

1 **MINUTES OF THE ORANGE CITY PLANNING COMMISSION MEETING**, held on
2 Wednesday, February 06, 2019, at 6:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City,
3 Florida.

4
5 **1. CALL TO ORDER**

6
7 The meeting was called to order at 6:00 p.m. by Chair Laputka and roll call was taken.

8
9 **ROLL CALL:**

10
11 **PRESENT:** Chair: Tom Laputka; Commissioners: Fran Schwartz, Gaea Nunez, Amy Campbell,
12 Wesley Kihlmire, Staff Members: Rebecca Mendez, Development Services Director,
13 Carol McFarlane, City Planner, Neysa Borkert, City Attorney, Melani Beringer, Deputy
14 City Clerk.

15
16 Absent: Commissioner Stafford and Commissioner Mazzie.

17
18 **2. PLEDGE OF ALLEGIANCE**

19
20 **3. PRESENTATIONS**

21
22 A. Michelle Polgar Public Service Recognition

23
24 Chair Laputka presented Michelle Polgar with a Certificate of Appreciation in recognition for her years
25 of service, loyalty and dedication to the City of Orange City. Ms. Polgar served on various boards in
26 2007-2011 and 2016-2018.

27
28 **4. APPROVAL OF MINUTES** January 02, 2019

29
30 Commissioner Nunez requested an amendment to the January 02, 2019 minutes. She clarified that at the
31 meeting she asked Ms. Mendez a question regarding the tree amendment. Ms. Mendez response to that
32 question is what rendered Commissioner Nunez “no” vote. She requested that comment to be noted in
33 the minutes.

34
35 **Commissioner Schwartz moved to approve the minutes of the January 02, 2019**
36 **Planning Commission meeting, as amended, seconded by Commissioner Kihlmire**
37 **and passed by a 5/0 roll call vote of the Planning Commission.**

38
39 **5. PUBLIC HEARINGS**

40
41 None at this time.

42
43 **6. DISCUSSION ITEMS**

44
45 A. Discussion #2 on Land Development Code text amendment to regulate donation bins.
46

1 Becky Mendez, Development Services Director, provided a PowerPoint presentation (a copy of which is
2 attached and becomes a permanent part of these minutes). Ms. Mendez noted that the bins will be referred
3 to as “collection bins” instead of “donation bins”. Ms. Mendez reported that the collection bins cannot
4 be banned within the City, however, they can be regulated.

5
6 Ms. Mendez advised that at the January Planning meeting, the Commission decided that the collection
7 bin regulations should include; a definition of collection bin, allowable zoning districts, bin size and
8 required maintenance.

9
10 Ms. Mendez provided a draft collection bin permit application (a copy of which is attached and becomes
11 a permanent part of these minutes).

12
13 William Reischmann, City Attorney, referenced a statement made by a representative affiliated with the
14 collection bins presently in the City, that the requirements are restraints. Mr. Reischmann stated, “There
15 are no laws that state this requirement, in this portion of the Code, explained by Ms. Mendez is a prior
16 restraint.”

17
18 Ms. Mendez continued her presentation by describing the list of permit requirements.

19
20 Commissioner Schwartz suggested requirements for bin removal during hurricanes. Ms. Mendez
21 responded that requirement will be considered.

22
23 A discussion ensued regarding donation bin restraints during hurricanes.

24
25 Ms. Mendez stated that staff recommends the Commission discuss and provide input in order to schedule
26 this matter for a public hearing.

27
28 Brian Papenfuss, Market Team Manager for ATRS, came forward to state that ATRS is 100% in favor
29 of regulating donation bins. Mr. Papenfuss stated that obtaining a notarized letter from property owners
30 could cause an issue.

31
32 Commissioner Campbell asked for the percentage of profit revenue that the charities receive from the
33 donations.

34
35 Mr. Papenfuss replied that the revenue amount varies to market costs.

36
37 B. Florida Sunshine Law recap

38
39 Mr. Reischmann reviewed the Florida Sunshine Law for the new Commissioners. He highlighted four
40 major categories of concern for public officials; 1. Ethics 2. Sunshine Law 3. Public Records 4. Quasi-
41 Judicial Hearing.

42
43 Mr. Reischmann noted that the two important points about ethics are voting conflicts and gifts. In a quasi-
44 judicial hearing, if a matter arose from which a commissioner would gain financial benefit, the
45 commissioner would declare a voting conflict, fill out said form within 15 days and submit to the Clerk’s
46 office.

1 Mr. Reischmann advised that gifts given quid pro quo are also prohibited. It is illegal to receive any gifts
2 with the understanding that it is for a return of favor. If a gift is not quid pro quo it can be received but
3 must be reported on the annual financial disclosure forms.
4

5 Mr. Reischmann stated that the Planning Commission is a governmental Sunshine body, similar to the
6 City Council and are required to meet “in the sunshine.” Any communication between two or more
7 members of the Commission is prohibited outside of the meetings. Mr. Reischmann explained that this
8 includes emails, phone calls, texts or any social media communication. The consequences of violating
9 the Sunshine law means that any decision being made may be deemed null and void.
10

11 Mr. Reischmann stated that public records are kept by the custodian of the records which is the City
12 Clerk’s office. Public Records are any social media, notes taken at a meeting and emails about Planning
13 Commission business. Mr. Reischmann advised that if the Commission are using their personal
14 communication devices to send public records to anyone and or each other, the messages must be
15 forwarded to the City Clerk’s office for retention and then deleted from the device.
16

17 Commissioner Nunez suggested Orange City emails be assigned to all members of the Planning
18 Commission.
19

20 Mr. Reischmann and Ms. Mendez agreed and stated the matter will be discussed in order to provide the
21 Commission with a personal iPad and city issued email account.
22

23 Mr. Reischmann stated that in a quasi-judicial hearing the Commission creates the rules for the cases
24 brought forward. He provided a detailed explanation of the quasi-judicial hearing process.
25

26 Ms. Mendez stated that the criteria for variances of conditional uses and rezoning are very specific in the
27 Land Development Code. She noted that staff tries to provide answers to the Commission. Ms. Mendez
28 noted that it is necessary to reference a criteria with an application denial.
29

30 **7. STAFF/COMMISSION COMMENTS**

31

32 Commissioner Kihlmire thanked staff for their excellent work on the proposal. He agreed with
33 Commissioner Nunez comment about keeping the property owner’s notarized statement in the documents
34 pertaining to the collection bins. He noted that the bins are 150 cubic feet.
35

36 Commissioner Nunez stated that staff did a great job on the ethics presentation. She committed to read
37 the entire ethics binder.
38

39 Commissioner Campbell stated that she is in favor of having a City issued email account.
40

41 Commissioner Schwartz commented that she joined the Mayors Fitness Challenge.
42

43 Chair Laputka stated that there were good comments this evening and a good discussion.
44

45 **8. CITIZEN COMMENTS**

46

1 **9. ADJOURNMENT**

2
3 There being no further business to discuss, Chair Laputka adjourned the meeting at 7:37 p.m.

4
5 **RESPECTFULLY SUBMITTED:**

APPROVED ON

6
7 _____
8 Melani Beringer
9 Deputy City Clerk

_____ 03-06-2019
Date