

OCOEE CITY COMMISSION

Ocoee Commission Chambers
1 N. Bluford Avenue
Ocoee, Florida

November 7, 2023

MINUTES

6:15 PM

REGULAR CITY COMMISSION MEETING

• CALL TO ORDER 6:15 PM

Mayor Johnson called the regular session to order at 6:15 PM in the Commission Chambers of City Hall. The invocation was led by **Commissioner Hart**, followed by the Pledge of Allegiance to the Flag led by **Commissioner Wilsen**. **City Clerk Sibbitt** called the roll and declared a quorum present.

Present: Mayor Johnson, Commissioner Kennedy, Commissioner Wilsen, Commissioner Firstner, Commissioner Hart

Also Present: City Manager Frank, City Attorney Geller, City Clerk Sibbitt

• PRESENTATIONS AND PROCLAMATIONS 6:17 PM

Ocoee Day of Remembrance Proclamation, read and proclaimed by **Mayor Johnson**.

National Apprenticeship Week Proclamation, proclaimed by **Mayor Johnson**.

• STAFF REPORTS AND AGENDA REVIEW 6:20 PM

City Manager Frank announced that Consent Agenda Item #5 is being pulled at the request of the Developer, and will come back before the City Commission in December.

• PUBLIC COMMENTS 6:21 PM

The following persons addressed the City Commission:

- **Tom Lowery**, *Ocoee Resident*, spoke about the Challenge 22, an organization committed to suicide prevention. He encouraged the community to show their support by participating in the Challenge 22 Walk scheduled on Saturday. The event is being hosted by American Legion Post 63. He further reminded residents about the City's upcoming Veteran's Day event on Thursday, November 9th.
- **Jim Moyer**, *Ocoee Resident*, reiterated previous concerns about signage on the 429 and shared that he has spoken to several community leaders, and encouraged the City to also contact FDOT. He provided an update on the November Human Relations Diversity Board meeting discussions. He also encouraged residents to attend the upcoming Veteran's Day event in Ocoee as well as those events being hosted in neighboring cities.
- **Chris Buonomo**, *Ocoee Resident*, spoke about the tree removal permits for the Wesmere Community, and inquired what the obligation is for the City to renew permits that are expired. **Commissioner Firstner** proposed a ban on blanket tree removal permits not just for the Wesmere Community but for the whole City. He voiced the need for a case by case basis review of permits with justification for approval. **Mayor Johnson** suggested staff and City Officials sit with the Wesmere HOA to discuss the issue with their community.

Development Services Director Rumer addressed Commissioner Firstner's concern on blanket permits, and shared the City can bring forth an ordinance that regulates landscape removal. **City Attorney Geller** informed the City Commission that they can direct staff to come back with an ordinance that will establish a more robust criteria for tree removal. **Commissioner Kennedy** voiced support for a staff agenda item coming before them for discussion on this topic, and shared he receives numerous calls about trees. **Commissioner Hart** also voiced his support on more discussion on this topic to help come up with a solution.

Motion: Move to direct City staff to bring back a proposed ordinance amending tree permits; and further, place a moratorium on the blanket tree removal permits not involving large-scale site plans and large-scale subdivision plans. Moved by Commissioner Firstner, seconded by Commissioner Hart; Motion carried unanimously.

- **Sharon Seiter**, *Ocoee High School PTSA Legislative Chair*, spoke about an upcoming trip to Tallahassee for the Rally in Tally event, and further requested a bus sponsorship from the City to assist with costs for students attending. **Mayor Johnson** shared that each elected official has discretionary funds they can use for request of this nature and he is providing \$500 to go toward the \$1800 that is needed. He further asked if any other Commissioner would like to also match his contribution. **Commissioner Kennedy, Commissioner Firstner, and Commissioner Hart** offered to match the \$500 contribution.

• **CONSENT AGENDA 6:40 PM**

Consent Agenda Motion

Motion: Move to adopt the Consent Agenda Items #1-16 with Item #5 being pulled at the request of the Developer.

Moved by Commissioner Wilsen, seconded by Commissioner Hart; Motion carried 5-0.

1. Approval of Minutes from the Regular City Commission Meeting held October 17, 2023. **(City Clerk Sibbitt)**
2. Approval of New Appointment to the Human Relations Diversity Board (HRDB). **(City Clerk Sibbitt)**
3. Approval of Reappointments to the Parks and Recreation Board. **(City Clerk Sibbitt)**
4. Approval of a Two-Year Warranty Surety and Maintenance, Materials, and Workmanship Agreement for Ocoee Village Center Offsite. **(Development Engineer Keaton)**
5. Approval of Ocoee Village Center Agreement for Transfer of \$400,000 for the Fire Station and Non-substantial Amendment to the PUD. **(Development Services Director Rumer)**

This item was pulled at the request of the Developer and will be brought back to the December 5th Regular City Commission Meeting.

6. Approval of Identity Theft and Fraud Grant. **(Deputy Police Chief McKinstry)**
7. Approval to Relinquish Police Department Drones to FDLE for Cost Reimbursement. **(Police Chief Plasencia)**
8. Approval of Subgrant for FDOT Highway Traffic Safety Funds. **(Police Chief Plasencia)**
9. Approval of the Seventh Amendment to the Photo Enforcement Services Agreement. **(Police Chief Plasencia)**
10. Approval of Resolution for the Regulation of Roadside Memorials. **(Police Chief Plasencia)**
11. Approval of 2023-2024 Budget Equipment and Vehicle Purchases. **(Public Works Director Krug)**
12. Approval of 2023-2024 Traffic Signal Capital Improvement Projects with Control Specialists. **(Public Works Director Krug)**
13. Authorization for Microsoft Enterprise License Agreement Payment. **(Support Services Director Gaines)**
14. Approval to Piggyback Sourcewell Cooperative Purchasing Contract to Replace the Generator at the Utilities Administration Building. **(Utilities Director Croteau)**
15. Approval to Replace Mechanical Components in Clarifier 3. **(Utilities Director Croteau)**
16. Authorization to Use a Contract for Owner's Representative Services (RFP #23-005) with ZHA Incorporated for Conducting a Review of the Wastewater Operation in Conjunction with the Existing Lease with Forest Lake Golf Course. **(Utilities Director Croteau)**

• **FIRST READING OF ORDINANCE** - *None*

• **SECOND READING OF ORDINANCE – PUBLIC HEARING 6:41 PM**

17. Second Reading of Ordinance for The Backyard Annexation & Rezoning from County A-1 to City C-2 - AX-07-28-06 & RZ-23-07-06. **(Zoning Manager Whitfield)**

Zoning Manager Whitfield presented a brief overview of the proposed annexation and rezoning of the subject property which is located at 2214 West Road, on the south side of West Road, beginning approximately 50 feet east of Fountains West Boulevard, immediately east of the Duke Energy facility, and which contains approximately 1.51 acres. The property is assigned parcel ID number 06-22-28-0000-00-035. She explained that the applicant is requesting annexation into the City and rezoning from County A-1 (Citrus Rural District) to C-2 (Community Commercial District) to develop an indoor/outdoor restaurant use.

City Attorney Geller read the titles of the ordinances. He recommended to change the title block wording from "REPEALING INCONSISTENT ORDINANCES" to "PREVAILING IN THE EVENT OF ANY INCONSISTENCY".

The public hearing was opened. As no one wished to speak, the public hearing was closed.

Commissioner Kennedy inquired about the traffic study and hours of operation of the proposed business. **Zoning Manager Whitfield** addressed his questions.

Motion: Move to adopt Ordinance No. 2023-18, 2214 West Road - The Backyard Annexation; Project No. AX-07-28-06, subject to the attorney's recommended title block change and staff's recommendation; Moved by Commissioner Hart, Seconded by Commissioner Kennedy. Motion carried 5-0.

Motion: Move to adopt Ordinance No. 2023-19, 2214 West Road - The Backyard Rezoning; Project No. RZ-23-07-06, subject to the attorney's recommended title block change and staff's recommendations; Moved by Commissioner Kennedy, Seconded by Commissioner Hart; Motion carried 5-0.

• **PUBLIC HEARING 6:51 PM**

18. 606 Ocoee Apopka Road - Sports Training Facility Large Scale Preliminary Site Plan - LS-2023-007. (**Development Services Director Rumer**)

Development Services Director Rumer presented a brief overview of the subject property which is zoned I-1 (Light Industrial) and has a Light Industrial Future Land Use Map designation. Shared that it is located on the west side of Ocoee Apopka Road, approximately 1,950 feet north of the intersection of Palm Drive and Ocoee Apopka Road. The property address is 606 Ocoee Apopka Road and consists of approximately 5.185 acres of undeveloped land. He provided the future land use designations, zoning classifications, and existing land uses of the surrounding parcels, and explained that the applicant is requesting approval for a Large-Scale Preliminary Site Plan. **Development Services Director Rumer** described the proposed recreational facility size, services to be offered, and access onto the site.

The public hearing was opened.

The following person(s) addressed the City Commission:

- **Chris Adkins**, *Ocoee Resident*, inquired if this project was part of the Montierre Development, and further voiced his concerns on the road improvements needed on Ocoee Apopka Road. **Development Services Director Rumer** addressed his questions related to the road improvements being completed for the Sports Training Facility.
- **Steven Tilden**, *Ocoee Resident*, expressed support of the project and shared that Ocoee Apopka Road is a County maintained road. He inquired if there is City generated revenue from this project, and who would be developing the facility. **Development Services Director Rumer** addressed his questions.

The public hearing was closed.

Motion: Move for Approval of the proposed Large-Scale Preliminary Site Plan for the 606 Ocoee Apopka Road Sports Training Facility (Project # LS-2023-007) per staff's recommendation; Moved by Commissioner Wilsen, Seconded by Commissioner Hart. Motion carried unanimously.

Recess 7:01 PM – 7:04 PM

• **REGULAR AGENDA 7:05 PM**

19. Discussion between the City Commission and the City Attorney regarding the Evaluation of the Qualification of Candidates for Election and the Roles of the City Commission per the City Charter. **(City Manager Frank)**

City Manager Frank explained he was asked to bring this item forward to address some of the questions related to qualification of the office of City Commissioner. The qualifying period is set to start prior to their next Regular City Commission Meeting and clarification needs to be provided to the City Clerk. **Commissioner Kennedy** explained his reasons for bringing this request forward which resulted from previous discussions and the Charter revisions. He shared there is not a process which obligates qualifying concerns to come before the City Commission. **City Attorney Geller** addressed the issues related to the charter amendments that will be before the voters in 2024. He further commented on the question related to C-17 of the Charter and the vacancy of a seat. He opined that section C-17 C., Filling of vacancies. "...The successor shall serve for the unexpired term of the member who created the vacancy," are two separate people; and further, read the definition of successor as defined in Black's Law Dictionary: "A person who succeeds to the office, rights, responsibilities, or place of another; one who replaces or follows another". He explained the City Commission's authority under Section C-10 of the Charter which states that, "The City Commission shall be the judge of the election and qualifications of its member". **City Attorney Geller** advised that decisions made by the City Commission under this section "shall be subject to review by the courts". **Commissioner Kennedy** asked questions related to the residency requirement for candidates, procedures for someone to challenge the qualifications of a candidate, what powers the City Commission has, and how the City Commission would determine ineligibility of a candidate. **City Attorney Geller** addressed his questions. Discussion followed and each member of the City Commission voiced their thoughts.

The following person(s) addressed the City Commission:

- **Vivian Lyte-Johnson**, *Ocoee Resident*, shared her discontent with the U.S. and state political process, and her disagreement with the City Attorney's interpretation of "successor" in the Charter and as defined in the legal dictionary. She further expressed how she felt the voters should determine the successor.
- **Steven Tilden**, *Ocoee Resident*, commented about the Interim Commissioner and voiced concerns on the interpretations that had been made on the Charter before. He shared that as a voter he would like to be able to select the successor, and cautioned that litigation is a possibility. **City Attorney Geller** disclosed that he had not spoken to any member of the City Commission in making his interpretation. He said his interpretation was solely his own.
- **Chris Adkins**, *Ocoee Resident*, expressed that interpretations are not factual and called attention to the City Manager's residency in the Charter. He shared his support on the voter's selecting the current City Commission and opined that they were all successors to their own position. He concluded that this Charter question should have been discussed sooner than this evening. **Mayor Johnson** responded to his comment on the Charter, and explained that citizens will have the opportunity to vote.

- **George Oliver**, *Ocoee Resident*, commented on voter disenfranchisement, and voiced that interpretations in a court of law would have been handled differently than the process being discussed. **Mayor Johnson** commented that the issue this evening is not related to voter disenfranchisement as all citizens will get the opportunity to vote.
- **Brad Lomneck**, *Ocoee Resident*, commented on his attendance at almost every Charter Review Commission meeting which was open to the public so that residents may voice concerns. He advised that he brought the question to the City Attorney during a Charter Review Commission Meeting on whether the former Commissioner George Oliver could succeed himself in this upcoming election. He asked the question again to the City Attorney. **City Attorney Geller** reiterated that his understanding of the language in C-17 of the Charter, "...The successor shall serve for the unexpired term of the member who created the vacancy," is referring to two different people. **Mr. Lomneck** voiced that a process needs to be put in place, and suggested a process for reviewing all candidates after the upcoming qualification period.

Commissioner Wilsen disclosed that she has not been influenced by the City Attorney on this issue as she has not spoken to him outside the public meetings. She further voiced her support on following the Charter. **Commissioner Kennedy** also shared his support on following the Charter, and pointed out that the City was put into this situation due to the resignation of the former Commissioner.

Motion: Move, under C-17 of the Charter, with direction to the City Clerk that former District 4 Commissioner George Oliver is not eligible to qualify as a candidate in the March 2024 election to fill the vacancy he created through his resignation, but will be eligible to qualify to run in March 2025; Moved by Commissioner Kennedy, Seconded by Commissioner Wilsen.

Mayor Johnson briefly commented that he did not bring forth the issue, but that based on his understanding of the Charter, when he resigned to run years ago, his resignation was irrevocable, and explained that they all took an oath to follow the Charter.

Motion carried 4-1 with Commissioner Hart opposing.

• **COMMENTS FROM COMMISSIONERS 8:01 PM**

Commissioner Firstner – Commented on the following:

- 1) Announced the Veteran's Day Ceremony date and time.
- 2) Announced the Family Movie Night Event date and time.

Commissioner Hart – Commented on the following:

- 1) Shared excitement on the work being completed on Clarke Road.
- 2) Expressed his enjoyment at the Halloween event hosted by the City, and announced they had a record crowd.

- 3) Shared that the Ocoee Day of Remembrance Event was a beautiful event with great motivating speakers. The descendants were happy to hear about Unity Park which he feels proves that there is a healing promise in Ocoee.
- 4) Reminded residents to use proper techniques when frying turkey this Thanksgiving Day.
- 5) Noted College Football is amongst us and shared his support for his team.
- 6) Acknowledged his wife and best friend in life and announced they will be married 30 years on November 27th.
- 7) Reminded residents that if they are making home improvements to please check with the City first to confirm a permit is not needed.
- 8) Announced that he will not be running for the District 4 seat this upcoming March 2024 election due to personal reasons but he does plan to run in March 2025. He shared that serving as District 4 Commissioner has been a great honor, and further expressed his personal beliefs on being a public servant.

Commissioner Wilsen – Commented on the following:

- 1) Thanked Commissioner Hart for his inspiring comments.
- 2) Announced she would also like to contribute discretionary funds to Ocoee High School toward their Rally in Tally event as she believes advocacy and legislative issues are very important.
- 3) Announced the Jolly Jamboree date and time, and highlighted some of the fun activities.
- 4) Announced that there are openings on City Advisory Boards and encouraged citizens to consider volunteering.

Commissioner Kennedy – Commented on the following:

- 1) Shared he attended the November HRDB Meeting and felt it was one of the best HRDB meetings. He further shared his support on their vision and announced they appointed a new member this evening to the HRDB who he feels will be a great asset to the board.
- 2) Announced that he also attended the Ocoee Day of Remembrance event and it was great event hosted by Highpoint Church. The Ocoee Youth Council was also in attendance serving food and he wanted to thank them for volunteering their time. He mentioned the scholarship program to the youth council members and requested City staff to get that program in writing for them.
- 3) Announced the Ocoee Police Department Toy Drive event date and time.

Mayor Johnson – Commented on the following:

- 1) Inquired if there was a date for the Christmas lights to go up. **City Manager Frank** addressed his question.
- 2) Announced there is no Regular City Commission Meeting on November 21st and the next scheduled meeting is for December 5th. He inquired if there is a scheduled meeting on December 19th. It was answered in the affirmative. **Consensus of the City Commission was to cancel the December 19th Regular City Commission Meeting.**
- 3) Thanked City Clerk Sibbitt for attending the Ocoee Day of Remembrance Event and serving food at that event, and Commissioner Hart for being part of the event program.

- 4) He briefly commented on the City Manager's residency which was waived by the City Commission when he was hired almost 20 years ago.
- 5) He further commented that sidewalk repairs will begin again soon.
- 6) Wished everyone a Happy Thanksgiving.

• **ADJOURNMENT 8:18 PM**

APPROVED:

Attest:



Melanie Sibbitt, City Clerk

City of Ocoee



Rusty Johnson, Mayor