

080331



# **2009 CITY OF GAINESVILLE STATE LEGISLATIVE AGENDA**

## **Gainesville, Florida City Commission**

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

**Russ Blackburn, City Manager**

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## **FY 2009 State Agenda – Appropriation Requests**

### **I. Sweetwater Branch/Paynes Prairie Sheetflow Restoration**

The City of Gainesville is requesting \$2 million in funding for a water quality / surface water resource protection project. A funding request for this project is also included in the St. Johns River Water Management District Orange Creek Basin, State Funding Initiative. The requested funding will be used as cost-share funding for the construction of a sheetflow channel with water-control structures and backfilling the Sweetwater Canal that connects Sweetwater Branch to Alachua Sink. This funding would complete the final downstream component of a project to restore the historic sheetflow onto the wetlands of Paynes Prairie from Sweetwater Branch. Restoring the sheetflow would result in the restoration of 1,300 acres of wetlands and improvements to water quality within the park. As part of this project, the City will also complete improvements to the Main Street Water Reclamation Facility (MSWRF). The overall project will allow Alachua Sink to achieve the total maximum daily load (TMDL) for nitrogen which was established by the Florida Department of Environmental Protection.

This request is 47% of the \$4.3 million estimated construction cost of the sheetflow distribution channel with water control structures and 9% of the \$23 million total project construction cost.

**Contacts: Russ Blackburn, City Manager, Teresa Scott, Public Works Director, or David Richardson, Assistant General Manager for Water and Wastewater Systems**

### **II. Little Hatchet/Lake Forest Creek Watershed Management Plans**

The City of Gainesville is requesting \$200,000 for this project. Both Little Hatchet Creek and Lake Forest Creek contribute surface water to Newnans Lake, a nutrient impaired total maximum daily load (TMDL) water body. The City must first develop Watershed Management Plans to identify and prioritize water quality improvement projects in order to begin reducing nutrient loading to Newnans Lake. This project is included in the St. Johns River Water Management District Orange Creek Basin, State Funding Initiative. The request is for 50% of the \$400,000 estimated total cost of developing the updated Watershed Management Plans.

**Contact: Teresa Scott, Public Works Director**

### **III. Urban Creek Cleanup**

The City of Gainesville requests \$225,000 that will be used to help restore three Gainesville urban creeks by connecting approximately 15 residences to sanitary sewer lines in order to reduce fecal coliform contamination caused by septic systems that are either failing or not up to current standards. Because of elevated levels of fecal coliform bacteria in Hogtown Creek, Sweetwater Branch, and Tumblin' Creek, FDEP listed these creeks as impaired and developed TMDLs that require reduction in fecal coliforms. Failing or improperly sited septic systems near creeks are a source of fecal coliforms and can also contribute nutrients and other pollutants to creeks, creating a public health hazard. The requested funds will pay for extending the sanitary sewer line to each

residence, plumbing connections, and abandonment of the septic system. GRU will provide engineering and design services—the necessary funding match. Additional septic systems may be identified.

Eliminating septic systems that are either failing or do not meet current standards has been identified as an important element for reducing fecal coliforms in urban creeks. GRU is working with the city of Gainesville Public Works Department, the Alachua County Department of Health, and the Alachua County Environmental Protection Department to identify and quantify sources of coliforms and to locate septic systems that are sources of fecal coliforms. This project is included in the St. Johns River Water Management District Orange Creek Basin, State Funding Initiative.

**Contact: David Richardson, Assistant General Manager for Water and Wastewater Systems**

## **FY 2009 State Agenda – Tier One Policy Initiatives**

### **I. Dedicated Funding Source for Law Enforcement Activities in Hospitality Districts**

The City of Gainesville supports the creation of a local option revenue source to be used to fund law enforcement activities in university host community's hospitality districts. The option should be available to State of Florida university host communities with greater than 50% of their ad valorem taxable property value exempt from the city's tax roll and a student population of greater or equal to 35,000. University host communities fitting the aforementioned criteria are at a distinct disadvantage due to the lack of revenue resulting from the amount of tax exempt property, overwhelmingly owned by the state/university, and the additional law enforcement responsibilities that accompany a highly utilized hospitality district. It is a priority of the City of Gainesville and other university host communities to provide university students, citizens and visitors to the hospitality district with a safe and enjoyable experience. A local option revenue source offers an equitable solution by creating a dedicated funding mechanism for such activities in hospitality districts.

**Contact: Russ Blackburn, City Manager**

### **II. Compensation for Fire Services Provided to the University of Florida**

The City of Gainesville has provided fire services to the University of Florida (UF) for many years without compensation, although there is no requirement that the City provide this service. UF is a very large complex entity with significant demands for fire services. Provision of these services puts considerable strain on the City's budget since fire services are funded from the City's already constrained General Fund and 56% of the City's property value (primarily UF) is not subject to ad valorem taxes.

The City arranged for a study that resulted in a Fire Services Assessment Report from Government Services Group. The study was able to identify the costs to the City (not including emergency medical services) of providing fire services to UF property which

totals \$2,911,255. Due to the financial impact on the City for providing fire services to UF property and the limited resources available to the City, it is fair and appropriate for the City to be compensated for the annual fiscal impact to the City. Therefore, the City has requested that UF jointly request that the State of Florida provide annual funding for City fire services provided to UF property

**Contacts: Russ Blackburn, City Manager and Paul Folkers, Assistant City Manager**

### **III. Support Gainesville's Inclusion in the Strategic Intermodal Access System**

The City of Gainesville and Alachua County appear to be disadvantaged by our lack of destinations under the Strategic Intermodal Access System. The Florida Department of Transportation worked with the Legislature to target a majority of the state transportation funds to communities that possess identified strategic destinations. Those destinations include items such as ports, regional airports, the state capitol, and major theme parks. Gainesville and Alachua County are seeing the impact of the strategic direction in reduced funding for transportation projects. Additionally, several vital arterial roadways are in need of maintenance and retrofits to handle the abundance of commuters that come to Gainesville for work, services and recreation on a daily basis. Roads serving this purpose should also be eligible for state transportation funds through the Strategic Intermodal Access System. The City of Gainesville seeks legislative action that would potentially add the University of Florida as a destination to the Strategic Intermodal Access System

**Contact: Russ Blackburn, City Manager**

### **IV. Operation of Radios or Other Mechanical Sound-Making Devices or Instruments in Vehicles: Loud Car Stereos "Boom Box Initiative"**

The City of Gainesville supports an amendment to Chapter 316.3045 F.S. to enhance penalties for repeat loud car stereo violations. It is currently unlawful for any person occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical sound-making device or instrument from within the motor vehicle so that the sound is plainly audible at a distance of 25 feet or more from the motor vehicle.

Key Points:

- Noise violations, specifically loud car stereo violations, continue to be an ongoing complaint of residents both in neighborhoods and adjacent to roadways. Surveys of residents have consistently indicated that noise emanating from vehicles is one of their top three concerns. This issue is consistent within virtually every neighborhood in the City of Gainesville.
- The existing statute has no enhancement for repeat violators. The violation is currently a non-moving traffic violation incurring a fine (e.g. In Alachua County, a violation of Section 316.3045, F.S., results in a fine of \$77.50) and no points; irrespective of how many times the same individual is cited.

- A recommended fine schedule and enhanced penalties could be patterned after Chapter 318.18, F.S.:
  - The first offense for a violation of Section 316.3045, F.S., would result in the same fine currently imposed;
  - The second violation to the same violator within a period of a calendar year would result in the fine being doubled; and
  - The third offense for the same violation to the same violator within a period of a calendar year would result in suspension of the driver's license of the violator for not less than 90 days, and not more than 6 months, and a fine that is triple the original fine.
- Loud car stereos negatively impact the quality of life not only in Gainesville, but also throughout the state. This is a complaint heard in other jurisdictions. Specific to Gainesville, this is a citizen-based initiative with widespread support amongst citizen District Councils, neighborhood crime watches, homeowner and business associations, and community organizations such as the Black on Black Crime Task Force.

**Contacts: Marion Radson, City Attorney or Russ Blackburn, City Manager**

## **FY 2009 State Agenda – Tier Two Policy Initiatives**

### **I. Amend Regulations Governing Use of Student Fees by Community Colleges**

The City of Gainesville supports amending the regulations governing the use of Community College student fees to permit their use in support of transit service. Presently, the State of Florida Community College system's regulations governing the allowable use of student fees do not permit their usage for transit services. The City of Gainesville's Regional Transit System ranks highly statewide and nationally in terms of rider ship. Currently, University of Florida student's student fees include funding for transit which allows them unlimited use of the City's transit program. Under current state regulations Santa Fe College students are not provided this same opportunity and therefore are at a disadvantage in terms of realizing the benefits of the Regional Transit System.

**Contact: Russ Blackburn, City Manager**

### **II. Official Governmental Action Concerning Mobile Home Parks**

The City of Gainesville supports an amendment to Section 723.083, F.S., to further clarify the municipal or county government's responsibility when considering applications for rezoning, or taking "any other official action" which would result in the removal or relocation of mobile home owners residing in a mobile home park. Under Section 723.083, F.S., the governmental entity must determine that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners.

There is very little case law in this area and the number of petitions submitted annually for the rezoning of mobile home parks is increasing. Currently there are two informal

Attorney General Opinions providing guidance on the proper interpretation of this statute. Although Attorney General Opinions do not have the force of law, they can be persuasive to courts in interpreting state law

The Attorney General has opined that the legislative intent in using the phrase “adequate mobile home parks or other suitable facilities” was to ensure that the relocation facilities be appropriate to the financial and other needs of the specific population of mobile home owners who would be displaced by rezoning. In order to establish this, it was the Attorney General’s opinion that the state law places the burden on the property owner/petitioner to show by competent substantial evidence that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners. To meet this burden, the property owner/petitioner could demonstrate the availability of alternative housing which is appropriate to the needs, primarily financial, of the specific population of mobile home owners to be displaced.

The City of Gainesville supports legislation which accomplishes the following:

- Clarifies that the property owner/petitioner who seeks the rezoning is responsible for demonstrating that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners;
- Clarifies that the responsible party must consider the particular mobile home residents (e.g. financial status, demographics, condition of mobile homes) who would be affected by approval of the application;
- Provides direction in determining whether “adequate mobile home parks or other suitable facilities” exist for the relocation of the mobile home owners;
- Clarifies the phrase “any other official action,” or removal of the phrase entirely, in order to more narrowly define the government’s responsibility.

Without further clarification through case law of the Legislature, governmental entities must look to the Attorney General’s informal opinions as their only source of guidance.

**Contact: Marion Radson, City Attorney**

### **III. Public Records Exemption for City and County Prosecutors Enforcing Code Violations**

The City of Gainesville supports an amendment to Section 119.07, F.S., to create a public records exemption for personal identifying information of city and county prosecutors who are responsible for civil and criminal prosecution of local code and ordinance violations, and their spouses and children.

Key Points:

- City and county prosecutors are responsible for enforcing local codes and ordinances in both civil and criminal proceedings
- Some of these city and county prosecutors have received threats to their own life, health or safety, or that of a family member.

- The potential for such threats may increase due to the recent adoption by a number of local governments of codes and ordinances prohibiting sex offenders and/or sexual predators from living in close proximity to schools, parks, playgrounds and other areas frequented by children
- Section 119.07, F.S., already contains public records exemptions for state and federal prosecutors, as well as local government code enforcement officers
- Creating a public records exemption for county and municipal prosecutors and their families would protect information of a sensitive personal nature that, if released, would jeopardize the safety of these individuals. However, because only personal identifying information about these individuals and their families would be confidential, the exemption would be no broader than necessary to accomplish this stated purpose.

**Contacts: Marion Radson, City Attorney**

#### **IV. Warrantless Arrest Initiative**

The Gainesville Police Department would like to request an amendment to Section 800.03, F.S., Exposure of sexual organs. Section 800.03, F.S., states: *It is unlawful to expose or exhibit one's sexual organs in public or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner, or to be naked in public except in any place provided or set apart for that purpose. Violation of this section is a misdemeanor of the first degree, punishable as provided in Section 775.082, F.S., or Section 775.083, F.S. A mother's breastfeeding of her baby does not under any circumstance violate this section.*

Key Points:

- Currently, if a law enforcement officer gets a report of an individual committing a lewd act in public, without witnessing that act, law enforcement can only initiate a sworn complaint against that individual.
- It takes approximately six months to a year for a sworn complaint to become a warrant. Due to this time lapse, there is little to no penalty in regards to the act committed by the offender.
- If this law is changed regarding cases of sexual offenders/predators, and law enforcement develops probable cause that a sex offender/predator was committing the lewd act, they would be able to make a physical arrest in a timely fashion.

The Gainesville Police Department is requesting if a person registered as a sexual offender/predator violates Section 800.03, F.S., law enforcement officers be allowed to make a warrantless arrest.

**Contacts: Norman Botsford, Police Chief or Major Richard Hanna**



## **Florida League of Cities Legislative Priorities and Key Issues**

The City of Gainesville is a member of the Florida League of Cities (FLC). Members of the Gainesville City Commission and City of Gainesville staff participate in the FLC legislative policy setting process and serve on FLC Legislative Policy Councils. The City Commission generally supports the legislative priorities and key issue positions adopted by FLC. Through the duration of the Legislative Session, City of Gainesville representatives will communicate our position on specific legislation and our concurrence or difference with the FLC position. As a Charter City under the Florida Constitution, the City of Gainesville supports the Home Rule Authority of local governments.

## 2009 LEGISLATIVE PRIORITIES

| Project / Initiative  | Request  | Funding Amount | Other Information  | Total Project Cost |
|---|--|----------------|--|--------------------|
| <b>Funding Requests</b>                                     |  |                |  |                    |
| Payne's Prairie Sheetflow Restoration                       | Funding will be used as cost-share funding for the construction of a sheetflow channel with water-control structures, backfilling the Sweetwater Canal, and improvements to the Main Street Water Reclamation Facility to meet TMDL requirement for Alachua Sink.  | \$2 million    | Included in SJRWMD Orange Creek Basin, State Funding Initiative  | \$23 million       |
| Lake Forest/Little Hatchet Creek Watershed Management Plans | Funding will be used for developing the updated Watershed Management Plans.  | \$200,000      | Included in SJRWMD Orange Creek Basin, State Funding Initiative  | \$400,000          |
| Urban Creek Cleanup   | Project will assist in the restoration of three urban creeks by connecting approximately 15 residences with failing septic systems to sanitary sewer lines.  | \$225,000      | Included in SJRWMD Orange Creek Basin, State Funding Initiative  | \$225,000          |
| <b>Tier One Policy Initiatives</b>                          |  |                |  |                    |
| Funding for Law Enforcement in the Hospitality District     | Create a local option alcoholic beverage tax to be enacted exclusively in state university host communities with more than 50% of the municipalities taxable property value exempt and a student population of greater than or equal to 35,000. Funds will be used for law enforcement activities in the community's |                | Potential allies include state university host communities meeting suggested criteria, FOP, PBA, and MADD. |                    |

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| Compensation for Fire Services Provided to the University of Florida | dedicated hospitality district(s).<br>Request that the State of Florida provide annual funding for City fire services provided to UF property.  |  |  |  |  |
| Strategic Intermodal Access System                                   | Support legislation that would add Gainesville/University of Florida to the SIS.  |  |  |  |  |
| Boom Box Initiative  | Amend Chapter 316.3045, F.S., to enhance penalties for repeat loud car stereo violations. Progressively increased fines for repeat violators and the issuance of driver's license points.   |  |  | GPD would like to pursue this initiative. GPD staff has acquired citizen support and is attempting to garner support from FOP, PBA and law enforcement agencies statewide.   |  |
| <b>Tier Two Policy Initiatives</b>                                   |   |  |  |  |  |
| Community College Student Fees                                       | Allow community college student fees to be used in support of transit services in the same way state university student fees are utilized.  |  |  | Potential allies include Santa Fe College and Florida Association of Community Colleges.   |  |
| Mobile Home Parks  | Amend Section 723.083, F.S., to further clarify the municipal or county government's responsibility when considering applications for rezoning, or taking "any other official action" which would result in the removal or relocation of mobile home owners residing in a mobile home park. |  |  | Amendment should clarify the property owner/petitioner is responsible for demonstrating alternative relocation sites and keep in mind the overall status of affected residents. It also should clarify the phrase "any other official action" or remove it entirely. |  |
| Public Records Exemption   | Amend Section 119.07, F.S., to create a public records exemption for personal identifying information of city and county  |  |  | Section 119.07, F.S., currently contains public records exemptions for state and federal prosecutors, as well as local government code   |  |

|                                 |   |  |   |  |
|---------------------------------|---|--|---|--|
|                                 | prosecutors who are responsible for civil and criminal prosecution of local code and ordinance violations, and their spouses and children.                  |  | enforcement officers.   |  |
| Warrantless Arrest for Exposure | Amend Section 800.03, F.S., to allow law enforcement officers to make a warrantless arrest when a registered sexual offender/predator violates the statute. |  | Currently law enforcement can only initiate a sworn complaint if they do not witness a reported lewd act. It may take six months to one year for the complaint to become a warrant and there is little to no penalty for the offender. Suggest a change to the law that would allow for a physical arrest in a more timely fashion. |  |