

City Commission Meeting Minutes

April 18, 2017

The meeting of the Lake Wales City Commission was held on April 18, 2017 in the Commission Chambers at the Municipal Administration Building.

4/18/2017 - Minutes

1. INVOCATION

Commissioner Thornhill gave the Invocation.

2. PLEDGE OF ALLEGIANCE

3. CALL TO ORDER

Mayor Eugene Fultz called the meeting to order at approximately 6:00 p.m. following the Invocation and the Pledge of Allegiance.

4. ROLL CALL

Commissioners Present: Pete Perez, Robin Gibson, Terrye Howell, Jonathan Thornhill, Deputy Mayor; Eugene Fultz, Mayor.

City Representatives Present: Kenneth Fields, City Manager; Albert C. Galloway, Jr., City Attorney; Jennifer Nanek, Assistant to the City Manager

5. SETTLEMENT AND STRATEGY SESSION - The City Commission Will Recess For A Settlement And Strategy Session

5.I. Settlement And Strategy Session Concerning The City's Eminent Domain Actions For State Road 60 Utility Expansion

The Commission meeting recessed for a Shade meeting not open to the public.

Those in attendance will be:

Mayor Eugene Fultz
Commissioner Jonathan Thornhill
Commissioner Terrye Y. Howell
Commissioner Pete Perez
Commissioner Robin Gibson
City Manager Kenneth Fields
City Attorney Albert C. Galloway, Jr.
Thomas Drage, Jr., Special Counsel

6. MAYOR

6.I. Proclamation: VOICE And Cadet Appreciation Week; April 23-29, 2017

Mayor Fultz presented the proclamation to the various VOICE members and Cadets present.

6.II. Proclamation: Building Safety Month; May 2017

The Mayor presented the proclamation to the Code Compliance Officers.

6.III. Proclamation: Aviation Appreciation Month In Florida By Governor Rick Scott; April 2017

Mayor Fultz read the proclamation from Governor Rick Scott.

7. PRESENTATION/REPORT

7.I. Presentation Of Comprehensive Annual Financial Report 9/30/2016

(Begin Agenda Memo)

SYNOPSIS:

Planning Director, explained that he received a notice of Violation, not a citation, and he can contest it at the Code Enforcement Board. She can meet with Mr. Robertson and go over the notice and procedure.

9. CONSENT AGENDA

Commissioner Howell made a motion to approve the Consent Agenda. Deputy Mayor Thornhill seconded the motion.

Voice Vote:

Commissioner Howell "YES"

Deputy Mayor Thornhill "YES"

Commissioner Perez "YES"

Commissioner Gibson "YES"

Mayor Fultz "YES"

Motion Carried 5-0.

9.I. Approval Of Minutes: April 4th, 6th, & 13th, 2017 Canvassing Board Meeting Minutes

9.II. Disposal Of Surplus Property

(Begin Agenda Memo)

SYNOPSIS

Staff is seeking approval to dispose of surplus property – mowers.

RECOMMENDATION

It is recommended that the City Commission take the following action(s):

1. Classify the property as surplus.
2. Authorize staff to dispose of the property.

BACKGROUND

In accordance with Sec. 2-476 of the City Code, the City Commission may classify as surplus any property that is obsolete or the continued use of which is uneconomical or inefficient or which serves no useful function or purpose.

The equipment outlined in the attachment no longer serves any useful purpose to City. The items to dispose of include obsolete lawn mowers.

This property may be sold at public auction or to the highest bidder after the solicitation of sealed bids. In some cases the property may be recycled, donated to other non-profit or government entities or traded for fair market exchange of goods or services.

OTHER OPTIONS

Do not authorize the disposal of the listed property.

FISCAL IMPACT

Proceeds from any sales will be deposited into the general fund.

(end Agenda Memo)

9.III. Polk County Tourism And Development Council Grant

(Begin Agenda Memo)

SYNOPSIS

A grant application to the Polk County Tourism and Development Council Grant for \$3,500

To facilitate the expansion of the city's utilities to the west, easements had to be acquired. Duke Energy has an existing easement on Parcel No. 1936 that the city would need to install utility lines in to continue the expansion of utilities to the western boundary.

STAFF RECOMMENDATION

It is recommended that the City Commission consider taking the following action:

1. Approve the signing of the SR 60 Duke Energy Encroachment Agreement.

BACKGROUND

In order for the City to expand its utilities to the City's western boundaries, water and sewer mains have to be installed. Typically these mains would have been placed in the Department of Transportation's right of way. In this case the right of way is already crowded with electrical and gas mains. Staff then took the option to purchase easements to facilitate the expansion of these mains to the cities western boundaries. One such easement involved approaching Duke Energy to acquire an encroachment easement on Parcel No. 1936. The City's Special Council provided all the requested information to Duke Energy and negotiated with Duke Energy to allow the installation of these much needed water and sewer mains on Duke Energy's easement on Parcel No. 1936.

Staff recommends the commission take the following action of approving the signing of the Duke Energy encroachment agreement for Parcel No 1936 for the installation of water and sewer mains associated with the SR 60 Western Utilities Expansion project.

OTHER OPTIONS

The Commission could chose not to approve the signing of the encroachment agreement and possibly delay the continuation of the installation of the water and sewer mains.

FISCAL IMPACT

There is no fiscal impact associated with the approval of this agreement.

(End Agenda Memo)

10. OLD BUSINESS

- 10.1. Ordinance 2017-05 – 2nd Reading And Public Hearing Zoning And Land Use Regulations For Medical Marijuana Dispensaries

(Begin Agenda Memo)

SYNOPSIS

Ordinance 2017-05 proposes Medical Marijuana Dispensaries as a conditional use in the PF – Professional and C-3 Highway Commercial zoning districts.

RECOMMENDATION

Staff recommends adoption of Ordinance 2017-05 after second reading and public hearing. Notice requirements have been met.

The Planning and Zoning Board held a public hearing on February 28, 2017 and recommended approval of Ordinance 2017-05.

BACKGROUND

At its regular meeting of March 21, 2017 the City Commission considered ordinance 2017-05 after first reading. During discussion and subsequently included in their motion was the reduction of the distance for proximity to a hospital or urgent care facility from three thousand (3,000) feet to two thousand (2,000) feet. This change is reflected in the ordinance for second reading.

Wording was also added to proposed Sec. 23-356(c) as follows: State requirement as may be amended from time to time.

In 2014 the Legislature authorized low-THC marijuana for medical use. The City was approached by GrowHealthy (who was pursuing one of the licenses offered by the State) about locating their operation here. They subsequently bought an abandoned factory (Sealy) building located in the I-1 Industrial zoning district. They began

City Limits Road

(Begin Agenda Memo)

SYNOPSIS

The request for re-zone is being made by the owner, Ag Investments of Polk County to rezone approximately 9.13 acres located at the southeast corner of Old Scenic Highway and City Limits Road from R-1B single family residential to R-1D single family residential zoning designation.

RECOMMENDATION

Staff recommends adoption of Ordinance 2017-06 after 2nd Reading and Public Hearing. City Commission approved Ordinance 2017-06 after first reading at their regular meeting of March 21, 2017.

The Planning and Zoning Board held a public hearing on February 28, 2017 and voted unanimously to recommend a change in zoning designation on the subject property from City of Lake Wales designation R-1B single family residential to R-1D single family residential. A public hearing is required. Notice requirements have been met.

BACKGROUND

The Future Land Use Map (FLUM) of the Comprehensive Plan provides a general guide for designation of zoning districts. Generally, the zoning should be a classification compatible with the FLUM classification. In this case, the FLUM classification of MDR-Medium Density Residential does not correspond with the proposed R-1D zoning. (See Table 23-405 "Correspondence of Zoning Districts to Comprehensive Plan Land Uses.") However, development under the R-1D zoning designation would be in keeping with the neighborhood that is immediately adjacent to the property.

Surrounding zoning designations:

North: County – A/RR – Agriculture/Rural-Residential

South: City – R-1D Residential

East: City – R-1B Residential

West: City – I-1 Industrial

(End of Agenda Memo)

Jennifer Nanek, Acting City Clerk, read **ORDINANCE 2017-06** by title only.

AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, AMENDING THE ZONING MAP ESTABLISHED UNDER THE LAKE WALES CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS, TO CHANGE THE ZONING DESIGNATION OF 9.13 ACRES LOCATED SOUTHEAST CORNER OF OLD SCENIC HIGHWAY AND CITY LIMITS ROAD NORTH FROM R-1B SINGLE-FAMILY RESIDENTIAL TO R-1D SINGLE-FAMILY RESIDENTIAL; AND PROVIDING FOR AN EFFECTIVE DATE.

Kathy Bangle, Planning Director, reviewed this item.

OPENED FOR PUBLIC COMMENT

No Comments

CLOSED FOR PUBLIC COMMENT

Deputy Mayor Thornhill made a motion to adopt **ORDINANCE 2017-06** on 2nd Reading and Public Hearing. Commissioner Thornhill seconded the motion.

Roll Call Vote:

Deputy Mayor Thornhill "YES"

Commissioner Howell "YES"

Commissioner Gibson "YES"

Commissioner Perez "YES"

Mayor Fultz "YES"

Deputy Mayor Thornhill "YES"

Commissioner Howell "YES"

Commissioner Gibson "YES"

Commissioner Perez "YES"

Mayor Fultz "YES"

The motion passed 5 -0.

10.IV. Ordinance 2017-07, Amending Ordinance 2001-08 Personnel Administration Policies – 2nd Reading & Public Hearing

SYNOPSIS

Ordinance 2017-07 is being presented to include vaping with e-cigarettes into existing smoking policy.

RECOMMENDATION

It is recommended that the City Commission approve Ordinance 2017-07 upon second reading and public hearing.

BACKGROUND

Most tobacco laws were adopted before the use of e-cigarettes. As the e-cigarette industry has become increasingly large, local governments have dealt with it in different ways. Staff proposes to amend the smoking policy to include vaping with e-cigarettes. Ordinance 2017-07 will prohibit smoking, vaping and the use of all tobacco products from City buildings, facilities or vehicles.

FISCAL IMPACT

There is no cost resulting from this amendment.

(End Agenda Memo)

Jennifer Nanek, Acting City Clerk, read **ORDINANCE 2017-07** by title only.

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES; AMENDING THE SMOKING POLICY TO INCLUDE VAPING; PROVIDING FOR AN EFFECTIVE DATE.

OPENED FOR PUBLIC COMMENT

No Comments

CLOSED FOR PUBLIC COMMENT

Commissioner Howell made a motion to adopt **ORDINANCE 2017-07** on 2nd Reading and Public Hearing. Deputy Mayor Thornhill seconded the motion.

Roll Call Vote:

Commissioner Howell "YES"

Deputy Mayor Thornhill "YES"

Commissioner Gibson "YES"

Commissioner Perez "YES"

Mayor Fultz "YES"

The motion passed 5 -0.

11. NEW BUSINESS

Mayor Fultz "YES"

The motion passed 5 -0.

11.II. Resolution 2017-09 – Annexation Agreement Between Atlantic Funding Ltd., LLC And The City.

(Begin Agenda Memo)

SYNOPSIS

Resolution 2017-09 authorizes the Mayor to execute a binding annexation agreement between Atlantic Funding Ltd., LLC and the City for property not currently contiguous to the city limits.

RECOMMENDATION

Staff recommends adoption of Resolution 2017-09 and subsequent execution of the annexation agreement.

BACKGROUND

Atlantic Funding Ltd., LLC owns approximately 274 acres of property on the East side of US Highway 27 just South of CR 640. They are proposing a mixed use development to include commercial along the US Highway frontage transitioning to multi-family and then single family residential. The property is currently in the County. The County is unable to supply wastewater service to the property. Park Water will supply potable water to phase 1 but will be unable to supply fire flow and possibly potable to any subsequent phases. Phase 1 is a convenience store with gas.

Atlantic Funding is asking for the City to allow them to connect to existing wastewater line for phase 1. They will provide improvement at their cost to the existing lift station to accommodate their development. The agreement covers all of the property proposed for development in the future. The existing line is the one that provides service to Oakley.

Recordation in the Official Record Book of Polk County will insure that once the property is contiguous annexation can be enacted without further permission from the property owner(s).

(End Agenda Memo)

Jennifer Nanek, Acting City Clerk, read **RESOLUTION 2017-09** by title only.

A RESOLUTION OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA AUTHORIZING THE EXECUTION OF A SUPPLEMENTAL JOINT PARTICIPATION AGREEMENT (JPA), TO AMEND FUNDING FOR JOINT PARTICIPATION AGREEMENT (JPA) ITEM-SEGMENT-PHASE SEQUENCE NUMBER (FINANCIAL PROJECT NUMBER): 438920-1-94-01 (ENVIRONMENTAL ASSESSMENT, MITIGATION, PERMITTING, DESIGN UPDATES AND RELATED ACTIVITIES NECESSARY TO BID THE RUNWAY 6/24 REHABILITATION AND EXTENSION PROJECT) WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION TO ALLOW THEIR PARTICIPATION IN AN AVIATION PROJECT AT THE LAKE WALES MUNICIPAL AIRPORT.

Kathy Bangley, Director of Planning, reviewed this item. The Mayor asked for clarification that the property is not contiguous to the City right now but this happens when it becomes contiguous. Ms. Bangley confirmed this explaining when the property becomes contiguous it will automatically be annexed in all 274 acres.

Mr. Fields commented that this shows the power of having utilities available as it will help our City to grow.

Commissioner Gibson made a motion to adopt **RESOLUTION 2017-09** on 2nd Reading and Public Hearing. Commissioner Howell seconded the motion.

Roll Call Vote:

Commissioner Gibson "YES"

Commissioner Howell "YES"

Commissioner Perez "YES"

Deputy Mayor Thornhill "YES"

Mayor Fultz "YES"

Staff recommends that S&ME be awarded a contract for \$56,298.00 to update the city's Community Redevelopment Plan.

BACKGROUND

The 1999 CRA Plan identified several redevelopment Goals and Objectives that were sorted into the following groups: Infrastructure, Economic Development, Facilities, Parks and Recreation. All of this will be reviewed to determine what level of attainment was achieved and its impact on the community.

Staff sought Requests for Qualification (RFQ) from qualified firms with CRA plan experience. We received five respondents to our request. There was a three person evaluation and ranking committee. S&ME was the first choice of all committee members with a score of 291 out of 300.

(End Agenda Memo)

Kathy Bangley, Planning Director, reviewed this item.

OPENED FOR PUBLIC COMMENT

No Comments

CLOSED FOR PUBLIC COMMENT

Mr. Fields explained that this is a six month process with a heavy public participation component. A focus of the plan is downtown but the plan will include all of the CRA.

Commissioner Gibson made a motion to approve the contract. Mayor Fultz seconded the motion.

Voice Vote:

Commissioner Gibson "YES"

Mayor Fultz "YES"

Commissioner Howell "YES"

Commissioner Perez "YES"

Chair Thornhill "YES"

The motion passed 5 -0.

The CRA meeting was adjourned and the Commission meeting reconvened at 7:16 p.m.

13. CITY CLERK MATTER

Mr. Fields reported on the agreement that was reached on April 18 where the City Clerk resigned her position and signed a release. This was reached after numerous discussions between the City and Ms. VanBlargan. She will receive all that she is due under the personnel policy. She will also receive a lump sum payment of \$23,624. She will release the City of all claims against us. We will provide a letter of reference. Mayor Fultz explained that as part of the agreement they cannot discuss the incident that led to this.

OPENED FOR PUBLIC COMMENTS

Sue Smith, resident, said that comments made at the last meeting against Clara VanBlargan were inappropriate. She said that the City Manager should not take the word of Ed Bowlin over Ms. VanBlargan. She suggested that this is a personality conflict. She suggested that this is be tabled and the matter more fully investigated so that Ms. VanBlargan not lose her position over hearsay.

Charlene Bennett, resident, said she is not sure what all is going on. She said that \$23,000 is a pittance and recommended that it be increased given her years of service.

Clara VanBlargan, resident, said the agreement allows her to rescind the agreement within 7 days and she would like to do that. She distributed a statement to that effect.

Mr. Fields withdrew the item from consideration.

CLOSED FOR PUBLIC COMMENTS