

City Commission Meeting November 1, 2021

Minutes of the Regular Meeting of the City of Auburndale held November 1, 2021, 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, and Jack Myers. Commissioner Richard Hamann was absent. Also, present were: City Manager Jeffrey Tillman, City Clerk/Special Projects Director Jeffrey Brown, City Attorney Frederick J. Murphy Jr., and Police Chief Andy Ray.

Mayor Tim Pospichal declared a quorum present, and the Meeting was opened with prayer by Pastor Jim Mitchell, First United Methodist Church, and a salute to the flag.

Motion by Commissioner Taylor Bogert, seconded by Commissioner Cowie, to approve the Minutes of the City Commission Meeting of October 18, 2021. Upon vote, all ayes.

City Manager Tillman gave an update on the Census population count and stated the Covid testing site at Lake Ariana Park is relocating back to the old Chamber of Commerce Building on East Lake Avenue.

Mayor Pospichal asked if there was public comment on any item not on the agenda. None was received.

Mayor Pospichal presented a proclamation Pastor Jim Mitchell recognizing "First United Methodist Church Day" on November 14, 2021, the Centennial Anniversary of the Church in Auburndale.

1. ORDINANCE #1675 AMENDING OFFICIAL ZONING MAP – CABANA CLUB

Community Development Director Fife stated In April of 2019, the City Commission approved a zoning classification of Planned Development-Recreational Vehicle Park (PD-RVP) accompanied by a binding site plan for the establishment of a recreational vehicle resort. The City has received a request from JSK Consulting on behalf of 5 Star Family Growers, LLC to modify the binding site plan for the Planned Development-Recreational Vehicle Park (PD-RVP) on (+/-37.38 acres) known as the Cabana Club.

The applicant has requested a modification to the binding site plan to allow for accessory structures of tiki huts on approximately 55 RV lots along the outer boundary of the development. Since these structures are new to the development, the applicant is required to modify the existing binding site plan. Specifically, Note #2 has been amended to read that the accessory structures are only allowed on lots on the north, northeast, and northwest boundary of the binding site plan.

The requested Zoning Map amendment and binding site plan are consistent with the City of Auburndale's Comprehensive Plan, Land Development Regulations, and the Joint Planning Agreement with Polk County. The proposed Ordinance was prepared by the Community Development Department and reviewed by the City Manager and City Attorney.

City Attorney Frederick J. Murphy, Jr. read Ordinance No. 1675, which was presented and passed on first reading on October 18, 2021, by title only.

Mayor Pospichal asked for public comment. None was received.

Motion by Commissioner Taylor Bogert, seconded by Commissioner Myers, to approve Ordinance No.1675. Upon vote, all ayes.

2. ORDINANCE #1676 AMENDING FUTURE LAND USE MAP – HENDERSON/ROWE

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Community Development Director Fife stated the subject property was originally annexed as two separate parcels. The Henderson Property was annexed into the City in March of 2021 and the Rowe Property was annexed into the City in June of 2021.

Peterson and Myers on behalf of Intersect Development Group has requested to amend the City of Auburndale's Future Land Use on +/- 72.5 acres from Polk County Future Land Use Interchange Activity Center-X (IAC-X) and Business Park Center-1X (BPC-1X) to City of Auburndale Future Land Use of Regional Activity Center (RAC). Because the property is larger than 50 acres, the City Commission held a Transmittal Public Hearing on September 9, 2021, to send the proposed Future Land Use Map amendment to the State for an expedited review. The State responded with no objections to the map amendment.

The applicant is also requesting to establish a Zoning district of Industrial Planned Unit Development (IPUD) on the +/- 72.5 acres. As required by the Land Development Regulations (LDR's) for Planned Developments, this request is accompanied by a binding site plan. The request will allow the applicant to construct a 464,400 sq. ft. E-commerce and logistics building and two research and development buildings. The binding site plan also shows 10 outparcels of various sizes for future mixed-commercial development on 15.4 +/- acres. The request for a regional e-commerce center, a research and development center, and commercial outparcels is consistent with the requested Future Land Use of Regional Activity Center. The requested Future Land Use of Regional Activity Center (RAC) and Zoning district of Industrial Planned Unit Development (IPUD) is consistent with the City's Comprehensive Plan, Joint Planning Agreement with Polk County, and with surrounding development. The proposed Ordinance was prepared by the Community Development Department and reviewed by the City Manager and City Attorney.

City Attorney Frederick J. Murphy, Jr. read Ordinance No. 1676, which was presented and passed on first reading on October 18, 2021, by title only.

Mayor Pospichal asked for public comment. None was received.

Motion by Commissioner Cowie, seconded by Commissioner Taylor Bogert, to approve Ordinance No. 1676. Upon vote, all ayes.

3. ORDINANCE #1677 AMENDING OFFICIAL ZONING MAP – HENDERSON/ROWE

City Attorney Frederick J. Murphy, Jr. read Ordinance No. 1677, which was presented and passed on first reading on October 18, 2021, by title only.

Motion by Commissioner Myers, seconded by Commissioner Taylor Bogert, to approve Ordinance No. 1677. Upon vote, all ayes.

4. RESOLUTION #2021-11 FLORIDA OPIOID PLAN MOU & SETTLEMENT

City Attorney City Attorney Frederick J. Murphy Jr. stated the City of Auburndale acknowledges that the entire State of Florida including the City of Auburndale has suffered harm as a result of the opioid epidemic.

The State of Florida has filed an action pending in Pasco County, Florida, and a number of Florida Cities and Counties have also filed an action *In re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio), pending in the United States District Court, Northern District of Ohio, Eastern Division, (the "Opioid Litigation"). The City of Auburndale is not a litigating participant in those actions.

After years of negotiations, two proposed nationwide settlement agreements ("Settlements") have been reached that would resolve all opioid litigation brought by states and local political subdivisions against the three largest pharmaceutical distributors, McKesson, Cardinal Health and AmerisourceBergen ("Distributors"),

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and one manufacturer, Janssen Pharmaceuticals, Inc., and its parent company Johnson & Johnson (collectively, "Janssen").

The proposed Settlements require the Distributors and Janssen to pay billions of dollars to abate the opioid epidemic. Specifically, the Settlements require the Distributors to pay up to \$21 billion over 18 years and Janssen to pay up to \$5 billion over no more than 9 years, for a total of \$26 billion (the "Settlement Amount"). Of the Settlement Amount, approximately \$22.7 billion is earmarked for use by participating states and subdivisions to remediate and abate the impacts of the opioid crisis.

The Settlements also contain injunctive relief provisions governing the opioid marketing, sale and distribution practices at the heart of the states' and subdivisions' lawsuits and further require the Distributors to implement additional safeguards to prevent diversion of prescription opioids.

Each of the proposed settlements has two key participation steps. First, each state decides whether to participate in the settlement. The State of Florida has joined both settlements. Second, the subdivisions within each participating state must then decide whether to participate in the settlements. Generally, the more subdivisions that participate, the greater the amount of funds that flow to that state and its participating subdivisions. Any subdivision that does not participate cannot directly share in any of the settlement funds, even if the subdivision's state is settling and other participating subdivisions are sharing in settlement funds.

The State of Florida and lawyers representing certain various local governments involved in the Opioid Litigation have proposed a unified plan for the allocation and use of prospective settlement dollars from the opioid related litigation. The proposed Florida Memorandum of Understanding (the "Florida Plan") sets forth a framework for a unified plan for the proposed allocation and use of opioid settlement proceeds within Florida, and it is anticipated that formal agreements implementing the Florida Plan will be entered into at a future date. Participation in the Florida Plan by a large majority of Florida cities and counties will materially increase the amount of funds to Florida and should improve Florida's relative bargaining position during additional settlement negotiations. Failure to participate in the Florida Plan will reduce funds available to the State, Polk County and the City of Auburndale as well as every other Florida city and county.

In addition at the local level, it is beneficial for the City to participate in a unified plan within Polk County for the allocation and use of Opioid Settlement Funds and City staff seeks approval and authorization to enter into an Interlocal Agreement with Polk County, Florida and other Municipalities within Polk County, Florida (with populations in excess of 10,000), for the County to use the Opioid Settlement Funds to more fully implement the countywide Polk County Florida Opioid Abatement Plan.

Pursuant to the settlement, the City of Auburndale is scheduled to receive \$73,169.63 over the course of 18 annual payments which pursuant to the Interlocal Agreement would be held by and utilized by Polk County, Florida to assist in implementing the Polk County, Florida Opioid Abatement Plan which was developed by stakeholders within Polk County.

City Attorney Frederick J. Murphy Jr. read Resolution #2021-11: **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AUBURNDALE, FLORIDA, MAKING FINDINGS RELATED TO THE OPIOID EPIDEMIC; ELECTING TO PARTICIPATE IN THE STATE OF FLORIDA'S PLAN FOR PROPOSED ALLOCATION AND USE OF OPIOID SETTLEMENT PROCEEDS; AUTHORIZING CITY OFFICIALS TO EXECUTE THE APPROPRIATE DOCUMENTS; PROVIDING AN EFFECTIVE DATE.**

Mayor Pospichal asked for public comment. None was received.

Commissioner Myers asked if the City will be responsible for reporting for the funding? City Attorney Murphy stated Polk County has developed an Opioid Abatement Plan and will be managing these funds.

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Motion by Commissioner Cowie, seconded by Commissioner Taylor Bogert, to approve Resolution 2021-11. Upon vote, all ayes.

5. RESOLUTION #2021-12 INTERLOCAL AGREEMENT WITH POLK COUNTY – OPIOID SETTLEMENT PROCEEDS

City Attorney Frederick J. Murphy Jr. read Resolution #2021-12: **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AUBURNDALE, FLORIDA, MAKING FINDINGS AND APPROVING THAT CERTAIN INTERLOCAL AGREEMENT BETWEEN THE CITY OF AUBURNDALE AND POLK COUNTY, FLORIDA AND OTHER POLK COUNTY MUNICIPALITIES AND AUTHORIZING THE MAYOR AND APPROPRIATE CITY OFFICIALS TO EXECUTE SAID INTERLOCAL AGREEMENT AND AUTHORIZING THE CITY MANAGER, CITY ATTORNEY, OR THEIR DESIGNEES, TO TAKE ALL OTHER NECESSARY ACTIONS REGARDING SAID INTERLOCAL AGREEMENT RELATING TO THE PAYMENT AND USE OF OPIOID LITIGATION SETTLEMENT FUNDS TO IMPLEMENT THE COUNTYWIDE POLK COUNTY, FLORIDA OPIOID ABATEMENT PLAN; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

Mayor Pospichal asked for public comment. None was received.

Motion by Commissioner Taylor Bogert, seconded by Commissioner Cowie, to approve Resolution 2021-12. Upon vote, all ayes.

6. PRESENTATION OF BIDS – HISTORIC BUILDING SURVEY

Community Development Director Fife stated in March 1995, the City completed a Historic Building Survey, which identified the City's historic resources that were at least 50 years of age or older. Historic surveys of a community are an important planning tool that help city officials and property owners make informed decisions about the historical significance of buildings and other historic resources in the community.

In May of 2020, the City Commission endorsed an application for a Small Matching Grant through the Division of Historical Resources to update the Historic Building Survey. City Staff received confirmation that the grant was awarded in July 2021 in the amount of \$50,000, and on September 17, 2021, advertised a request for proposals for a professional historic preservation consultant to conduct a historic building survey update.

Bid packages were sent to twelve (12) consultants and City Staff received bids from two firms:

Erica Mollon Consulting	\$43,450
PaleoWest	\$50,000

The consultant will be responsible for conducting a historic resources survey update, preparing a survey report, and updating or creating new Florida Master Site File forms. Erica Mollon Consulting has performed several historic resource surveys for cities in Florida and New York, and the cities referenced were all very satisfied with the firm's work.

Mayor Pospichal asked for public comment. None was received.

Motion by Commissioner Cowie, seconded by Commissioner Taylor Bogert, to award bid to Erica Mollon Consulting. Upon vote, all ayes.

The Meeting was adjourned at 7:36 p.m.

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

Jeffrey Brown, City Clerk/Special Projects Director

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EXECUTE SAID INTERLOCAL AGREEMENT AND AUTHORIZING THE CITY MANAGER, CITY ATTORNEY, OR THEIR DESIGNEES, TO TAKE ALL OTHER NECESSARY ACTIONS REGARDING SAID INTERLOCAL AGREEMENT RELATING TO THE PAYMENT AND USE OF OPIOID LITIGATION SETTLEMENT FUNDS TO IMPLEMENT THE COUNTYWIDE POLK COUNTY, FLORIDA OPIOID ABATEMENT PLAN; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

Mayor Pospichal asked for public comment. None was received.

Motion by Commissioner Taylor Bogert, seconded by Commissioner Cowie, to approve Resolution 2021-12. Upon vote, all ayes.

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Mayor Pospichal asked for public comment. None was received.

Motion by Commissioner Cowie, seconded by Commissioner Taylor Bogert, to award bid to Erica Mollon Consulting. Upon vote, all ayes.

The Meeting was adjourned at 7:36 p.m.

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


 Jeffrey Brown, City Clerk/Special Projects Director