

Minutes of the Regular Meeting of the City Commission of the City of Auburndale held September 3, 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 arrived at 7:13 p.m.

Mayor Tim Pospichal declared a quorum present and the Meeting was opened with prayer by Pastor Terry Brown of Legacy Community Church and a salute to the flag.

Motion by Commissioner Dorothea Taylor Bogert, seconded by Keith Cowie, to approve the Minutes of the Regular Meeting August 17, 2020 and Special Meeting August 24, 2020. Upon vote, all ayes.

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

1. ORDINANCE #1641 AMENDING FUTURE LAND USE MAP – CONE ROAD

City Manager Green said Agenda Items #1 and #2 are Ordinance #1641 and #1642 and come to the Commission for final reading and at the recommendation of the Planning Commission.

Community Development Director Amy Palmer said as a result of annexation, the City has received a request for a Large-Scale Future Land Use Map Amendment and a Zoning Map Amendment for property owned by Gapway Grove Corp. It is located at Cone Road and County Road 559 and is a vacant piece of property 76.28 acres. The current Polk County Future Land Use designation is Agriculture/Rural Residential-X, X meaning it is in the Green Swamp. The proposed City Future Land Use is Low Density Residential - GS (72.03 acres) and Conservation/Wetlands – GS (4.25 acres). The proposed City Zoning is Single Family Residential-1, RS-1 (72.03 acres) and Open Use Agricultural, OUA (4.25 acres). The Gapway Grove Corporation property consists of 76.28 acres located between Cone Road/CR-559 and Lake Mattie. The applicant has requested a Future Land Use of Low Density Residential that would accommodate a single-family residential development. Because the property is located in the Green Swamp and larger than 10 acres, the City Commission held a Transmittal Public Hearing on May 18, 2020 to send the proposed Future Land Use Map amendment to the State for a full compliance review. The State responded with no objections to the map amendment and two comments: (1) that the wetlands on the property be identified on the Future Land Use Map, and (2) that any references to an outdated Florida Administrative Code 9J-5 be removed from any analysis the City sends to the State. Both comments have been addressed. The map amendment would be adopted with the changes and include identification of the wetlands on the Future Land Use Map. The requested Future Land Use of Low Density Residential-GS and Conservation/Wetlands-GS are consistent with the City's Comprehensive Plan, Joint Planning Agreement with Polk County, and with surrounding development. The requested Zoning of Single Family Residential 1 and Open Use Agricultural are also consistent with the requested Future Land Use categories, the City's Comprehensive Plan, Joint Planning Agreement with Polk County, and with surrounding development. The Planning Commission recommended approval of the Future Land Use and Zoning Map Amendments with a vote of 5 to 0, at their meeting of May 5, 2020. Staff recommended approval of the Ordinances. She went over the location map for the property. She went over the development timeline for the property. She displayed the Future Land Use Map and Zoning Map.

City Manager Green said Ordinance 1641 amends the Future Land Map on the Cone Road property and it changes the Land Use designation from Polk County Residential Low to City of Auburndale Low Density Residential Green Swamp and Conservation Wetlands Green Swamp.

Acting City Attorney John Murphy read Ordinance No. 1641, which was presented and passed on first reading on August 17, 2020, by title only.

City Manager Green said staff recommends approval of the Ordinance.

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

Motion by Commissioner Richard Hamann, and seconded by Commissioner Keith Cowie, to approve Ordinance No. 1641, as read on second and final reading. Upon vote, all ayes.

2. ORDINANCE #1642 AMENDING OFFICIAL ZONING MAP – CONE ROAD

City Manager Green said now that the Future Land Use designation has been established on the property, the City needs to establish zoning on the property. Ordinance No. 1642 amends the official zoning map of the City to establish Single Family Residential-1, RS-1 and Open Use Agricultural, OUA on the subject property.

Acting City Attorney John Murphy read Ordinance No. 1642, which was presented and passed on first reading on August 17, 2020, by title only.

City Manager Green said staff recommends approval of the Ordinance.

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

Motion by Commissioner Keith Cowie, and seconded by Commissioner Dorothea Taylor Bogert, to approve Ordinance No. 1642, as read on second and final reading. Upon vote, all ayes.

3. PUBLIC HEARING – FISCAL YEAR 2020 TAX MILLAGE LEVY AND ANNUAL BUDGET

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

Police Chief Andy Ray arrived at the meeting - 7:13 p.m.

City Manager Green said the Public Hearing has been advertised in accordance with the Florida Statutes regarding the method of fixing tax millage for the next fiscal year. This Public Hearing is the first of two required Public Hearings with the second Public Hearing scheduled for September 15, 2020. Our Regular meetings are normally held on the first and third Mondays, but our Public Hearings on the Budget and on the tax millage may not be held on the same day that the School Board or the Board of County Commission hold their meetings. We have to shift our September meetings to tonight and Tuesday, September 15. He said the proposed budget was a balanced budget. He went over the contingency changes since the August 3 meeting from \$93,495 to \$98,921 - reflective of \$5,426 savings to the City due to payroll updates. Total Revenue and Total Expenditures are \$41,447,287 before interfund transfers. General Fund expenditures total \$23,448,700 and Utility Fund expenditures total \$12,923,721. An interfund transfer of \$3,543,704 is necessary to balance both General and Utility Funds. The Water and Sewer fund is a revenue generator for the other funds. We have been looking at the Budget for six months. The various sections of the budget were presented: Payroll in May, Capital Outlay May, Expenditures in June, and Revenues in July. State law requires the Commission approve a balanced budget. For the next two years, our FY 20-21 and FY 21-22 Budget are being presented, as balanced. We used to only operate with three funds, but now operate with five funds. Each of the funds balance within their fund. The funds are: General Fund, Community Redevelopment Agency Fund, Water and Sewer Fund, General Fund Impact Fee Fund and a Utility Impact Fee Fund. He said for the proposed Ad Valorem, this was the fourth year we have not had a tax increase. We keep our millage at the 4.2515. For the 17 municipalities in Polk County, 15 have a higher tax rate than does the City of Auburndale. The proposed Ad Valorem taxes will generate \$5,490,000. The FY 2021 Budget also includes the proposed Five-Year Schedule of Capital Improvements or CIP for the City's Public Safety, Parks and Recreation and Public Works Departments. We incorporate the first two years into the two-year budget. He described how the CIP planning works. A balanced FY 2022 Budget (2nd Year Budget) is also being presented for the Commission's conceptual approval. It includes payroll, capital outlay, expenses, and revenues and is balanced. Things will happen as we go forward in this next year that cause us to adjust the

second-year budgets for the City of Auburndale. We have two ordinances to present tonight to adopt the millage rate and the annual budget. There will be a second reading of the Ordinances and another Public Hearing on September 15.

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

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

4. ORDINANCE #1643 ADOPTING FY 2020 TAX MILLAGE LEVY

Acting City Attorney John Murphy read Ordinance No. 1643 entitled: **AN ORDINANCE OF THE CITY OF AUBURNDALE, FLORIDA, ESTABLISHING THE TAX LEVY FOR THE YEAR 2020 ON ALL PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF AUBURNDALE AS SHOWN BY THE 2020 ASSESSMENT ROLL: ESTABLISHING THE MILLAGE RATE AT 4.2515, WHICH IS A 0.74% INCREASE OVER THE ROLLED BACK RATE OF 4.2203, AND PROVIDING FOR THE APPLICATION THEREOF; AND PROVIDING AN EFFECTIVE DATE**, by title only.

City Manager Green said Staff recommended approval of the Ordinance.

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

Motion by Commissioner Dorothea Taylor Bogert, and seconded by Commissioner Keith Cowie, to approve Ordinance No. 1643, as read by title only on first reading.

Commissioner Jack Myers thanked staff for all their hard work and keeping us within our means and keeping the millage rate low.

Commissioner Dorothea Taylor Bogert said she thought not increasing the millage in four years was helpful for citizens.

Upon vote, all ayes.

5. ORDINANCE #1644 ADOPTING FY 2020 & FY 2021 ANNUAL BUDGETS

Acting City Attorney John Murphy read Ordinance No. 1644 entitled: **AN ORDINANCE OF THE CITY OF AUBURNDALE, FLORIDA, ADOPTING THE FISCAL YEAR 2020-2021 ANNUAL BUDGET; CONCEPTUALLY APPROVING THE FISCAL YEAR 2021-2022 ANNUAL BUDGET; ADOPTING THE FIVE (5) YEAR SCHEDULE OF CAPITAL IMPROVEMENTS (CIP); AND PROVIDING AN EFFECTIVE DATE**, by title only.

City Manager Green said staff recommended approval.

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

Motion by Commissioner Keith Cowie, and seconded by Commissioner Jack Myers, to approve Ordinance No. 1644, as read by title only on first reading.

Commissioner Keith Cowie said he would like to thank City Staff, Finance Director/City Clerk Shirley Lowrance and her team, and Directors. As Mr. Green stated, we have been working on this for six months and he was always excited to get to this point. He said he always makes the comment that he is glad to see citizens in the audience to see how much work City staff takes to do this. He said every job they do is important but keeping the finances straight is of the utmost importance and they do an outstanding job with it. So, we appreciate that.

Upon vote, all ayes.

6. PRELIMINARY PLAT APPROVAL – LAKE JULIANA SHOPPING CENTER

Community Development Director Amy Palmer said the City has received a preliminary plat for the Lake Juliana Shopping Center located on William Van Fleet Road and County Road 559. The property is zoned Commercial Highway and is proposed for a shopping center and several commercial outparcels. The property owner is proposing to subdivide the property to allow for the sale of the lots to the developer and dedication of utility easements to the public. The preliminary plat reflects a 15' utility easement along all rights of way that will be dedicated to the public and additional right of way that has been dedicated to Polk County along William Van Fleet Road is also indicated on the plat. Two outparcels would be created and one larger parcel for the shopping center. She displayed the location for the property and plat for the property. The Lake Juliana Shopping Center plat is considered a "small lot subdivision" – where 4 or less lots front on existing public streets and are already served by existing public services. For this reason, a final plat can be approved before construction of the site and any public utilities or streets installed. The property owner is required to submit a preliminary sketch plat for review by City staff and the City Commission for approval, approval with conditions, or disapproval. Approval of the preliminary plat for the "small lot subdivision" allows the property owner to proceed with final plat approval. Construction documents and construction of the site would proceed following final plat approval. Final plat approval will come back to the City Commission at a later date. She said this is a little different than what the Commission is used to seeing, as you are used to seeing large residential subdivisions. Here we have a commercial subdivision with only three new lots and there is no public services required within the property. She said everything within the site will be private. She went over the development timeline for the property. Staff recommended approval of the Preliminary Plat for the Lake Juliana Shopping Center. She said Ms. Sara Case was present if there were any questions about the preliminary plat.

Commissioner Jack Myers said he will abstain from voting due to a financial gain on the sale of the property and be filing the appropriate form, Form 8B Memorandum of Voting Conflict.

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

Motion by Commissioner Richard Hamann, seconded by Commissioner Dorothea Taylor Bogert, to approve the preliminary plat for Lake Juliana Shopping Center.

Commissioner Keith Cowie asked about the entrance and exits for the parcels.

Community Development Director Amy Palmer said there will be two entrances along County Road 559 and one entrance on William Van Fleet Road. All the out parcels will have internal accesses.

Sara Case, representative for the developer, said she appreciated the creativity staff provided to us, allowing us to expedite this process for the current land owner and the developer and the contract for purchase with anchor tenant. This allows us to move forward pretty quickly with this plat. We are proposing two entrances on parcel 1 onto Van Fleet and that will be permitted through Polk County. We have met with transportation planning staff and engineer staff on three occasions to discuss. There will be two entrances on 559 and as you know in January it became a County road, as to always being a State road. They have approval for signalization at the intersection of William Van Fleet Road and 559. There are more entrances than Community Development Director Amy Palmer indicated.

Commissioner Keith Cowie asked if this was for ingress and egress.

Sara Case said truck movement and using the auto turn software in a semi that our anchor tenant will be using most likely if they are headed north on 559 they will enter at the south property line and service the

anchor store from behind and route through back to Van Fleet and go to the signal and either go north or south.

Commissioner Keith Cowie said he had a concern with having all those entrances and exits.

Commissioner Jack Myers asked if they had any acceleration and deceleration lanes planned for the entrances.

Sara Case said they were required to have acceleration and deceleration lanes, which is determined by Polk County and is supported by the traffic study we provided to Polk County.

Upon vote, all ayes with Commissioner Jack Myers abstaining and filing Form 8B Memorandum of Voting Conflict for County, Municipal, and other Local Public Officers, which is attached to the minutes.

7. FINAL PLAT APPROVAL – LAKEFRONT ESTATES PHASE 1

Community Development Director Amy Palmer said the City has received a final plat for the Lakeside Park Estates (Phase 1) subdivision located on Lake Ariana Blvd, south of Denton Road. The property has a zoning of Single Family Residential 3 (RS-3) and contains 38 single-family lots. The development meets all Land Development Regulations including lot size, setbacks, and sidewalk requirements. All improvements to the subdivision have been constructed and installed according to the Land Development Regulations and have been certified complete. All streets, sidewalks, retention and drainage areas will be dedicated and maintained by the Homeowner's Association. Approval of the Final Plat allows the developer to sell the lots and begin building houses. Staff recommended approval of the Final Plat for the Lakeside Park Estates subdivision. She displayed the property location and plat for the property. The plat represents 38 residential family lots and is zoned RS-3. She said everything in the subdivision is constructed, complete and is certified complete and meets the Land Development Regulations.

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

Motion by Commissioner Keith Cowie, seconded by Commissioner Richard Hamann, to approve the final plat for Lakefront Estates Phase 1. Upon vote, all ayes.

8. APPROVE CONTRACT FOR LEGAL SERVICES WITH CITY ATTORNEY

Assistant City Manager Jeff Tillman said on Monday August 31, 2020, the City Commission interviewed two candidates for the City Attorney position. Following interviews, the City Commission unanimously approved hiring Boswell & Dunlap LLP of Bartow to provide legal services for the City of Auburndale and present a contract for the City Commission to consider. The proposed Agreement for Legal Services was prepared by Attorney John Murphy and was patterned after the agreement with former City Attorney V. Patton Kee. He complimented Mr. Murphy on the contract being similar to the previous City Attorney contract. It is similar in references to services, performance evaluation, special or substitute counsel, other terms and conditions of employment, notices, general provisions, and compensation including cost of living adjustments or COLA. COLA adjustments are based on the same percentage increase given to all other management employees of the City and consistent with the previous attorney's agreement. The proposed Agreement for Legal Services designates Frederick J. "John" Murphy as the Principal Representative from Boswell & Dunlap with Warren A. "Drew" Crawford and Seth B. Claytor being Secondary Representatives to serve in the absence of Mr. Murphy. The Agreement includes a retainer fee of \$81,000 annually, an attorney hourly rate of \$170.00 per hour for litigation, and a paralegal rate of \$95.00 per hour. The fees are consistent with Boswell & Dunlap's written proposal seen during the interview process. The proposed retainer and fees are included in the FY 2020-2021 Budget. The effective date of the Proposed Agreement for Legal Services is immediately upon Commission approval. He went over the previous contract and the proposed contract and pointed out differences. The contract changes included designating Mr. Murphy as the primary representative and

Mr. Crawford and Mr. Claytor as secondary representatives, the retainer fee is modified, the reference to dental and health insurance fees has been removed, the increase of the retainer would be consistent with the increase given to all other management employees of the City, and one section was added on page 4 regarding costs over \$500 for City Manager approval. Staff had no objections to the proposed legal Agreement. Mr. John Murphy was present for any questions.

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

Motion by Commissioner Richard Hamann, seconded by Commissioner Keith Cowie, to approve the contract for Legal Services with the City Attorney. Upon vote, all ayes.

The Commissioners welcomed John Murphy.

John Murphy said he appreciated the vote of confidence. He said it makes him feel great and privileged and fortunate.

Meeting adjourned at 7:42 p.m.

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

Shirley A. Lowrance, Finance Director/City Clerk

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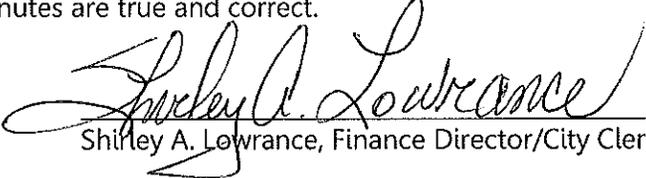
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