District, the Florida Department of Education and the Florida Department of Economic Opportunity; and 2) adopt the proposed ordinance as amended.

Legislative History

10/20/11 City Commission Approved (Petition) and Adopted (Ordinance) on Transmittal Hearing (7 - 0)

110290B_staff report_20111020.pdf

110290C_exhibit 1_application_20111020.pdf

110290D_cpb minutes_20111020.pdf

110290E_staff ppt_20111020.pdf

110290-A_draft ordinance_20120105.pdf

110290-B_State Comments_20120105.pdf

110046.

LAND USE CHANGE – VICINITY OF NORTH SIDE OF 53RD AVENUE, NW 3400 BLOCK TO NE 3000 BLOCK (B)

Ordinance No.110046; Petition No. PB-11-29 LUC

An Ordinance amending the City of Gainesville Comprehensive Plan Future Land Use Map; by changing the land use category of certain property, as more specifically described in this ordinance, from undesignated right-of-way and the Alachua County land use category of "Rural/Agriculture" to the City of Gainesville land use category of "Public Facilities"; consisting of approximately 35 acres, and located in the vicinity of the north side of North 53rd Avenue, extending from the Northwest 3400

block to the Northeast 3000 block; providing directions to the City Manager; providing a severability clause; providing a repealing clause; and providing an effective date.

Explanation: STAFF REPORT

On October 20, 2011, the City Commission approved this ordinance by a vote of 7-0 and transmitted this ordinance as part of the Amendment No. 11-3 package to the State Land Planning Agency.

In accordance with the new growth management statutory law (House Bill 7207), now Chapter Law 2011-139) effective June 2, 2011, the North Central Florida Regional Planning Council issued a report dated November 21, 2011, stating that there are no significant adverse impacts to regional resources and facilities, and no increase in intensities/densities of use or are not located in a Transportation Concurrency Exception Area. The St. Johns River Water Management District issued a letter dated November 10, 2011, stating they there are no adverse impacts to important state resources and facilities. The Florida Department of Education issued a letter dated November 16, 2011, stating that there are no adverse impacts on public school facilities, therefore they offer no comment. The Florida Department of Economic Opportunity issued a letter dated November 16, 2011, stating that they have identified no comment related to important state resources and facilities that will be adversely impacted.

This petition is a large-scale land use amendment to change the Future Land Use category for two City-owned parcels. Parcel 1 is 75 feet wide and approximately 2 miles long, totaling 25.1 acres; it extends along the north side of North 53rd Avenue in three segments from NW 34th Street to NE 15th Street. This parcel is not currently designated with any land use category. Approximately one-third of this parcel was annexed in 2010, and the remainder was created from right-of-way in 2008.

Parcel 2 (07874-001-001) is located on the north side of NE 53rd Avenue east of the Murphree Water Treatment Plant and is 150 feet wide and approximately 2,900 feet long, totaling 9.9 acres. It was annexed in 2010 and its current land use designation is Alachua County Rural/Agriculture.

Parcel 1 is currently in use as a utility corridor for Gainesville Regional Utilities (GRU) power lines; Parcel 2 is undeveloped. No other development is anticipated. The Public Facilities land use category is proposed for both parcels.

Public notice was published in the Gainesville Sun on May 9, 2011. The Plan Board held a public hearing on May 26, 2011.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The second hearing will be held at the adoption stage of the ordinance and must be advertised approximately five (5) days after the day

that the second advertisement is published.

In accordance with the new state growth management law (HB7207, now Chapter Law 2011-139) if the City fails to hold the second reading within 180 days of the receipt of agency comments, the amendment shall be deemed withdrawn.

This ordinance, if adopted on second reading, will be transmitted to the State Land Planning Agency and any other agencies that provided written comments to the City. The Plan amendment, if not timely challenged, shall be effective 31 days after the state land planning agency notifies the City that the plan amendment package is complete. If the Plan amendment is challenged, the amendment will become effective on the date the State Land Planning agency or the Administration Commission (Governor and Cabinet) enters a final order determining this adopted amendment is in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commenced before this plan amendment has become effective.

Due to changes in state law during the last legislative session, it is advisable to amend the ordinance to more closely conform to the new state law. Additionally, the City Commission very recently adopted an ordinance changing the name of the City's Comprehensive Plan.

RECOMMENDATION

The City Commission: 1) receive letters of "no comment" from the North Central Florida Regional Planning Council, the St. Johns River Water Management District, the Florida Department of Education and the Florida Department of Economic Opportunity; and 2) adopt the proposed ordinance as amended.

Legislative History

10/20/11 City Commission Approved (Petition) and Adopted (Ordinance) on Transmittal Hearing (7 - 0)

110046A_draft ordinance_20111020.pdf
110046B_staff report_20111020.pdf
110046C_append A_20111020.pdf
110046D appendix B_maps_20111020.pdf
110046E_appendix C_supplemental docs_20111020.pdf
110046F_application amended_20111020.pdf
110046G_cpb minutes_20111020.pdf
110046H_staff ppt_20111020.pdf
110046-A_draft ordinance_20120105.pdf
110046-B_State Comments_20120105.pdf

110110.

**LAND USE CHANGE – 7200-7300 BLOCK OF NW 4TH BLVD (B)
Ordinance No. 110110; Petition No. PB-11-47 LUC**

An Ordinance amending the City of Gainesville Comprehensive Plan Future Land Use Map; by changing the land use category of certain property, as more specifically described in this ordinance, from the Alachua County land use category of "Commercial" to the City of

Gainesville land use category “Commercial”; consisting of approximately 27.8 acres, and located in the vicinity of the 7200-7300 block of Northwest 4th Blvd; providing directions to the City Manager; providing a severability clause; providing a repealing clause and providing an effective date.

Explanation: STAFF REPORT

On October 20, 2011, the City Commission approved this ordinance by a vote of 7-0 and transmitted this ordinance as part of the Amendment No. 11-3 package to the State Land Planning Agency.

In accordance with the new growth management statutory law (House Bill 7207), now Chapter Law 2011-139) effective June 2, 2011, the North Central Florida Regional Planning Council issued a report dated November 23, 2011, stating that there are no significant adverse impacts to regional resources and facilities, and no increase in intensities/densities of use or are not located in a Transportation Concurrency Exception Area. The St. Johns River Water Management District issued a letter dated November 10, 2011, stating they there are no adverse impacts to important state resources and facilities. The Florida Department of Education issued a letter dated November 16, 2011, stating that there are no adverse impacts on public school facilities, therefore they offer no comment. The Florida Department of Economic Opportunity issued a letter dated November 16, 2011, stating that they have identified no comment related to important state resources and facilities that will be adversely impacted.

This proposed large-scale amendment of the Future Land Use Map from Alachua County Commercial to City of Gainesville Commercial pertains to an approximately 27.8-acre property that was voluntarily annexed into the City on April 15, 2010. The property is located east of Tower Road (Northwest 75th Street), west of Interstate 75, north of West University Avenue, and is in the general vicinity of the 7200 - 7300 blocks of Northwest 4th Boulevard. This developed property includes the 65,000 square-foot, commercial (retail) Tower Center that was built in 1989 and that is adjacent to and west of the previously annexed Home Depot store, and a very large stormwater retention pond to the north across NW 4th Boulevard.

The proposed land use change from Alachua County Commercial to City of Gainesville Commercial is appropriate for the property's established and continuing use as a commercial center close to the major arterial roadways of State Road 26 (Newberry Road), Northwest 75th Street (Tower Road), and Interstate 75. This large-scale land use amendment entails no major transportation issues, and will have no impact on adopted levels of service for potable water and wastewater, solid waste, stormwater management, recreation, and public school facilities. There are no major environmental impacts and constraints associated with this petition.

This petition is related to Petition PB-11-48 ZON, which is a request for rezoning from Alachua County Highway oriented business services district (BH) and Administrative and Professional district (AP), to City of Gainesville

General business district (BUS).

The Plan Board discussed the petition and recommended approval with a 4-0 vote.

Public notice was published in the Gainesville Sun on April 12, 2011. The Plan Board held a public hearing on April 28, 2011.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The second hearing will be held at the adoption stage of the ordinance and must be advertised approximately five (5) days after the day that the second advertisement is published.

In accordance with the new state growth management law (HB7207, now Chapter Law 2011-139) if the City fails to hold the second reading within 180 days of the receipt of agency comments, the amendment shall be deemed withdrawn.

This ordinance, if adopted on second reading, will be transmitted to the State Land Planning Agency and any other agencies that provided written comments to the City. The Plan amendment, if not timely challenged, shall be effective 31 days after the state land planning agency notifies the City that the plan amendment package is complete. If the Plan amendment is challenged, the amendment will become effective on the date the State Land Planning agency or the Administration Commission (Governor and Cabinet) enters a final order determining this adopted amendment is in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commenced before this plan amendment has become effective.

Due to changes in state law during the last legislative session, it is advisable to amend the ordinance to more closely conform to the new state law. Additionally, the City Commission very recently adopted an ordinance changing the name of the City's Comprehensive Plan.

RECOMMENDATION

The City Commission: 1) receive letters of "no comment" from the North Central Florida Regional Planning Council, the St. Johns River Water Management District, the Florida Department of Education and the Florida Department of Economic Opportunity; and 2) adopt the proposed ordinance as amended.

Legislative History

10/20/11	City Commission	Approved (Petition) and Adopted (Ordinance) on Transmittal Hearing (7 - 0)
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110110B_staff report_20111020.pdf
110110C_append A_GOPs_20111020.pdf
110110D_append B_supplemental docs_20111020.pdf
110110E_append C_application_20111020.pdf
110110F_cpb minutes_20111020.pdf
110110G_staff ppt_20111020.pdf
110110-A_draft ordinance_20120105.pdf
110110-B_State Comments_20120105.pdf

110263**LAND USE CHANGE – VICINITY OF 1500 BLOCK OF NE 53RD AVENUE, 7200-7300 BLOCKS OF NW 4TH BOULEVARD, EAST OF NW 75TH STREET (B)****Ordinance No. 110263; Petition No. PB-11-36LUC**

An Ordinance amending the City of Gainesville Comprehensive Plan; by amending the Future Land Use Element Map Series, the Transportation Mobility Element Map Series, and the Concurrency Management Element Map Series; by incorporating and adding additional parcels of land that were annexed into the City to Transportation Concurrency Exception Area maps of said Series, as more specifically described in this ordinance; including Parcel No. 07874-001-001, located in the vicinity of the 1500 block of NE 53rd Avenue, north side to Zone A, and including the western portion of Parcel No. 07871-000-000 to Zone B; including Parcel Nos. 06654-003-000 and 06654-003-001, located in the vicinity of the 7200-7300 blocks of NW 4th Boulevard, east of NW 75th Street to Zone D; providing directions to the City Manager; providing a severability clause; providing a repealing clause and providing an effective date.

Explanation: STAFF REPORT

On October 20, 2011, the City Commission approved this ordinance by a vote of 7-0 and transmitted this ordinance as part of the Amendment No. 11-3 package to the State Land Planning Agency.

In accordance with the new growth management statutory law (House Bill 7207), now Chapter Law 2011-139 effective June 2, 2011, the North Central Florida Regional Planning Council issued a report dated November 23, 2011, stating that there are no significant adverse impacts to regional resources and facilities, and no increase in intensities/densities of use or are not located in a Transportation Concurrency Exception Area. The St. Johns River Water Management District issued a letter dated November 10, 2011, stating they there are no adverse impacts to important state resources and facilities. The Florida Department of Education issued a letter dated November 16, 2011, stating that there are no adverse impacts on public school facilities, therefore they offer no comment. The Florida Department of Economic Opportunity issued a letter dated November 16, 2011, stating that they have identified no comment related to important state resources and facilities that will be adversely impacted.

This petition is a large-scale comprehensive plan amendment to add four

annexed parcels to the City's Transportation Concurrency Exception Area (TCEA) in accordance with the procedure established in Concurrency Management Element Policy 4.3.3. The annexed properties are the subject of two different large-scale land use amendments (PB-11-29 LUC and PB-11-47 LUC). In order to incorporate these parcels into the City's TCEA, two steps must be taken:

- 1. Amendment of relevant maps in the City's Comprehensive Plan*
- 2. Placement of the parcels in a TCEA zone (in accordance with the geographic location of the parcels)*

This petition amends the TCEA maps in the: Future Land Use Element Map Series, Transportation Mobility Element Map Series, and the Concurrency Management Element.

The eastern most annexed parcel (07874-001-001) in the 1500 block of NE 53rd Avenue, north side (locator map is in the backup) is being placed in TCEA Zone A because it is contiguous to Zone A. The annexed portion of the western parcel (07871-000-000) is being placed in Zone B because it is contiguous to that zone.

The two annexed parcels in the 7200-7300 blocks of NW 4th Boulevard, east of NW 75th Street (locator map is in the backup) are both being placed in TCEA Zone D because they are west of I-75.

Policy 4.4.3 of the Future Land Use Element sets out the procedure for how annexed properties (large-scale) will be added to the TCEA. That policy states:

"Properties that involve a large-scale land use amendment shall be placed in a TCEA zone as part of the large-scale amendment process for the property. This shall be done by simultaneous amendments to the appropriate TCEA maps in the Comprehensive Plan. Consistent with Policy 1.5.6, the City shall provide sufficient Data and Analysis information with the associated Comprehensive Plan amendments to ensure that the City's status as an urban service area is maintained after annexation."

This change to the TCEA reflects interim changes for consistency with the current policies in the Comprehensive Plan. Over the next several months, Planning staff will be in discussions with the Florida Department of Transportation and the State Land Planning Agency concerning overall changes to the City's Comprehensive Plan that may result in amendments that rename the TCEA and its zones to Transportation Mobility Areas (TMA).

Public notice was published in the Gainesville Sun on April 12, 2011. The Plan Board held a public hearing on April 28, 2011.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The second hearing will be held at the adoption stage of

the ordinance and must be advertised approximately five (5) days after the day that the second advertisement is published.

In accordance with the new state growth management law (HB7207, now Chapter Law 2011-139) if the City fails to hold the second reading within 180 days of the receipt of agency comments, the amendment shall be deemed withdrawn.

This ordinance, if adopted on second reading, will be transmitted to the State Land Planning Agency and any other agencies that provided written comments to the City. The Plan amendment, if not timely challenged, shall be effective 31 days after the State Land Planning agency notifies the City that the plan amendment package is complete. If the Plan amendment is challenged, the amendment will become effective on the date the State Land Planning agency or the Administration Commission (Governor and Cabinet) enters a final order determining this adopted amendment is in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commenced before this plan amendment has become effective.

Due to changes in state law during the last legislative session, it is advisable to amend the ordinance to more closely conform to the new state law.

Additionally, the City Commission very recently adopted an ordinance changing the name of the City's Comprehensive Plan.

RECOMMENDATION

The City Commission: 1) receive letters of "no comment" from the North Central Florida Regional Planning Council, the St. Johns River Water Management District, the Florida Department of Education and the Florida Department of Economic Opportunity; and 2) adopt the proposed ordinance as amended.

Legislative History

10/20/11 City Commission Approved (Petition) and Adopted (Ordinance) on Transmittal Hearing (7 - 0)

110263-A_draft ordinance_20111020.txt
110263B_staff report_20111020.pdf
110263C_append A_comp plan maps_20111020.pdf
110263D_Appendix B_application_20111020.pdf
110263E_cpb minutes_20111020.pdf
110263F_staff ppt_20111020.pdf
110263-A_draft ordinance_20120105.pdf
110263-B_State Comments_20120105.pdf

PLAN BOARD PETITIONS

110522.

Downtown Entertainment District and Places of Religious Assembly (B)

Amend the Land Development Code Section 30-105 Alcoholic Beverage Establishment to eliminate the distance requirements between certain uses and alcoholic beverage establishments in the Central City District (CCD) zoning district.

Explanation: Recently a place of religious assembly opened a center in the downtown entertainment district on Main Street. Based on concerns from downtown business owners, staff reviewed the code issues and the impact related to a place of religious assembly locating in downtown near restaurants (eating places) and alcoholic beverage establishments.

The code provision of concern is Section 30-105 which states that no alcoholic beverage establishment may be located within 300 linear feet of an established place of religious assembly. To understand the impact of this provision on the downtown, the Code defines an eating place as, "any use located in any structure or building or portion thereof where the use primarily involves the retail sale, which may include caterers and industrial and institutional food service establishments, of food and beverage which may include alcoholic beverages, for consumption on the premises and where at least 51 percent of the monthly gross revenues derived from such use are attributable to the sale of food and nonalcoholic beverages."

In discussing this issue with legal staff, one possible solution would be to eliminate the spacing requirements for all assembly type uses in the CCD. It is staff's opinion that we can justify eliminating the spacing requirements as it relates to alcoholic beverage establishments and places of religious assembly in the CCD, Gainesville's entertainment district. The justification would be that it is not unreasonable to expect that high density mixed use areas such as an entertainment area would have a diversity of uses located next to each other, and that there are also several places of religious assembly located in the downtown currently within 300 feet of alcoholic beverage establishments. The City Commission heard this issue and directed staff to initiate a petition to make the necessary changes.

The City Plan Board heard the petition and recommended approval 4-0. After the City Plan Board meeting, Planning staff met with the City Attorney's office to discuss any legal issues related to the petition. The City Attorney expressed some concern about the rationale for the petition and whether the CCD zoning should be the only zoning district with the exception to the distance requirement. Staff researched this issue and found that the City's Land Development Code only allows alcoholic beverage establishments as a use by right in CCD and Tourist-Oriented Business (BT) zoning districts. This use is allowed by Special Use Permit (SUP) in other business and mixed use districts. Given the limited number of parcels designated BT zoning and the lack of any alcoholic beverage establishments or places of religious assembly located in BT, staff is recommending that the BT zoning be added to exception to the distance requirement for internal code consistency.

It is staff's opinion that due to the Land Development Code requiring a SUP in the other zoning districts, that it is okay to have a distance requirement that applies within those districts because those areas are already viewed as different and needing a different level of protection.

RECOMMENDATION

Staff to the City Commission: 1) approve the petition with the modification to add BT (Tourist-Oriented Business) district to the petition; and 2) authorize the

City Attorney to draft an ordinance.

110522A_CPB Recommendation with Staff modification_20120105.pdf

110522B_staff report_20120105.pdf

110522C_CCD & BT Maps_20120105.pdf

110522D_cpb minutes_20120105.pdf

DEVELOPMENT REVIEW BOARD PETITIONS

SCHEDULED EVENING AGENDA ITEMS

UNFINISHED BUSINESS

COMMISSION COMMENT

CITIZEN COMMENT (If time available)

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