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

1. CALL TO ORDER

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

ROLL CALL:

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

Absent: Commissioner Stafford and Commissioner Mazzie.

2. PLEDGE OF ALLEGIANCE

3. PRESENTATIONS

A. Michelle Polgar Public Service Recognition

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

4. APPROVAL OF MINUTES January 02, 2019

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

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

5. PUBLIC HEARINGS

None at this time.

6. DISCUSSION ITEMS

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

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

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

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

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

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

A discussion ensued regarding donation bin restraints during hurricanes.

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

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

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

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

B. Florida Sunshine Law recap


Mr. Reischmann noted that the two important points about ethics are voting conflicts and gifts. In a quasi-judicial hearing, if a matter arose from which a commissioner would gain financial benefit, the commissioner would declare a voting conflict, fill out said form within 15 days and submit to the Clerk’s office.
Mr. Reischmann advised that gifts given quid pro quo are also prohibited. It is illegal to receive any gifts with the understanding that it is for a return of favor. If a gift is not quid pro quo it can be received but must be reported on the annual financial disclosure forms.

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

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

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

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

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

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

7. STAFF/COMMISSION COMMENTS

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

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

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

Commissioner Schwartz commented that she joined the Mayors Fitness Challenge.

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

8. CITIZEN COMMENTS
9. ADJOURNMENT

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

RESPECTFULLY SUBMITTED:

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APPROVED ON

03-06-2019

Date

Melani Beringer
Deputy City Clerk