

Minutes of the Regular Meeting of the City Commission of the City of Auburndale held July 20, 2020 at 7:00 p.m. in the Commission Room of City Hall, after having been properly advertised, with the following members present: Mayor Tim Pospichal, Commissioners: Dorothea Taylor Bogert, Keith Cowie, Richard Hamann, and Jack Myers. Also present were: City Manager Robert Green, Finance Director/City Clerk Shirley Lowrance, and Police Chief Andy Ray.

Mayor Tim Pospichal declared a quorum present and the Meeting was opened with prayer by Pastor Jerry Smith of Berea Baptist Church and a salute to the flag.

Motion by Commissioner Dorothea Taylor Bogert, seconded by Keith Cowie, to approve the Minutes of the Special Meeting of July 1, 2020 and Regular Meeting of July 6, 2020. Upon vote, all ayes.

Acting City Attorney John Murphy said he spoke with Mr. Kee's family and they are making arrangements to have all the Auburndale files that are in his office delivered through the inventory attorney back to the City. He said the family seems to be doing well and moving forward. They wanted me to convey best wishes to the Commission and give thanks for the Commission Meeting of July 1.

Mayor Tim Pospichal asked for public comment. No other public comment.

1. EMERGENCY ORDINANCE #1639 DECLARING HEALTH EMERGENCY – FACE MASKS

City Manager Green said Section 19 of the Charter of the City of Auburndale authorizes the City Commission to adopt an Emergency Ordinance to take whatever prudent action is necessary to ensure the life, health, property or the public peace within the City of Auburndale. An Emergency Ordinance requiring face coverings or masks in certain indoor locations other than homes or residences within the City of Auburndale has been drafted for review and consideration due to the increasing cases of COVID-19 in the community and also action taken by neighboring cities. The cities of Lakeland and Winter Haven have recently passed face coverings/masks Ordinances requiring masks in their communities. The cities of Haines City and Lake Wales have previously declared States of Emergency in their cities and have passed ordinances encouraging the use of masks and face covering. There are certain exceptions articulated in Section 4 of the Emergency Ordinance that exempt the wearing of face coverings and masks. He asked Acting City Attorney John Murphy to go over these exemptions, as provided for within the Ordinance.

Acting City Attorney John Murphy said this is an Ordinance that is subject to the Commission's consideration and it is only operable for indoor locations within the City of Auburndale. It exempts if you are already practicing social distancing as prescribed by the Center for Disease Control which is six feet. It also exempts persons under the age of 8 years old. It exempts those for whom a face covering, or mask would cause an impairment due to an existing health condition. It exempts persons who are working in businesses or other professions who do not have interactions with other persons. It exempts a person's working in a business or profession where face covering would prevent them from performing their work. It exempts use during exercising or at fitness centers, obviously while eating or drinking, and persons under 18 years of age while participating in youth sports. Also exempt are the Public Safety professionals, who are already using protective equipment. It exempts someone who is communicating with someone who is hearing impaired, providing that social distancing is used to the greatest extent possible. It exempts those who wearing a face covering would cause a conflict with the Americans with Disabilities Act. He said that was a very broad category and you are not permitted to ask someone why, as you cannot drill into this. We want to respect that. The other thing that has come up and it is not here, for those that have a concealed weapon permit, there is a Statue that says you cannot wear a face covering. He said there was no general Law in Florida that would prohibit someone with a concealed weapons permit from wearing a face mask. What it prevents is you from wearing a face mask in certain circumstance, for instance if you have an intent to do something nefarious or have intent to do something. He said the opinions that he follows through both the Association of Florida Police Attorneys website and Local Government Lawyers Florida website it is clear that this requirement does not contradict face masks.

Commissioner Jack Myers said those are opinions right now and there has been no case law, as it has not been tried.

Acting City Attorney John Murphy said that was correct, there is no case law. There was a good opinion by a Circuit Court Judge who has likened this to the helmet laws for motorcyclists or seat belt safety restraints for cars. That requirement is for safety and in this instance, this is for health. He said there is no precedent specifically arising out of Covid-19 issues we are all facing. Changes evolve daily. He said the exceptions are pretty broad. Through Section 6 of the Ordinance, it automatically conforms for a higher authority such as State law or subsequently enacted Executive Order. This Ordinance will recede and allows the ordinance to be as defensible as possible. He said there are lawsuits that have been filed throughout the State against jurisdictions, counties and cities that have enacted mandatory face mask requirements. He said there was some legal liability. He said it was an evolving landscape. The Ordinance is only for 30 days or less if you decide to meet and not proceed with the Ordinance. He said there were a number of factual recitations, whereas clauses in the Ordinance are important. They are the factual matters that the Commission as the Legislative body are considering in enacting this law. We have a very important person present, someone who has expertise, the Public Health Director for Polk County who may help shed some light on some of these medical issues and empirical data that underscores whereas clauses.

City Manager Green said the enforcement protocols are tailored to achieve voluntary compliance and to educate and facilitate compliance. In the event of non-compliance, the Auburndale Police Department would be authorized to issue a non-criminal citation in the amount of \$150.00. If approved, the Emergency Ordinance will become effective tomorrow at 5:00 p.m. and would expire at 5:00 p.m. on August 21, 2020 unless rescinded and/or extended by further action of the City Commission. We do have with us this evening Dr. Joy Jackson the Director of Polk and Hardee Counties, Florida Department of Health.

Dr. Joy Jackson, thanked the Commission for the opportunity to come to them and give some numbers for what we are seeing in Polk County and give some evidence as to why face masks do appear to be effective and a very important weapon in our arsenal against this unseen enemy that is carousing through our populations and causing harm in many different ways. Our first positive case for Covid-19 was seen in mid-March. Since that time, the County has seen nearly 10,000 people test positive for the virus. Of the 10,000, over 2,200 cases have been identified in the last seven days alone. We are very much in an escalation phase across Central Florida and different parts of Florida. Of the 2,200 cases in the past seven days, these make up 23% of all the cases since March. Our heaviest hit municipalities in Polk are those that have the greatest population. Lakeland has had a little over 3,000 cases, Winter Haven has had just over 2,000 cases and Auburndale has had 388 cases identified. If you were to ask if these are all the cases identified, the answer would be no. We do not really know what the disease counts have been. Several studies suggest that 40 to 50 % of people have mild or no symptoms and they never seek health care or testing. Polk has also had 176 deaths and 36 in the past week. She said this was a community indicator of escalation of the disease. Over 80% of our deaths have occurred in people ages 65 and older. We have had 4 deaths between the ages of 25 to 34. She said she was here to reinforce what you already know - Covid is widespread across our State and county. New cases have been escalating since mid-June. It is impacting each of us in our business, our long-term care facilities, our families, and virtually every aspect of our lives. Covid is definitely impacting our hospitals as well. Hospitalizations for Covid have doubled since June 30. Yesterday Polk hospitals had 300 persons with Covid, in more than 40 hospitals. We are in regular contact with our hospitals and they do have capacity. She said a bigger issue is staffing. She said as she sees the numbers go up, it makes her very concerned about what we are facing, unless we can once again flatten this curve. What we are really asking is to slow the spread of the disease. We will not stop the disease by wearing the mask and doing all these things. We want to slow the spread for three main reasons. We do not want to overwhelm our health care systems, so we do not have what happened in Spain and New York or in other areas that were heavily hit. We need to protect our critical infrastructure, whether that is our EMS providers or our law enforcement or critical infrastructure for our cities. If a whole Department from Auburndale were knocked out, we would have difficulty maintaining the services. We need to protect our vulnerable population, as

anyone can contract Covid. Those that are of age, the CDC use to talk about 65, but now they say older individuals, those with chronic underlying health conditions and those that have both are more at risk for the outcomes, which include more hospitalization and more ICU stays and more deaths. This is probably the number one factor that impacts all us across the community. She said she would wager a bet that there is no one in this room that does not know somebody that was significantly impacted by Covid either by a hospital stay or death. She asked how we can flatten the curve. What can we do as individuals and as groups to slow the spread? We do this by reducing exposure. Covid is transmitted person to person usually within six feet. It is spread through droplets when we speak sing, talk loudly, sneeze, etc. The droplets can go out about 6 feet. Studies have shown that if you put a cloth face covering in front of somebody the cloth face covering can really capture a lot of the large droplets which transmit the virus. There is a lot of discussion about airborne, which means the virus is living on smaller particles or living on its own and potentially being in the air for a while. She said when she walks away from the podium there will be droplets there from her speaking. Covid can live and survive on some surfaces for a while depending upon what the surface is made of. The critical things are that we wear masks to protect everyone else. The mask is protecting you from my spit when I project. This is called source control - cloth masks, social distancing, and avoid mass gatherings. A mass gathering could be a large family reunion. Mass gatherings do not have to be concerts at a large concert hall. They could be with people you know that look perfectly healthy. For the vulnerable population, we need to avoid being out and particularly during this high time for Covid. She said if you have to go out then go. She said she has an 85-year-old mother who lives in assisted living and she does not go see her. She said she was living this as well as everybody else. These are the important things we need to do to slow the spread. This is a Novel virus. It has never been in the human population and none of us are immune. There is no vaccine. We hope that there will be a vaccine as there are 200 companies working on a vaccine worldwide. There is a lot of work going into this, but we do not have it yet. We do not have the degree of community immunity based on 10,000 people when we are a population of 700,000. We still have a long way to go and we do not know how far this will go and need to make changes now to impact our future. People that are diagnosed today with Covid – maybe somebody got swabbed on Friday and they get the phone call today on their results, those individuals were likely exposed 10-14 days ago. Once you are exposed, it is going to take 2-14 days to track symptoms and an average of 5 days. By the time you notice symptoms, a sore throat or higher temperature and get tested and get the test results back, we are looking at a significant lag. That person who had symptoms was actually transmitting the virus before they had symptoms. We are always behind the eight ball. It is so important for all of us as individuals to face our responsibility to protect our neighbors, our families and our infrastructure to slow this by doing the activities we should do. She said her evidence of masks are for the high-speed videos that shows that hundreds of droplets are released whenever we say a simple phrase and cloth masks can reduce that. Can it totally eliminate it – no, but it reduces it. Strongest evidence is coming from studies at States and the District of Columbia that have a mask mandate. The studies show that the use of masks had a greater decline of daily Covid growth rates. It did not hit like a brick wall to say you do not have Covid. The curve changes when we add the masks on top of our social distancing and on top of our caution to avoid large crowds. You cannot pick and choose one of those things to do. We need all of them all the time. She said she would be happy to answer questions.

Mayor Tim Pospichal asked Dr. Jackson to stay for the Meeting and possibly answer questions later. She said she would be able to stay.

Commissioner Jack Myers asked about the results for the study in the District of Columbia.

Dr. Jackson said there are several studies and she did not have her list with her. The Center for Disease Control also advocates masks and many professional organizations, the Academy of Pediatrics, etc. We are looking at the Academy of Pediatrics as one of our resources as we look to open schools. There are experts both in the US and worldwide who do advocate the masks.

Commissioner Jack Myers said masks have been mandated in neighboring counties of Hillsborough and Osceola. He asked about their numbers.

Dr. Jackson said that was an excellent question and she wished she had the answer. What has been the impact of that and do the numbers locally show that? She said she could not prove that to you yet and it is always difficult to measure prevention when you do not know what it would look like without the masks. She said she did not think we needed to reprove data that other entities have demonstrated the benefits of. She said she asked that you consider that.

City Manager Green said the proposed Emergency Ordinance was modeled after the City of Lakeland and City of Winter Haven Ordinances. The proposed Emergency Ordinance was prepared by the Acting City Attorney and reviewed by the City Manager's Office. Before the City Commission can take public comment and as an assembly consider, the Commission will need to have the Acting City Attorney read the Emergency Ordinance by title only and then make a motion and second to bring it to the floor for discussion. The Commission was provided a copy of Section of the City Code, which allows for Emergency Ordinances. Florida Statutes provide that as except as provided a proposed Ordinance may be read by title only or in full and the Ordinance shall be introduced in writing and all those things are in place. The governing body of a municipality may by a 2/3 vote pass and enact an Emergency Ordinance without complying with any of the advertising requirements. Because this was an Emergency Ordinance that we brought to your attention it was not advertised in advance the ten days like we normally do. This makes the requirement of Statute the 2/3 vote or 4 of the Commissioners to become and acting Ordinance.

Acting City Attorney John Murphy read Emergency Ordinance No. 1639 entitled: **AN EMERGENCY ORDINANCE OF THE CITY COMMISSION OF THE CITY OF AUBURNDALE, FLORIDA DECLARING A PUBLIC HEALTH EMERGENCY DUE TO THE NOVEL CORONAVIRUS DISEASE 2019 (COVID-19) AND ITS COMMUNITY SPREAD; REQUIRING PERSONS THAT LIVE, WORK, VISIT OR DO BUSINESS IN THE CITY OF AUBURNDALE, FLORIDA, TO WEAR FACE COVERINGS IN CERTAIN PUBLIC PLACES TO STOP OR SLOW THE SPREAD OF COVID-19; PROVIDING FOR EXCEPTIONS; ESTABLISHING ENFORCEMENT AND PENALTY PROVISIONS FOR VIOLATIONS; MAKING FINDINGS; PROVIDING AN EFFECTIVE DATE**, by title only.

Motion by Commissioner Richard Hamann, and seconded by Commissioner Keith Cowie, to approve Emergency Ordinance No. 1639, as read by title only.

Mayor Tim Pospichal said this was not a Public Hearing and he knew we have people who would like to speak on the subject and we will be happy to hear you. He said when Covid called Corona virus started everybody wondered when we would get our first case and then you wondered if we would know that person. Today with all the HIPPA rules you cannot know that. On July 12, the Ledger printed a story and we no longer had to wonder who the first case in Auburndale was. He is with us tonight to tell us a little about his experience. He introduced Mr. Keith Johnson.

Keith Johnson said unfortunately he had the grand honor of being patient number one and his wife was patient number two for Auburndale. He said they were affected on March 14 her birthday. He said what he was going to present was mostly anecdotal and from personal experience. We all know as mature individuals sometimes experience is the best teacher. He said he was coming tonight to represent three people. The first person is himself as a citizen of the City of Auburndale – Keith Johnson, 2050 Lake Ariana Blvd. He said he submits as a citizen of the City of Auburndale that during his travels around the central Florida area he has noticed a much higher percentage of citizens wear masks in our surrounding community when there is a community mandate for both business owners and patrons than in our own community where we do not have one. A mask mandate comes with difficulties for enforcing, but he personally has seen several instances where business owners and employees felt more empowered when there was a mandate in that community. The second person he represents is a business owner in the City of Auburndale. He said he owns Pool Works located at 226 E. Lake Ave. We have a service division for our company and a retail pool store which was shut down during the time he spent on a ventilator in the hospital. It was a 30-day period, as his family decided to close the store. He said he has a sign on the front door of his business that stipulates the CDC

guidelines and it requests his patrons wear a mask as well as limiting the number of patrons in the retail store. He said he is asking as a business owner for the City's backing to take a stronger stance for his patrons regarding the use of masks. His employees are exposed to the general public and they all have the same concerns. After getting to watch my personal battle with Covid, they understand very clearly what they are putting on the line everyday just by manning the cash register or performing a pool test. My employees did not sign up for that and he is trying very hard to protect them. He said he was asking the Commission for assistance. If we can work together to minimize the spread through a mandatory mask mandate, it may prevent my company from having to close its doors again. Finally, he comes to the Commission as a Covid survivor. He was affected by Covid on March 14, his wife's birthday. Covid indoors, in his opinion, is a very highly contagious virus. He and his wife went to Charlotte County during the Charlotte County Parade of Homes, with the intent to meet with the builder they had signed a contract with. We went into her model home and were meeting with their builder, standing in the kitchen area of the home. Another couple came in to look at the house and they had casual discussion. He said he feels they were never within 6 feet of the couple, who had flown in from Houston. She was an ER nurse and he was a retired DA. For about 15 minutes, we discussed why we chose the builder, we never touched, we never shook hands, and possibly we could have touched some of the same surfaces. He said they left the facility and went out the front door. This was on a Saturday and on Tuesday he, his wife, the builder, and the builder's salesperson all started showing signs of Covid. He said that was the reason he has a personal opinion that 6 feet may not be enough, and masks need to be required and used. He said he believed that if all parties had worn masks that day the chances of his family getting Covid would have been much lower. He said this was his personal opinion. He said hopefully you had a chance to read my story of Covid. He said he spent 10 days on a ventilator. On day 9 and 10, they were telling my wife there was a very good possibility that I was not coming off. After that 10 days, I spent 16 days in a negative pressure room and a total of 44 days in isolation, and over 100 days to fully recover. Today is day 121 and I still have lung damage, scarring on my left lobe and a minor cough they cannot understand. He said he has received a negative Covid three times and is probably the safest guy in room, because they tell me I have immunity for a period of time. He said he also has some minor neurological damage, he does not have all his taste back yet, tingling in his fingers, and memory problem more than just being 53 years old. He said what he was going to share was not political, not made up, and not embellished, it is information that comes from the front lines. It is not second-hand information or something he got from the newspaper, Facebook, or government reported information. As you can imagine, he has made a lot of friends in the medical profession. He said he has talked to doctors, respiratory therapists, pharmacists, cardiologists, neurologists, nephrologists, and he could go on. After his last conversations with local health care providers, they reach out to him on a regular basis, Winter Haven had over 100 Covid positive patients, Lakeland has over 130, and the Winter Haven ICU is full. As of last Thursday or Friday, there were no available ventilators until a mobile ICU unit arrived on Friday that is fully self-contained with additional medical staff and 10 more ventilators. Lakeland as of this weekend had 50 ventilators in use, 23 of them were confirmed Covid. Last week Polk County had 36 deaths, 19 on Saturday. On Sunday one of the nurses he was very close to while in the hospital, actually an administrator, reached out to me in tears at 3:00. As of 3:00 on Sunday, that particular nurse experienced five deaths in one day. He said because of HIPPA he did not know who any of those people were. He said you have to ask yourself why are these people reaching out to me with this information. It is because they are all seeing on a daily basis the debate that is raging in our society regarding testing anomalies are desperately asking me and others like me to get the information out. He said you know me, and you know my background. He said he can tell you from first-hand experience it is devastating, it almost destroyed his family, he almost lost his wife, my wife almost lost me. I was left with possible permanent damage. The cost to the insurance company is well in excess of \$400,000. The hospital stay was \$375,000. That cost will go to the insurance company, but as you know insurance companies do not lose money and that cost will be passed on in premiums. As a citizen, business owner, and Covid survivor, he is asking the Commission to help protect the community as much as possible and he thought a mask mandate was appropriate based upon his experience with it.

Mayor Tim Pospichal thanked him for his comments. He asked for public comment and said individuals would have three minutes.

Jocelyne Anderson, 113 Cotton Court, Auburndale, said as you know, she does not oppose voluntary mask wearing. She said she does oppose mandatory mask wearing. There are no studies to show that mask wearing prevents the spread of viruses. She said she was not downplaying or minimizing the virus and that it is devastating to many people. She said mask wearing is not healthy anyway. We need oxygen. They should be voluntary not mandatory. She quoted Florida Representative Brian Mast who reacted to an investigation in Florida, because we had been seeing some faulty science of inaccurate numbers. There are some scandals going on finding discrepancies in Corona virus positivity cases. "The labs misreporting positive cases are messing with the truth by skewing the numbers is not allowing Americans to manage their own risk. Some labs are reporting 100 percent positivity rates." He also said in a public statement regarding inaccurate reporting "I think you see a couple of problems obviously with that. Americans are making decisions, County Commissioners are making decisions, Governors are making decisions, schools, elections, Commissions, everybody is looking at these numbers. The positivity rate where they are spiking or not spiking, what is working, what is not working, and real time decisions are being made. So, to have some of these labs not reporting the negatives only reporting the positives, skewing these numbers they are messing with the truth. They are not allowing information that allows Americans to manage their own risk, manage their own health, and make the decisions that they need to make according to the risk they are imposed by the people that live in their family. Do they have seniors in their family or somebody with cystic fibrosis or something else? They are not having that opportunity to make the real truthful decisions they need to make and it is wrong and it is ignorant. What we do know is this had gone on in a number of different locations and I lean on the nefarious side that some of these entities wanted to see these higher numbers go up, to make things a little more dramatic. I hate to have to say that, but I think in the world we live in we can see this is been politicized in many different cases." She said just last week on the national news it was reported that a Florida motorcyclist was counted as a Covid death though he died in a motorcycle crash. So, we have got a lot of conflicting evidence going on, so she is asking the City Commission to not make mask wearing mandatory and leave it voluntary.

Brian Toune, 503 E More Drive, said he will beg you to make this as mandatory as soon as possible. He said he saw a picture yesterday of some soldiers in Afghanistan. Those men are out there in the desert in the mountains, in the worse conditions and guess what they are all doing - they are all wearing a mask. It is a good sign that it works doing something. He asked how many doctors have you gone to for surgery that they did not wear a mask during surgery. You want them to wear a mask while they are operating on you? You bet you do, there is a reason for that. Masks are a good thing. They help you in everyday life and sure it makes it difficult for all of us. But our grandfathers, and our fathers went through two World Wars and went through a depression and I would hope we can simply wear a mask, if this in anyway contributes to the Corona virus going away eventually. Also, he said we will make note that on February 14, the nation of Australia made it mandatory for masks and distancing. They are back with all of their restaurants open, all of their sporting activities open, and have not had a Corona virus case in 35 days. He said he watched a rugby football game from Australia two days ago with 42,000 people in the stands and not a mask was being worn. That is what our masks will eventually do for us. He said he begs the Commission again to please consider making it as strong as you can humanly make it. If Walmart, Publix, Lakeland, and Winter Haven can do it, we are a lot better city than either of those – then we can do it.

Mayor Tim Pospichal asked for additional public comment. There were no other comments from the public. He said we have a motion and a second. He asked for Commission discussion.

City Manager Green said before the Commission get into the discussion, he wanted to mention the Commission has been copied to numerous emails the City has received on the matter. The last one was time stamped about 6:10 p.m. before the meeting. We have had a good number of phone calls and have been tracking them. Since Thursday, we have had 12 for a mandate and 8 against a mandate.

Commissioner Richard Hamann said he just wanted to point out things he found out today. The White House Task Force is now recommending face masks, and Winter Haven and Lakeland have been targeted as red zones. He said he thought as a business owner and the only way he could open up his business was

to wear a face mask while he worked. If I have to as a business person to be able to reopen my business, and he was sure Keith Johnson did the same thing the same – face masks were a requirement before I could open the doors. He said it has been working well for him for the past few weeks. He said his business was shut down for three months, like Keith Johnson's, by the Executive Order of the Governor.

Commissioner Keith Cowie asked Dr. Jackson what were the negative impacts for wearing a mask, aside from the exclusions that the City Attorney mentioned.

Dr. Jackson said for most people the answer is no for negative impact. She said she knew they were uncomfortable, they are hot, and they can get some skin conditions due to the moisture being held in. She said she is asked often if it prevents you from exhaling carbon dioxide, does it make carbon dioxide build up or does it keep you from having sufficient oxygen. She said cloth masks are breathable, so around your mask and through your mask you can still transmit the necessary gases to breath out carbon dioxide and breath in your oxygen. She said she was not aware of any studies to suggest that cloth face masks will cause harm. If she had a patient that was an in-stage COPD person on home oxygen, I would not want that person wearing a mask. Those that have severe underlying health issues, particularly respiratory and heart conditions, they need to talk to their provider to see if they are safe enough to wear a mask. That would fall into one of the exclusions.

Commissioner Keith Cowie said that would fall into one of the exclusions mentioned. He asked if he was wearing a mask, is that not good enough and also why should I wear a mask, if you already have one on.

Dr. Jackson said my mask protects you and your mask protect me. She said it is a mutual respect for the masks. She said that is the simple message and she thought it was a factual message.

Commissioner Keith Cowie asked about the inaccurate reporting numbers. People have heard about this from various reporting outlets. He asked Dr. Jackson if there was truth to that or what was her opinion of that.

Dr. Jackson said she reads the articles as well and looks at the numbers. She said she was not aware of anything nefarious and she would tell the Commission if she knew. She said numbers will change, for example when someone passes away, the process is the attending physician has to put the cause of death and underlying conditions, the Medical Examiner has to certify certain things and those do not happen in 20 minutes. The data gets updated as far as cases. She said she personally was not aware or had any suspicion of a blatant attempt for being nefarious. Data does get updated and it can take weeks or months for things to reconcile, as their counts are attributable to their county of residence. She said there was always data cleanup, but she was not concerned about nefarious numbers.

Mayor Tim Pospichal said he had heard about the ICU unit brought down to Winter Haven Hospital and he was told that Winter Haven would not be accepting any cases. He said if he fell down the steps and broke his wrist, they would take me to Lakeland, but they would not take me to Winter Haven because they do not have the space.

Dr. Jackson said she could not speak for Winter Haven, but she knew they went on diversion, so certain things happened, and their hospital was at capacity. The ambulances will bypass them and go the nearest hospital. If you needed emergency surgery and they had capacity, they would be able to do it. She said she thought they may have cancelled some elective cases but are still dealing with emergencies as long as they have capacity. She said when they go on diversion, it is a matter of a few hours.

Mayor Tim Pospichal said every Monday for the past 20 weeks, he has listened to the briefing Dr. Jackson and the County Officials have, as they discuss from the EOC matters related to Covid. He asked her to touch on the amount of cases in the State as of today.

Dr. Jackson said the State has 330,000 cases since February. She said the State counts went up 23% in the past seven days, the same percentage as Polk County.

Mayor Tim Pospichal said we are looking at a population of approximately three times the size of Lakeland, as Lakeland has about 110,000 people. This is people who have tested positive for Covid in Florida.

Commissioner Dorothea Taylor Bogert said this is not an easy decision and she said she had the utmost respect for Dr. Jackson because what we are dealing with here is two opposing issues. One is people's personal rights and responsibility and she has never been a fan of advocating a person's personal responsibilities and having a government mandate on what we should do. You mentioned a number of different things and this is something she has struggled back and forth with. She said she heard from a lot of people and businesses and knew that Keith (Johnson) had it. She said she was glad Keith was here and we all certainly have been praying for Keith in the City. She said she had heard a lot of businesses saying this should be my decision as to whether or not I require a mask. It should not be mandated by government but should be a voluntary issue. She said she chooses to wear a mask out of consideration to others, which is what we should all be doing. She said Dr. Jackson has talked about studies and cited a few and she actually did some research this afternoon. She knew that they did show that the physical distancing is certainly effective and probably most effective. There is not a lot of research out there that shows that masks are as effective. We have the N95 masks, surgical masks and most of the research was done on surgical masks. She said as you know the N95 protects me, the surgical mask protects the person, but the cloth masks do not work well. Through a group she participates with they gave away some cloth masks and you could spray right through. She said it probably dampened it down some. She said her concern was with the exemptions and with business owners who want everyone to do it so we are all on the same level and now we put the business owner into the arena of having to question do they cross the line. She said she has had individuals who have disabilities who have talked to me and their big concern is they have to say something that is HIPPA protected and private. She said they have to tell people of their disability. She said there are very opposing sides like "you do not come in here if you do not have a mask, I do not care what is wrong with you" and now they have violated ADA in non-complying and that is a huge issue to violate ADA. She said she did not think the data was nefarious at all or that it was intentional. She said she was not into the conspiracy theories, but she did not think it was accurate either. The thing is it is the accuracy of it and making sure it was accurate. She said she has done some research as well and her background was in education. It may actually make our numbers worse and provide more reasoning to do what we need to do, but right now you have whoever wants to say whatever they want to say, says it and it is hard to find anything. She said it has been hard to find anything outside of the physical distancing, which is already part of the State Executive Order and is already out there. She said she did not know if this would make any difference, because if people do not want to wear masks because they feel like it imposes on their personal rights, they are going to lie heaven forbid or say "I cannot wear one". We will have issues coming up. She said she did not know how this works and maybe Acting City Attorney Murphy can put some light on this. She said the businesses that have come to her, with the exception of Commissioner Cowie and Commissioner Hamann, have been against having mandatory masks. Now, they have no problem with voluntary masks, have no problem with someone who walks in and asks them to put one on to help them, or for their employees to make them comfortable. She said there are a lot of things that are weighing in here. She said the concealed weapons matter was not a concern, as there are no case studies on that law. She said she was sure that would be tested and most of those wearing masks do not have nefarious intent, so she was not as concerned about that. She said everything changes on a day to day basis as to what is prevalent and to what is not. When you look at the numbers, 333,000 positive cases and Florida has 20 million and that is like a 1.6 positivity rate. She said she did not want anyone to get sick or we are all probably going to get it and it may slow it. She said from the information she is getting Winter Haven is a hot spot right now, but there are beds available and there are issues where the State will step in and assist us. She said how is this going to impact churches at all. She said she did not need to step in at all in a church in this mandate. Does this effect any inside building, any privately owned building like a church? How is this going to be enforced? She said she personally did not want to see our police dealing with this unless there was an issue. She said these are her concerns. She said on the flip side, she can also put herself

in someone else's place – she has a friend who has a best friend who died from it at a very young age. It was a horrifying thing. Children are much less susceptible, but there are children that die every day from the things we have no control over. Do we have control over this? Maybe that is something we need to consider. She said she has battled with this significantly. Are we going to put ourselves on a slippery slope by doing this? She said she knew it was only for 30 days. Is it going to be extended? Everyone says we can do it for 30 days, but things just keep changing and where does it stop. Inevitably it will go through the entire population, so will this slow it? She said she did not have enough information to make a solid decision on that. She said she was just concerned with what was the point of having it if people do not take self-responsibility now, she did not think they are going to take it if we put this in place. We could certainly encourage individuals to wear one. She said she did not know; she wears one when she goes to Winter Haven or Lakeland. She said they are doing her a service and she can certainly be considerate of them and wear a mask, whether a small business or large business. She said she was struggling this. She also wants to take into consideration the individual and have empathy for everyone who has been through it and for some it has been horrific.

Dr. Jackson she enjoyed hearing what Commissioner Bogert had to say and she fully understood this was a very difficult decision to make. She said if she were standing in front of you six weeks ago, she would have a hard time saying, "I think you guys need to mandate". But, looking at the significant escalation we have had in our County in the past six weeks and the 37 deaths we have had in the past week and 43 long-term care facilities out of our 88 in the County that are impacted, some with one case and some with over a100. She said this is all publicly reportable. She said she was watching the tsunami hit us and she did not know if it was going to end, if we do not make changes. She said she was not sure that over time we do not have to tighten up the restrictions and then loosen the restrictions. She said it is not black and white. We are going to be living with this for a while until there is a vaccine or we become immune and we hope those are both effective. We do not know that people who have had it cannot contract it again. We do not know that, as we have not been in this long enough. She said she was concerned with trajectory of our key community data points that we are looking at.

Commissioner Dorothea Taylor Bogert said when we initially did the shut down it was to flatten the curve, from what she understood of the science behind that. So, we open up and it goes back up. She said she thought businesses were concerned with the uncertainty. In the past, pandemics it was her understanding that those who were sick were isolated. There is a lot of times in other infectious diseases where you are infectious without anybody knowing it and it is very contagious, unlike the flu. She said the flu can be really bad too and a lot of people die from it. If you come down with the really bad symptoms of Covid, it is bad and Keith is a perfect example of how life changing it can be. She asked when we do this, is this going to slow it down and then we go back to what we consider the new normal, then here we go again and we are 30 days in. She asked if this was something we can do or is it something that we need to go about our normal life. She said right now we are at the mercy of the determination of the State. She said Brian (Toune) mentioned Australia and they did it all together at one time. She said she and the City Manager had a conversation earlier and unless everybody does it together it is not going to be effective. There are so many exceptions in this. Is this really going to serve the purpose? We have no numbers for the counties that have done this and certainly no numbers for the cities that have done this that show it is actually useful to do. She said those are her questions that concern her. She said those are things she was just throwing out there. These are a lot of our people's concerns and should we err on the side of caution and compassion.

Dr. Jackson said what we are asking people to do is wear cloth masks to help them protect everybody else. So, if I made a decision that impacts my health and my life, I think it is every bit my right to do it. When people do not take protections for everybody else, that bothers me.

Commissioner Dorothea Taylor Bogert said it bothered her too and that was why she chooses to do it.

Dr. Jackson said she knew she was not supposed to weigh in on this.

Commissioner Dorothea Taylor Bogert said she appreciated her comments. She said she was a doctor, but not a medical doctor so what she (Dr. Jackson) has to say certainly has a significant impact. She said she appreciated the information. She said she was just concerned with some of the studies and she was a cite and source type of person and peer reviewed research and we do not have any of that. The reason we do not have is – it is a novel virus. What do you do with a novel virus – you have to let time lapse and in that process of time what do we do – we listen to the experts and try to make that decision.

Dr. Jackson said you model decisions after other Corona viruses like the original SARS and MERS. She said masks were effective with that and the experts will try to give us best guidance based on other similar sorts of things. She said every day is an education and she did not envy the decision you all have to make. She thanked the Commission for the opportunity to speak.

Commissioner Dorothea Taylor Bogert asked where the \$150 fine amount came from other than maybe modeling after Winter Haven and Lakeland.

Acting City Attorney John Murphy said it was modeled after the provisions in Winter Haven and Lakeland's Ordinance. Lakeland was set at \$250 and Winter Haven was set at \$150. We have a general provision in our Code 1-15, that says any violation carries with it a fine of up to \$500. He said it is a discretion that allows a fine up to \$500. The thinking was we want voluntary compliance. The civil liberties of individuals are very important. He said you have a tough decision. The idea was to emphasize the voluntary compliance aspects of this Ordinance. The intent and the way it was written was to achieve this through voluntary compliance. The \$150 was considered a minimum amount to reflect this is something we do not want to impose a heavy or criminal or onerous fine. The point is it was drafted with the idea we were trying to achieve voluntary compliance. The number could go up to \$500 and \$150 was selected. It could be anything, \$100, \$50, or any amount. There is not any particular legislative prescription that he would recommend. It was to reflect that it was civil concept and the intent was not to be onerous or punitive to the citizens. The intent was to help recognize and balance the civil liberties that exist and hopefully achieve some voluntary compliance. He said he knew it was a tough decision. He said the Ordinance could be amended, as necessary.

City Manager Green said the Ordinance could be amended, if there were questions.

Commissioner Jack Myers said he too has a sign on his door of his business that you follow the CDC guidelines. We have masks on premises that we offer to people. When they come in, everybody is told to social distance. There is hand sanitizer everywhere, that we are all using. He said he strongly believes that the social distancing again, as discussed is as important. He said Keith Johnson is here this evening and he is not social distancing any farther than those folks he met in Charlotte County.

Keith Johnson asked if he might add to the discussion. He said he did not cite any official government sources and the reason for that was he wanted to give his personal story. However, there is a study published on July 14, 2020 in the form of a press release by the Center of Disease Control. Dr. Redfield, the Director of the Center of Disease Control, in that press release says that cloth face coverings are a very effective tool in the use of preventing the spread of Covid. That particular press release discusses a Case Study of two hair stylists in Missouri. They were pre-symptomatic for a period of 5 to 10 days. He said his days may be off and the numbers may be off by a few, but you can pull it up on the CDC website right now. The press release is there and it exists dated July 14. Two hair stylists, pre-symptomatic for 5 to 10 days were cutting hair as hair stylists do. During that timeframe, they interacted with 167 customers. The investigating department, which he assumes is the local Health Departments that the CDC enlisted, found that of the 167 -- 98% of the people who came into the facility also wore masks. All 167 people that were interviewed did not exhibit any symptoms or signs of Covid, 67 of those people submitted to Covid testing and not a single one tested positive. So, there is a Case Study and there is only one he knew of. It is on the CDC website as a press release for a Missouri Case Study.

Commissioner Jack Myers said he does not question the use of the masks or the use of the distancing. He

said he thought everybody ought to do it and thought this Board was going to follow the guidelines and follow the County's lead on things. The County has not made it mandatory. They have done a Resolution strongly urging. He said he had faith in the citizens of Auburndale, that they are smart enough, respectful enough of each other that if we come out and plea with them to do a Resolution encouraging the use of them. They will have to use them in stores, as they are required. He said he thought that was the way he would prefer to go. Not to make it mandatory. He said he did not want to get into debate over it as there is evidence right here in Auburndale. He said he knew a 98-year old lady who had dementia and she died of Covid recently. It was passed on from her caretaker who was wearing a mask at all times. Her son got it and he got out of the hospital on Friday, her daughter got it and as far as he knew she was still in the hospital, and the son-in-law was still on a ventilator. He said this was a bad case study. He said when he sees people dressed against infectious diseases, he sees them in space suits and he did not mean to minimize the wearing of face masks. He said he thought we should encourage everyone to do it and he thought this things was just another thing trying to divide us as people in a community. He said then you have the face mask cops out there asking why you are not wearing a mask. He said there have been conflicts already in other places. He said that leads to more interaction from our Police Department and God knows you have enough on your hands as it is. He said he was not going to vote to make this a mandate. He said he would strongly like to do a Resolution encouraging citizens and have the faith in them that they do the right thing. He said the Mayor of Winter Haven forgot his peaches and ran back into Publix and forgot to put his face mask on. There were like three different people who took photographs of him. He said it was not fair and he did not mean to do it. He said he thought we were creating a divide and he cannot support the mandatory. He said for another reason too, we are going to sit here and do this again in 30 days. He said if you are going to do it, why have an end date to it. He said he was not for revisiting this thing every 30 day.

Commissioner Keith Cowie said it has been said this is a difficult decision for us. As a City Commissioner, he tries to look at that he is certainly not a medical professional in this case. In other things we deal with, we have Mr. Green who is a professional to run the City, we have an Attorney who we lean on for legal questions, we have Dr. Jackson with us tonight who is a medical professional and she is telling us that wearing face masks will help slow the spread of this. He said again he did not know if that was true or not, but he was leaning toward the people that are the experts and taking their advice, in order to make his decision. He said he will be voting in favor of it.

Commissioner Richard Hamann said talking about professions, as he was at his physician's a week ago today for his physical and we discussed this face mask issue, as it might be coming before the Commission. The doctor said he would highly recommended that I should approve it to helping stop the spread. He said as far as the other thing, in talking about Keith (Johnson) having his business shut down. He said he did not think he could take another three-month shut down, if the Governor decides this is getting out of hand so bad. We have to slow it down somewhere. If we cannot do it locally, who is going to do it. So, I will be in favor of the face mask.

Mayor Tim Pospichal said as we go through life, we always want to go to the person we chose or hope gives us the best information – the professional. Somebody asked me the other day what I thought about masks and I referred to what I heard from Dr. Jackson. He said I own a mobile home park and if you want to talk about mobile home law, he could talk about that. He said he goes to the professionals. He goes to the experts to get his information. He said he thought we have heard enough this evening. He said he would like to think that everybody would be honorable enough to wear their masks. He said he would hope and pray to God they would be honorable enough to wear their mask, but there is going to be somebody that is going to make it difficult and not wear their masks. So, he said he would be in favor of this motion tonight. He asked for a roll call vote on the motion.

Roll Call Vote on Motion: Commissioner Dorothea Taylor Bogert– no; Commissioner Keith Cowie – yes; Commissioner Richard Hamann – yes; Commissioner Jack Myers – no; and Mayor Tim Pospichal - yes.

Mayor Tim Pospichal said this had to be a super majority vote to win this evening. We did not get four votes to one. He asked the Commissioners if we could have a vote to encourage all of Auburndale to wear a mask when they cannot socially distance.

Commissioner Jack Myers said when he was giving his statement, he said we have been following the County's lead throughout this and they have a Resolution as do some of the other municipalities highly encouraging the use of the masks. You do not have to go into all the exceptions and fines and different things. He said he is going to encourage people to do it and he does it when he goes into Walgreens, CVS, Winn Dixie, and Publix before they made it mandatory. He said he does not want to make anyone sick.

Commissioner Dorothea Taylor Bogert said she would absolutely strongly encourage face masks.

Motion by Commissioner Jack Myers, seconded by Commissioner Dorothea Taylor Bogert, to strongly encourage the wearing of face masks by the citizens.

Commissioner Keith Cowie said for the Ordinance we were required to have a four majority vote. He asked if this action should be brought back and advertised.

City Manager Green said his recommendation would be to support the motion on the floor. As we treated this as an emergency item, which we did not have to advertise for or have a second reading. Instead of waiting for two more weeks to then pass a Resolution, he thought the vote of the Commission could stand and that is how it would be reported. The Commission did not pass the mandate but turned around by vote of the Commission encouraged their citizenry to support wearing a mask. He said there is no Ordinance or Resolution being considered, the Commission is simply making a statement.

Acting City Attorney John Murphy said it would be spread across the minutes of the meeting, he said it would be an oral motion.

Upon vote, all ayes.

Mayor Tim Pospichal thanked Dr. Jackson for coming to the meeting tonight, as it meant a lot to us and the citizens of Auburndale and said she does a great job. He thanked Keith Johnson for coming tonight and said we are so glad you are healthy.

Commissioner Richard Hamann thanking everyone for coming tonight and speaking and said we appreciate everyone's input.

Commissioner Dorothea Taylor Bogert echoed the thanks for the people for coming tonight. She said it was a difficult decision tonight and one she has labored over for days on end. She said she is certainly appreciative of Dr. Jackson and her putting her personal perspective on this.

2. PUBLIC HEARING – AMENDING OFFICIAL ZONING MAP – WATSON PROPERTY

Mayor Tim Pospichal closed the Regular Commission Meeting and opened the Public Hearing.

City Manager Green said the Public Hearing was to hear and consider a proposed Ordinance amending Ordinance No. 764, the City's Land Development Regulations and Official Zoning Map. The City has received a request from Mr. David Watson for a zoning map amendment on 12.17 acres having access off Denton Avenue. The proposed change is from Single Family Residential-2 or RS-2 to Planned Development-Housing 2 or PD-H2. As required by the Land Development Regulations or LDR's for Planned Developments, this request is accompanied by a binding site plan. The request will allow the applicant to construct Phase 2 of Lakeside Estates subdivision consisting of 41 single-family residential lots. The proposed amendment allows for minimum lot sizes of 8,775 sq. ft. and average lot widths of 65 feet. Proposed lot setbacks are 25' front,

7' side, and 10' rear. These minimums are consistent with surrounding area and neighboring subdivision of Phase 1 of the Lakeside Estates subdivision. The proposed Planned Development Housing-2 zoning is also consistent with the City's Comprehensive Plan and Land Development Regulations. The main access to the property will be from Denton Avenue, but the property will also have access through Lakeside Estates Phase I off Lake Ariana Boulevard. At their meeting on July 7, the Planning Commission recommended that the development include a landscape buffer on the west border, which is adjacent to property zoned Neighborhood Commercial. The Planning Commission also made a recommendation that if the Denton Avenue access for the subdivision will be utilized for the adjacent Neighborhood Commercial zoning district sometime in the future, that the subdivision contain a gate, which would separate residents accessing the subdivision from the commercial traffic. Planning Commission recommended approval. They had four members attend the meeting of July 7, 2020 and all voted to approve the Map Amendment addressing the compatibility issues with the adjacent commercial property.

Staff Planner Jesse Pearson said we are looking at a request to change from RS-2 to Planned Development Housing-2. This comes with a binding site plan, which allows the developer to submit construction plans and those construction plans will be reviewed by staff. Once the review is complete then they will move to Final Plat, which will come before the Commission. Then the sale of lots may begin. He displayed the property location on the map and entrance from Denton Ave. He said the lots are 70 foot. He displayed the binding site plan for the subdivision. He said Mr. Gurr, the engineer for the project, is present to answer questions on the proposal.

Mike Gurr, Gurr Professional Services, 202 Howard Street, said he was here for any questions.

City Manager Green said there was a question that came up regarding recreation space in the subdivision and the proposed subdivision was approved as an RS-2 several years back prior to the recreational space requirement that was passed by the City Commission. So, that would not apply to this particular subdivision. He said we are in a Public Hearing.

Mayor Tim Pospichal asked for citizen comment. There was no citizen comment.

Mayor Tim Pospichal closed the Public Hearing and reopened the Regular Commission Meeting.

3. ORDINANCE NO. 1638 AMENDING OFFICIAL ZONING MAP – WATSON PROPERTY

City Manager Green said Ordinance No. 1638 changes the zoning from Single Family Residential RS-2 to Planned Development-Housing PD-H2.

Acting City Attorney John Murphy read Ordinance No. 1638, entitled: **AN ORDINANCE OF THE CITY OF AUBURNDALE, FLORIDA, AMENDING ORDINANCE NO. 764, THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF AUBURNDALE, FLORIDA, BY AN AMENDMENT TO THE ZONING MAP RECLASSIFYING AN AUBURNDALE ZONING MAP CLASSIFICATION ON PARCELS OF LAND TOTALING +/- 12.17 ACRES FROM CITY OF AUBURNDALE ZONING CLASSIFICATION SINGLE FAMILY RESIDENTIAL-2 (RS-2) TO PLANNED DEVELOPMENT-HOUSING 2 (PD-H2); AND PROVIDING AN EFFECTIVE DATE. (General Location: Denton Ave. and Berkley Rd.),** title only.

City Manager Green said the Planning Commission recommended approval by a 4-0 vote. Staff recommended approval of the Ordinance.

Motion by Commissioner Richard Hamann, and seconded by Commissioner Jack Myers, to approve Ordinance No. 1638, as read by title only on first reading.

Commissioner Dorothea Taylor Bogert asked earlier today about the green space. She said there is no green space on here. She said she knew this is Phase 2 of Phase 1 and in Phase 1 there was some land down on

the lake owned by Mr. Watson. She asked Assistant City Manager Jeff Tillman to look into this for her, about how much the LDR's require for green space. We made some text changes not too long ago and is that a sufficient amount for both Phases, if that was the only green space.

City Manager Green said as suggested earlier, the requirements that you refer to would not apply to this subdivision because it was platted as an RS-2 subdivision back 4 or 5 years ago.

Commissioner Dorothea Taylor Bogert said, but they are asking for a change. She asked would they not have to adhere to that.

City Manager Green said they could actually build the RS-2 tomorrow and it not be required.

Commissioner Jack Myers asked what was the reason to developing the PD and not the straight RS-2.

David Watson, one of two owners of that property, said we had developed Phase 1 which took two extra years because of two eagles living on the property. He said that cost us about \$200,000. We have a buyer for the entire project, KB Homes. They are going to build upscaled homes similar to those on SR. 559. They have requested to have 79 to 80 lots, as part of their purchase. Initially, they were going to purchase all in one phase and since Covid came along they would only buy only two lots. They are going to put two models out there and then close 12 every quarter. He said instead of us getting out of it, we are in it for the long haul. One of their requirements was that I develop Phase 2 along with Mr. Gurr's help and that we cash that property out for them. They are to close on the first Phase for the two lots in September. He said if they do not close, he has two or three backups who will buy the whole project for cash. This gets us from 38 homes to 41 homes, which picks up about \$150,000 to \$200,000 in development resources. It also gives the City another \$1 million to \$1.5 million in taxable property. So, that is why we are doing it. We have two commercial pieces and we have an extra place for them to come in on the parcel, but there is a rule in the County that you have to be so many feet apart from existing commercial, which the Dollar General has. We are about 100 feet apart from their entry, so we have to use this common entry for both properties. He said we are going to make more money that was why we are doing it.

Commissioner Keith Cowie asked about the entrance used for commercial activities in the future.

Staff Planner Pearson said yes, that is why they have suggested a gate be placed at the time it becomes commercial to separate the residential from the commercial.

Mike Gurr explained where the entry would be for the property on the screen. He said the Planning Commission has seen this and recommends this. He said the property gate was about 85 feet from Denton Avenue.

David Watson said we have a right in and a right off on Berkley. We are trying to sell that commercial as one piece. So, this will be a limited usage entry off of Denton Avenue, but we felt if a truck came in to drop off something, it could go on through rather than turning around in the parking lot. We do not know what will go there yet. He mentioned that Keith Johnson has looked at the property to build a Pool Works there. We had a moratorium on that property for about seven years. He said we appreciate your help.

Staff Planner Jesse Pearson said there was a note on the binding site plan for the road.

Commissioner Keith Cowie asked if they could designate that road, as a service only road.

Staff Planner Jesse Pearson said yes, that could be done by Commission action.

David Watson said they felt it would take traffic off Berkley if we were able to come in from the back and mainly it is for service. We are planning to do it so they will have a gate before they go into their project

off Denton. He said he gave them Lot 12 for them to have a bigger entry.

Mike Gurr said when he spoke with Glen Sheller, with Polk County, he was told we would only need a Level 2 driveway permit.

Commissioner Dorothea Taylor Bogert asked about the lots 12, 13, and 14, along the commercial property. She said she saw there was stormwater and was there any other landscaping or buffer to keep it separated from the commercial.

Mike Gurr said there was a landscape buffer. He provided a larger version of the drawing.

Commissioner Dorothea Taylor Bogert said she would like to see the landscape buffer extended to the pond and down behind all those houses. She said she thought it would be more saleable and beneficial for the residential and commercial that was per personal and professional perspective.

Commissioner Jack Myers said the commercial property would be required to put in the buffer. He said the commercial code is much more stringent than the residential.

Commissioner Keith Cowie said this was the time to designate the road as a service road.

David Watson said we have no idea how it will develop. You cannot hardly sell office space as people are working out of their homes. We are trying to get a restaurant there. We have contacted Cracker Barrel to get them off the interstate and they have shown some interest. We have had McDonalds look at it. We do not know what will go there and we are in no hurry to sell it. The commercial site is 2.6 acres with 450 feet along Berkley Road by 185 feet deep.

Commissioner Keith Cowie said he just wanted clarity on if we felt that was the right thing to do by the designation of the road, as a service road. He said he knew there was going to be a gate there to limit the amount of traffic flowing through there. People are going to be coming in and out of that gate to go to their homes. If that turns into a thoroughfare for whatever business lands there, it could slow down traffic.

City Manager Green confirmed with Staff Planner Jesse Pearson that the packet that went to the Commission was different than the binding site plan discussed tonight. The Commission's approval would have to be with the binding site plan that was different. He said your motion could include whatever you want to include and that becomes the binding site plan. If an office complex went there versus something that needed the service road, you would have to come back and amend the binding site plan at that point to eliminate that.

Commissioner Richard Hamann asked if right now the gate was on the binding site plan.

Staff Planner Jesse Pearson said no, there was a note at top that says if the IE for the residential property is a shared access with the commercial property the subdivision will be required to have a gate.

Commissioner Dorothea Taylor Bogert said if we actually designate it as a service road will it significantly restrict what develops there on the commercial property.

Staff Planner Jesse Pearson said he could not predict, as to what will happen or not happen. He said it depends on the development and developer. If they purchase the property and that particular part of the access, it will have to come back to Commission because it is part of the binding site plan and that will have to be amended at that point or if the commercial comes in and everything be fine.

Commissioner Dorothea Taylor Bogert said this is somewhat similar to the property off SR. 559 off of Adams Barn Road where they have the side road off SR. 559 as well as the road off Adams Barn Road. They have

two entrances and it will be used if that is ever designated commercial.

Staff Planner Jesse Pearson said yes, eventually that will be an entrance for commercial.

Commissioner Keith Cowie said he thought if they add this little road that is not on our map it should trigger the gate. His concern would be to limit the use. He said he does not want a lot of that commercial traffic running there.

Staff Planner Jesse Pearson said it will probably be designated for trucks signaling where they are to go through.

Commissioner Keith Cowie said he would like to designate it as a service road only, if that road is added and necessary for commercial development.

City Manager Green asked if the commercial tract was part of the PD.

Staff Planner Jesse Pearson said yes, there is a portion of it within the PD, about 50 feet.

City Manager Green said you could make that as part of your approval, if the 50 feet were to be used to help for the commercial development.

Staff Planner Jesse Pearson said this will have to be approved by Polk County, as this is an access road.

Acting City Attorney Murphy said he agreed with the City Manager. He said if you were inclined to want that in the binding site plan, you should do that tonight.

Amendment to Motion by Commissioner Keith Cowie, seconded by Commissioner Jack Myers, to add that if the road is needed for the commercial development that it be designated as a service road.

Vote on amendment, all ayes.

Vote on original motion, all ayes.

City Manager Green said the item will get cleaned up on the binding site plan and come before the Commission for second and final reading at your next meeting.

A break was taken at 8:48 p.m.

Mayor Tim Pospichal called the Meeting back to order at 8:58 p.m.

4. REVISE LEASE AGREEMENT WITH USA WATER SKI AND WAKE FOUNDATIONS

City Manager Green said in August 2016, the City and the USA Water Ski Foundation entered into a Lease Agreement allowing the Foundation to build and maintain an exhibition water ski lake within the Lake Myrtle Sports Complex. The same Agreement also leased to the Foundation a portion of the lake bottom of Lake Myrtle, in which the City has ownership, for the Foundation to construct a cable ski park at the facility. The exhibition water ski lake was partially constructed, but not completed due to unforeseen financial circumstances with the Foundation. However, the cable ski park was completed and is in full operation on Lake Myrtle. In partnership with Polk County Tourism and Sports Marketing, the City and County are looking at ways to complete the exhibition water ski lake utilizing funds previously allocated by the County to the Foundation, for marketing purposes. This arrangement would allow the exhibition ski lake to be constructed as previously designed and allow the Foundation to focus and financially meet the expense of building their headquarters and hall of fame facility on adjacent property under their ownership. The proposed Revised

Agreement or lease removes all references to the Foundation's responsibility of constructing and maintaining the exhibition lake. The lease of the lake bottom as provided in the Original Agreement remains intact. However, the proposed Agreement reduces the term of the lease from 50 years to 20 years. All other text of the original agreement remain intact. The USA Water Ski and Wake Foundation Board of Trustees voted on July 6, 2020 to accept the Revised Agreement. Foundation President Ed Hickey has signed off on the strike-through copy of the Revised Agreement. If approved by the City Commission, he would then resign on the Original agreement. Staff recommended approval of the Revised Agreement. This removes the requirement of USA Water Ski and Wake Foundation to build that event lake. The City and the County are working on this and the next item on the Agenda is part of the same matter. We have Hank Longo with us this evening representing the USA Water Ski and Wake Foundation, if there are any questions.

Commissioner Jack Myers asked why we reduced the number of years on the lease.

City Manager Green said it was for the lake bottom and was not as important as the longer-term lease on the event lake.

Motion by Commissioner Dorothea Taylor Bogert, and seconded by Commissioner Keith Cowie, to approve the Revised Lease Agreement with USA Water Ski and Wake Foundation. Upon vote, all ayes.

5. INTERLOCAL AGREEMENT FOR TOURIST TAX FUNDING – LAKE MYRTLE EVENT SKI LAKE

City Manager Green said due to the unforeseen circumstances with the USA Water Ski and Wake Foundation, the competition water ski lake being built on City-owned property off Denton Avenue was only partially completed, as noted in Agenda Item #4. Additional engineering and design work are necessary to determine the costs of completing the competition water ski lake. The City solicited a proposal from JSK Consulting, the civil engineering firm that originally designed the competition water ski lake for the Foundation. The total project fee for the design and engineering services total \$69,980. The proposed Interlocal Agreement provides the \$69,980 from the Polk County Tourist Development Tax. The funding is available because the project represents an expansion of the Lake Myrtle Sports Complex, which has as one of its main purposes the attraction of tourists to the Auburndale area and Polk County. Engineering services will include redesign of the event lake to address stormwater and drainage issues, reconfiguring the internal road network within the Lake Myrtle Park, grading for future youth football facilities, and additional parking areas. Following the engineering and design stage, additional discussion will be held on the funding arrangements necessary to advance the project into construction. The proposed Interlocal Agreement was prepared by Polk County and reviewed by the Parks and Recreation Director, City Manager and City Attorney. He said Mark Jackson and Mark Zimmerman are here from Polk County Tourism and Sports Marketing.

Commissioner Jack Myers asked if the County or the Tourism Development Council has approved this.

Mark Jackson, Polk County Tourism and Sports Marketing, said it was under \$100,000 and does not need their approval. He said we do have events that we can place there.

City Manager Green said it will require the County Manager's signature versus the Chair of the County Commission.

Mayor Tim Pospichal asked for public comment. There was no public comment.

Motion by Commissioner Keith Cowie, seconded by Commissioner Dorothea Taylor Bogert, to approve the Interlocal Agreement for the Tourist Tax funding for the Lake Myrtle water ski lake.

Commissioner Dorothea Taylor Bogert said the design was already there for the lake. She said she knew there was a concern for the retention area.

City Manager Green said additional design work was needed and that is what this is related to. He said there were some significant stormwater costs. We will be working with the Foundation President, who is actually a geotech as well. The engineer is Matthew Johnson from JSK and they are familiar with the project. SWFWMD has already kind of bought into some of the revised improvements. He said it will be very complimentary to advance the project from this point.

Upon vote, all ayes.

City Manager Green said at the intersections of Denton and Moss Road, where you turn to come into the cable park and restaurant, there is a portion of the event lake that is still under ownership by the Foundation. As we go forward and advance the activity and construction and if we plan to go ahead and build out the event lake, the City may want to acquire that last little corner of the event lake that is owned by the Foundation. We can bring this back to the Commission at a later date. It is a very odd shaped piece of property and not even connected to the area where the restaurant and cable park is. It stands completely separate and was put there by the previous owner and Foundation to accommodate the event lake. We have been in discussion with the Foundation.

Commissioner Richard Haman said then the whole competition lake would be under the City's ownership.

6. EXTENSION OF RECYCLING SERVICE AGREEMENT – ADVANCED DISPOSAL

City Manager Green said the current Recycling Services Agreement with Advanced Disposal expires September 30, 2020. The Agreement, originally with Trash Tax and assigned to Advance Disposal in 2018 provides for two additional three-year terms, upon the written agreement of both parties. The proposed 3-year extension would expire September 2023. The exact amount of the monthly rate charged to the City by Advanced Disposal for every residential customer is passed through to the customer on their utility bill. As we get into the discussion on Revenues for the Budget the Commission will see that it is the exact same cost for both revenue and expense. Whatever we collect from the customer, we pay to Advance Disposal for the service. The City Commission on August 20, 2018 gave approval to a request from Advanced Disposal to increase curbside recycling rates \$0.75/month (\$2.53 to \$3.28) effective October 2018, and an additional \$0.75/month in October 2019 (\$3.28 to \$4.03) through September 2020. Our current rate is \$4.03. The proposed extension increases curbside recycling rates \$0.25/month (\$4.03 to \$4.28) effective October 2020, and a 3% increase of \$0.13/month (\$4.28 to \$4.41) effective October 2021, and a 3% increase of \$0.14/month (\$4.41 to \$4.55) effective October 2022. The 3% is consistent with adjustments of other Agreements recently passed by the Commission, such as the Sheriff's Office for Dispatch Services. In 2018, the parties also agreed that at the end of the current Agreement (September 2020), the estimated 6000 recycling totes, belonging to Advanced Disposal would be given to the City. Auburndale will now own and be responsible for the replacement of all the recycling totes. To reduce the burden of even higher rates, the City will continue to pay the lesser of recycling disposal fees, either at the Republic Services Material Recovery Facility or at the Polk County Landfill. The City budgets \$45,000 each year to offset this cost. City Staff will continue to use social media platforms and electronic message boards to promote clean recycling and plan to host several recycling events throughout the year. Our Public Works Director has reviewed the proposal and has been meeting with Gary Brown, from Advanced Disposal on the proposal. Staff recommended approval of the proposal.

Mayor Tim Pospichal asked for citizen comment. There was no citizen comment.

Motion by Commissioner Keith Cowie, seconded by Commissioner Dorothea Taylor Bogert, to approve the three-year Extension to the Recycling Services Agreement to Advanced Disposal.

Commissioner Richard Hamann asked if this was still cheaper than carrying it to the landfill and about the replacement of the totes.

City Manager Green said yes it was still cheaper. He said the replacement totes will continue to be yellow and black in color, as we currently have 6,000. The totes cost about \$95 to \$100 each.

Upon vote, all ayes.

7. PRESENTATION OF PROPOSED FISCAL YEAR 2021 AND FISCAL YEAR 2022 REVENUES

City Manager Green said City Staff will present and lead discussion on the Revenue section of the proposed FY 2021 and FY 2022 Budgets. On June 15, expenditures were presented. By law, the revenue and expenditures have to balance. We present a two-year budget, which includes five funds: General Fund, CRA Fund, Water and Sewer Fund, General Fund Impact Fees, and Water and Sewer Impact Fees. He said for presentation he will yield to Finance Director Shirley Lowrance to go over the Revenue items. He said Deputy Finance Director Jason Pitts was also present. We have highlighted the Revenue line-items that have a change in value of more than \$10,000 for the discussion.

Finance Director/City Clerk Shirley Lowrance went over the Revenue section of the FY 2021 and FY 2022 Budget. She said for the most part the first and second year Budgets are identical for the Revenue projections. She said the State revenue projections were not yet available due to Covid and the numbers presented were our best estimates based upon experience of prior year's collections. Some items discussed were: Ad Valorem with collections proposed at \$5,290,000 based upon the Property Appraiser estimated property values and our proposed millage rate, Local Option Fuel Tax, and Tampa Electric Franchise Fees and Utility Taxes. She said both the Tampa Electric fees were projected lower than the current Budget based upon the March collections, for the six-month period. She said some of the projections are reduced quite a bit, as we want to be conservative and represent the values as they should be.

City Manager Green said the Revenues for the Community Development Department have been changed for License and Permit Fees. At your next meeting, we will bring a Resolution proposed by the Community Development Director Amy Palmer, Building Official, and Staff. They have been working on the comparison of our fees to neighboring communities. It has been a decade plus since we have looked at the formulas related to our fees. He said there will be a change in the Budget projection reflective of the new permit fees. He said for Building Permits line-item showed collections of \$436,794 as of March 2020.

Finance Director/City Clerk Shirley Lowrance said Community Development Director Amy Palmer has looked at the Revenue line-items for Building Permit fees and projected our numbers based upon the new proposed Building permit fees. It would affect the Building Permit, Plumbing, Electrical, and Mechanical Permits as well. She said the presentation numbers for the Community Development Division differ from the numbers that were provided in the Commission packets due to the proposed adjusted Building Permit fees. For Community Development Block Grant, the proposed \$110,000 represents the Town of Dundee repaying the City for CDBG funds provided to them in FY 2020. The Library Cooperative showed an increase based upon collections in the current year. The 9th Cent Gas Tax was projected at \$85,000. She said if the State revenue projections are significantly different than our projections, we may bring those line-items back to the Commission for a refinement in the numbers.

City Manager Green said the Construction Plan Review Fee was proposed at \$150,000 and the March collection was \$272,152 due to the Amazon construction fees.

Finance Director/City Clerk Shirley Lowrance said the Community Development Director looked at the permits to determine which ones were residential versus commercial and did not know of an industry out there to generate large revenues for Construction Plan Review Fee, such as Amazon in our current year. Sanitation Charges were projected at \$1,220,000 (up \$20,000). Curb Side Recycling fees were projected at \$290,000 and will equal the expenses we pay to Advanced Disposal for the services. Reserves within the Revenue section of the Budget reflect money we are bringing into the Budget to assist with Capital purchases. For FY 2021, the Reserves funding for the General Fund was \$90,000, with \$15,000 from Police

Department Impact Reserve and \$75,000 from Stormwater Reserve. The 2019 Bond Proceeds projection was \$580,000 for the City Hall Renovation and represents use of last year's Bond proceeds. She said the Interfund Transfer was projected at \$3,543,719 and the General Fund totals were \$23,477,342. She asked if there were any questions on the General Fund. She went over the Community Redevelopment Agency Fund Revenues. She said the Commission was familiar with these numbers, as they were presented to the CRA Board. The new line-item, Carry Over Prior Year CRA, was budgeted at \$1,786,116. The Community Redevelopment Agency total projected Budget was \$3,293,966. She said we have added the Fund 110 and Fund 440 related to Impact Fee collections. The addition of the two funds was a State requirement for accounting for the Impact Fee collections and spending. The Impact Fees were collected prior to this separation into a stand-alone Fund. There will be an expense section in our Budget for the two Funds. The Water and Sewer Impact Fee projected total was \$1,410,400 and will be used to pay for our Debt Service. When we get to the last page of our Revenue Budget, you will see this total being brought into Fund 430, the Water and Sewer Fund for Debt Service. Water Charges were budgeted at \$5,600,000, Sewer Charges were budgeted at \$7,200,000, and the Pretreatment Factor Sewer was reduced to \$30,000 from \$100,000. She said the reduction was a good thing, as there are less fines and less for the Sewer Department to have to treat. Sewer Connection Fees were increased to \$100,000 from \$30,000 based upon the March collections. We are proposing \$90,000 from the Public Utilities Reserve to be used for Capital Improvements. Reimbursements of projects included WMD Reuse Line \$255,700; Winter Haven Conduit – \$50,125; FEMA Reimbursement Generators - \$142,000; and Lakeland Potable Water Interconnect - \$755,70. The Interfund Transfer from the Fund 110 to the Fund 430 was \$1,410,400. The total Budget proposed was \$45,019,632 in the first year and \$42,137,571 in the second year.

City Manager Green said our Contingency Reserve has been modified from \$150,583 to \$122,182 in the first year and from \$103,138 to \$117,847 in the second year. He went over the contingency changes, which included the changes related to Ad Valorem and the Community Development Fees. The Revenue reimbursement of \$255,700 for the FI Poly Reuse (WMD) for an expense of \$511,400 at 50% of the costs. He said the bottom section of Expenditures showed the \$255,700 City expense coming in from Reserves, as we are going to bring those funds out of Reserves to help pay for the project. The Winter Haven Fiber Conduit Reimbursement and Lakeland Potable Water Reimbursement are both under construction currently and will be completed next fiscal year. Payroll changes were \$30,159 and will continue to change based upon our staffing changes. The Health Insurance line provided a savings of \$42,440 that represents a reduction in the line-item to \$1,544,380. He said our Budget is balanced for both years. In most Revenue and Expense items, we have held the line-item constant. He went over the second year Contingency changes. He said the next Commission Meetings are August 3 and August 17 and August 10 is planned for the Commission Day activities. At each of these meetings, we have the opportunity of bring changes to the Budget. The Public Hearing dates will be advertised for September 3 and September 15 and the new fiscal year starts October 1. Staff recommended tentative approval of the Revenue Section of the proposed FY 2021 and FY 2022 Budgets.

Mayor Tim Pospichal asked for public comment. There was no public comment.

Motion by Commissioner Jack Myers, seconded by Commissioner Dorothea Taylor Bogert, to tentatively approve the Revenue Section of the proposed FY 2021 and FY 2022 Budgets.

Commissioner Jack Myers asked about our capacity for Reuse Water for the ballfields, etc.

City Manager Green said we have decent capacity. We are still limited by the amount we can dispose of, not necessarily the capacity of our plant.

Public Works Director John Dickson said we have a 5.5 million gallon capacity at our plants and the spray field capacity is about 3.4 million gallons.

City Manager Green said we are always looking for reuse opportunities.

Commissioner Jack Myers asked if that counts Fl Poly's use.

City Manager Green said we are already counting that. We are still working with Tenoroc to get more capacity. He said we are always looking for capacity.

Upon vote, all ayes.

8. APPROVE PROPOSED FISCAL YEAR 2021 ROLLED-BACK RATE AND MILLAGE RATE

City Manager Green said Staff would recommend approving the current millage rate of 4.2515 as the proposed operating millage rate for the Certificate of Taxable Value Form for 2020 and Budget Year 2021. He said the Commission would also need to give approval of 4.2203, as the Rolled Back Rate

Mayor Tim Pospichal asked for public comment. There was no public comment.

Motion by Commissioner Keith Cowie, seconded by Commissioner Dorothea Taylor Bogert, to approve 4.2203 as the Rolled-back rate and 4.2515 as the proposed operating millage rate for the Certificate of Taxable Value Form for 2020 and Budget Year 2021. Upon vote, all ayes.

9. APPROVE PUBLIC HEARING DATES FOR PROPOSED FY 2021 MILLAGE RATE AND BUDGET

City Manager Green said Staff would recommend Thursday, September 3, 2020 and Tuesday, September 15, 2020 at 7:00 p.m. at City Hall for the required Public Hearings on the Budget.

Mayor Tim Pospichal asked for citizen comment. There was no citizen comment.

Motion by Commissioner Jack Myers, seconded by Commissioner Richard Hamann, to approve Thursday, September 3, 2020 and Tuesday, September 15, 2020 at 7:00 p.m. at City Hall for the required Public Hearings on the proposed FY 2021 Budget. Upon vote, all ayes.

10. SET BUDGET WORK SESSION DATE (08-10-2020), COMMISSION DAY

Motion by Commissioner Dorothea Taylor Bogert, seconded by Commissioner Keith Cowie, to set Monday, August 10, 2020, for Commission Day activities and for a proposed budget work session, if needed.

Meeting adjourned at 9:42 p.m.

I HEREBY CERTIFY that the foregoing Minutes are true and correct.

Shirley A. Lowrance, Finance Director/City Clerk

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City Manager Green said we are already counting that. We are still working with Tenoroc to get more capacity. He said we are always looking for capacity.

Upon vote, all ayes.

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Mayor Tim Pospichal asked for public comment. There was no public comment.

Motion by Commissioner Keith Cowie, seconded by Commissioner Dorothea Taylor Bogert, to approve 4.2203 as the Rolled-back rate and 4.2515 as the proposed operating millage rate for the Certificate of Taxable Value Form for 2020 and Budget Year 2021. Upon vote, all ayes.

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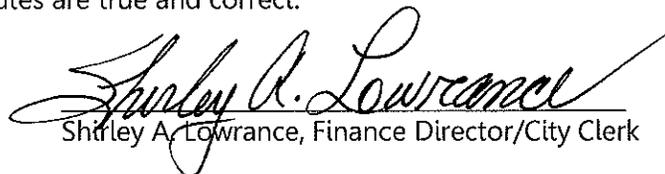
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