



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

February 25, 2021

REGULAR MEETING of the Winter Garden City Commission was called to order by Mayor Rees at 6:30 p.m. at City Hall, 300 West Plant Street, Winter Garden, Florida. An Opening Invocation and Pledge of Allegiance were given.

Present: Mayor John Rees and Commissioners

Lisa L. Bennett – District 1

Bob Buchanan – District 2

Mark A. Maciel – District 3

Colin Sharman – District 4

Also Present: City Manager Mike Bollhoefer, City Attorney A. Kurt Ardaman, City Clerk Angee Grimage, Assistant City Manager of Administrative Services Frank Gilbert, Assistant City Manager of Public Services Jon Williams, Community Development Director Stephen Pash, Economic Development Director Tanja Gerhartz, Finance Director Laura Zielonka, Information Technology Director Chad Morrill, and Police Chief Stephen Graham

This meeting overlapped with an Executive Attorney/Client Session. There was a public hearing, summarization of decision and motion made. The session adjourned at 6:32 p.m. (See separate Executive Session minutes).

1. **APPROVAL OF MINUTES**

Motion by Commissioner Buchanan to approve regular meeting minutes of February 11, 2021 as submitted. Seconded by Commissioner Maciel and carried unanimously 5-0.

2. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 21-10:** AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE II, PENSION PLAN FOR GENERAL EMPLOYEES, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-31, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 54-32, PRE-RETIREMENT DEATH BENEFITS; AMENDING SECTION 54-35, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 54-40, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 54 - 52 , RE- EMPLOYMENT AFTER RETIREMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 21-10 title only. City Manager Bollhoefer informed of the need to correct scrivener's errors and requested postponement of this item.

Motion by Commissioner Buchanan to POSTPONE Ordinance 21-10. Seconded by Commissioner Bennett and carried unanimously 5-0.

- B. **Ordinance 21-11:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, ESTABLISHING VEHICLE CLASSIFICATION AND WEIGHT LIMITATIONS ON A CERTAIN PORTION OF MARSH ROAD IN ACCORDANCE WITH SECTION 316.555, FLORIDA STATUTES; PROHIBITING USE OF A CERTAIN PORTION OF MARSH ROAD BY CLASS 6, 7, 8, 9, 10, 11, 12, AND 13 VEHICLES IN ACCORDANCE WITH THE FEDERAL HIGHWAY ADMINISTRATION VEHICLE CLASSIFICATIONS, AND ADOPTING CERTAIN VEHICLE WEIGHT LIMITATIONS; PROVIDING FOR FINDINGS SUPPORTING SUCH VEHICLE CLASSIFICATION AND WEIGHT LIMITATIONS; PROVIDING FOR STAFF AUTHORIZATION, SEVERABILITY, CONFLICTS, NON-CODIFICATION, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 21-11 by title only. City Manager Bollhoefer stated that at the last meeting the City Commission passed a resolution to implement truck restrictions on Marsh Road. A further review found a few minor errors in its details. An ordinance was drafted in an effort to correct the errors. Mr. Bollhoefer noted that Assistant City Manager of Public Services Williams would present the new plan, which had also been reviewed by the City's Attorney.

Assistant City Manager of Public Services Williams displayed an aerial view of Marsh Road. He described restricted zones, areas of advanced warnings, and areas for a vehicle's safe turnaround.

City Manager Bollhoefer stated that this ordinance accomplishes the same thing as the resolution and it meets State law. He disclosed receiving calls from the City Manager of Clermont, the Mayor Pro Tem of the City of Clermont, and the County Manager of Lake County. He noted informing them of his intent to recommend approval of the ordinance for the first reading. Staff would then meet with the other agencies, including Titan and the Sand Mine, to hear other ideas they might have that would address this issue. He noted some attended in order to address the issue.

Commissioner Sharman noted sending an email to the City Clerk capturing 173 comments, which he states, were 99 percent in favor of the City moving forward with the Ordinance. He advised that these comments were from City of Winter Garden residents as well as residents of Clermont.

Mayor Rees noted that this is not a public hearing, but offered an opportunity to anyone wishing to speak in representation of the truckers, the sand mine, or their legal teams.

Tim Bates, Mayor Pro Tem of the City of Clermont, Florida stated that he humbly requests rescinding Resolution 21-03, tabling Ordinance 21-11, and scheduling discussions or a workshop on the matter. He noted how this also effects the City of Clermont and Lake County residents. He requested an opportunity to work with our neighbors in addressing these mutual concerns.

Vic McCoil, Bishop and Buttrey, Inc., 933 Lee Road, Orlando, Florida, asked the City of Winter Garden not to move forward with restrictions and requested a rescission of the

Resolution. He spoke of 20 years working with Titan and the Sand Mines, the outstanding company contracts, individual truck operations, and restriction from a road built for the purpose of use by the trucks. He described the impact rerouting traffic would have on other communities and nearby schools.

Brett A. Minzner, 1680 Cranleigh Drive, Winter Garden, Florida noted being a resident of Winter Garden for 15 years and has currently living in Sanctuary at Twinwaters for less than a year. He spoke of a recent renewal of the sand mine contract, its location in the City of Clermont, which is in Lake County, and both to whom taxes are paid. He questioned if any considerations, at the renewing of the contract, were made for the sand mine communicating with the residents and government of the City of Winter Garden. He addressed loud truck decibels, a created shortcut with the recent addition of on and off ramps to State Road 429. He spoke of the travel route the trucks should use and current damage the make to City of Winter Garden roads.

Ernest Phillips, 16725 Toccoa Row, Winter Garden, Florida, addressed the number of trucks daily, damage to the road, which is only two lanes, and in a residential area.

Brian Bleakney, Plant Manager for Center Sand Mine, 16375 Hartwood Marsh Road, Clermont, Florida stated that this road has been used since 1969. He noted that Titan Florida, which owns their company, has a ready mix plant in Winter Garden, one of their largest customers is based in Winter Garden and one of their largest independent trucking companies, which would be impacted, resides in Winter Garden. He expressed that many employees would be impacted because of this decision and thinks it should be tabled until discussions and a resolution can be determined.

Carlos Vila, 16725 Sanctuary Drive, Winter Garden, Florida, addressed prior comments about the impact on schools from the rerouting of the truck traffic and the current impact on Whispering Oaks Elementary. He addressed said businesses to be impacted and how they do not pay for damage to the roads or to the City they affect. Mr. Vila shared news of a recent Clermont accident with two deaths involving a dump truck, noting that it was on a two-laned road not designed for heavy traffic.

Fred Schneider, Public Works Director for Lake County, noted that he wanted to enter into the record a letter from Commissioner Sean Parks of the Lake County Board of County Commissioners sent to Mayor John Rees of City of Winter Garden. He spoke of plans between Lake County and Orange County over a number of years to build a construction addition on east-west routes; noting a signed Memorandum of Understanding. He described these roads, their status, and this as an effort already in place to help address these issues.

Susan Stephens, Law firm of Hopping Green & Sams, on behalf of Titan Florida, stated that they appreciate the effort to outreach and have a workshop. She requested the

rescinding of Resolution 21-03. She spoke of the loss of contracts, impact on operations and tripled distances. She noted that they could not afford a shutoff of this route. She requested the tabling of Ordinance 21-11 until after the workshop and dialogue that produces a solution workable for everyone. She addressed sand truck traffic, a recent traffic study, review of the issue and potential solutions. She noted that should there be an abrupt shutoff as a result of Resolution 21-03 not being rescinded, and no opportunity for dialogue, they would have to file a lawsuit. She noted that the company and truckers operate on a very small margin, directly connected to the cost of transportation and every mile matters.

Dante Sevi, Tuscan Sun Enterprises, 1724 S. Bumby Avenue, Orlando, Florida, noted being a transportation logistics contractor in the business for almost 34 years. He disclosed contracting with thousands of owner-operators who would be affected by this Ordinance as well as the mines that would be affected. He noted years of hauling on this road and expressed that it never fell apart. He shared that they provide aggregate to the building and construction industry. He shared that contracts, one to two years out, would be affected and he requested tabling the Ordinance.

Alex Sica, 16702 Toccoa Row, Winter Garden, Florida, addressed those he noted to be disenfranchised by the route change and spoke of their reckless driving and speeding.

Sean Brazil, 17337 Bal Harbour Drive, Winter Garden, Florida, confirmed prior statements about the daily noted 1400 trucks driving behind his home which backs up to Marsh Road. He noted the effects on his family, debris lost from the truck's load, lack of safety for motorcyclists due to sand on the roads, noise levels at 4:00 a.m. as trucks near the roundabout. He expressed that they cannot live like this and he fully supports the Ordinance.

Debra Young, 16720 Toccoa Row, Winter Garden, Florida, noted that she thought she would be safe moving near a roundabout. She expressed her fear of the big trucks, the trucks approaching at high speeds and tailgating her. She spoke in favor of not rescinding the Resolution, moving forward on the Ordinance and having discussions for a solution.

Mary Griffin, of Bishop & Buttrey, Inc., disputed the total of 1400 plus trucks a day as previously noted and spoke of the necessity for trucks and their deliveries in our daily lives.

Maritza Sainte-Hillaire, 16719 Toccoa Row, Winter Garden, Florida, spoke of the trucks that have been driving these roads for years but feels it is unfair and insensitive to use this as an excuse. She spoke of a need for co-existing, 1400 plus trucks a day and the noise levels. She addressed the climate being that people now work from home, buyers

regret not being a factor, and discontinuance of the street as a shortcut and/or pass-through. She is in favor of moving forward with the Ordinance.

Glenn Harris, 16720 Toccoa Row, Winter Garden, Florida, he noted being shocked at the truck traffic, spoke of the number of trucks moving east and west, and the difference in routes on a commercial road versus a two-lane road. He is in favor of moving forward with the Ordinance.

George Mas, 16851 Sanctuary Drive, Winter Garden, Florida, spoke of the speeding trucks and the unsafe conditions of some of the trucks tires. He noted the nature of the business would not change; it is about getting back and forth as quickly as possible and about the money. He expressed that lives are worth more than that.

Cecil Griffin noted that he is a resident of Ocoee and a truck driver of this road for many years. He noted that this was never a problem until those trucks helped build those subdivisions. He encouraged an increase in law enforcement, noting him as a truck driver also being tailgated as he drives the speed limit.

Mayor Rees closed the hearing from the public at this point in the meeting.

City Manager Bollhoefer spoke of the service areas for these mines but noted the City of Winter Garden as acquiring an unfair share of the truck traffic. He spoke of the County placing bans on certain roads. He surmised that the times have changed for these City roads and they have become more local roads. He shared a 14 year old discussion he had with the then Lake County Commissioner Bob Poole regarding issues with Marsh Road. That Commissioner had informed him that the problems were his and he should deal with them. Mr. Bollhoefer stated that this is what sparked discussions and actions on how to deal with this issue and roundabouts would help make it a local road.

Mr. Bollhoefer thanked the last speaker who stated he did not speed on Marsh Road; noting he is one of the 15 percent that were not speeding. He shared that he understands that truckers have to make a living but expressed that they have not been good neighbors. He stated that out of the approximate 1400 trucks, 85 percent of the drivers on this road exceed the speed limit.

Mr. Bollhoefer recommended approval of Ordinance 21-11, which would rescind the resolution by nature of the Ordinance itself. He expressed that tabling this item may lead to prolonged time and nothing being done. If this Ordinance is passed, and there is a potential of having the road closed; things would work faster for solutions and a decision could be made in two weeks.

Commissioner Sharman believes everyone is aware of his stance on this issue, but quoted comments he made to the Orlando Sentinel: *"This is about safety. Imagine your*

child playing in this area with all these trucks, they [being truck drivers] just can't stop. It is more important as we have more people move in the area and their homes are built, that we think about their safety".

City Manager Bollhoefer noted that Commissioner Maciel inquired of the lawsuit. Mr. Bollhoefer noted that his assumption is that an injunction would be requested and the issue would then move on into the courts; which he stated is one of the risks of moving forward. He suggested approving the Ordinance; noting that the law still would not have gone into effect.

City Attorney Ardaman noted that the Resolution is in effect and the Ordinance has not been adopted until the second reading. He noted that this would allow the City to meet with City of Clermont, Lake County, Titan and other interested parties. He advised meeting, and doing so in good faith. He stated that should Titan select to proceed with the lawsuit, the City would deal with that, but given the safety concerns and the impact upon the City roads, City residents and City businesses, it would be a mistake to rescind the resolution. Mr. Ardaman summarized the current effects of the resolution and future effects of adopting the Ordinance; noting that the adoption of the Ordinance would in and of itself rescind the Resolution.

There was discussion that a lawsuit would be in bad faith and an aggressive act that would end discussions. Mayor Rees noted that the intent is to set up meetings next week. City Manager Bollhoefer noted possibly holding off on enforcement during the two weeks of discussion, but requested that in the meantime have the truckers review whether there would be anything they can do about the traffic and also abide by the rules.

Motion by Commissioner Sharman to approve Ordinance 21-11 with the second reading and public hearing March 11, 2021 at 6:30 p.m. Seconded by Commissioner Buchanan and carried unanimously 5-0.

Mayor Rees commented that he hopes the discussions next week are fruitful.

3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES

- A. **Ordinance 21-06:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.46 ± ACRES LOCATED AT 1060 TILDENVILLE SCHOOL ROAD, WEST OF TILDENVILLE SCHOOL ROAD, SOUTH OF CIVITAS WAY, NORTH OF E OAKLAND AVE, AND EAST OF LAKE BRIM DRIVE INTO THE CITY OF WINTER GARDEN, FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
- B. **Ordinance 21-07:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE

PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS APPROXIMATELY 0.46 ± ACRES LOCATED AT 1060 TILDENVILLE SCHOOL ROAD, WEST OF TILDENVILLE SCHOOL ROAD, SOUTH OF CIVITAS WAY, NORTH OF E OAKLAND AVE, AND EAST OF LAKE BRIM DRIVE FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

- C. **Ordinance 21-08:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING REAL PROPERTY GENERALLY DESCRIBED AS APPROXIMATELY 0.46 ± ACRES LOCATED AT 1060 TILDENVILLE SCHOOL ROAD, WEST OF TILDENVILLE SCHOOL ROAD, SOUTH OF CIVITAS WAY, NORTH OF E OAKLAND AVE, AND EAST OF LAKE BRIM DRIVE FROM ORANGE COUNTY A-1 CITRUS RURAL DISTRICT TO CITY R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 21-06, 21-07, and 21-08 by title only. Community Development Director Pash stated that this is a voluntary annexation of property located at 1060 Tildenville School Road. He noted that there is also an annexation agreement attached to this item allowing the existing office to remain. He noted that the zoning is R-1 with low-density residential future land use. Staff recommends approval of Ordinances 21-06, 21-07, 21-08 and the annexation agreement.

Mayor Rees opened the public hearing; reading a dedicated phone number and instructions for the public's participation in this meeting. After waiting and receiving no public calls or comments, he closed the public hearing.

Motion by Commissioner Sharman to adopt Ordinances 21-06, 21-07, and 21-08 and Annexation Agreement. Seconded by Commissioner Bennett and carried unanimously 5-0.

- D. **Ordinance 21-09:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING REAL PROPERTY GENERALLY DESCRIBED AS APPROXIMATELY 0.25 ± ACRES LOCATED AT 503 S MAIN STREET, AT THE SOUTHEAST CORNER OF S MAIN STREET AND E VINING STREET, FROM R-2 RESIDENTIAL DISTRICT TO R-NC RESIDENTIAL-NEIGHBORHOOD COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 21-09 by title only. Community Development Director Pash stated that this is a request to rezone property located at 503 S. Main Street from R-2 to RNC. This proposal is consistent with the existing future land use designation. Staff recommends approval of Ordinance 21-09.

Mayor Rees opened the public hearing; reading a dedicated phone number and instructions for the public's participation in this meeting. After waiting and receiving no public calls or comments, he closed the public hearing.

Motion by Commissioner Bennett to adopt Ordinance 21-09. Seconded by Commissioner Sharman and Commissioner Buchanan simultaneously and carried unanimously 5-0.

4. **REGULAR BUSINESS**

- A. Recommendation to approve SITE PLAN for 450 Lakeview Road (Golden Pond Phase 2 ALF), subject to conditions

Community Development Director Pash requested addressing Item 4.A and 4.B together.

- B. Recommendation to approve Road Construction Agreement for development of Phase 2 for the Golden Pond Assisted Living Facility

Community Development Director Pash stated that Item 4.A is the site plan for Golden Pond Phase 2 Assisted Living Facility (ALF) and Item 4.B is a Road Construction Agreement. He described the site plan, noting the proposed improvements such as an approximately 33,000 square foot building, 60-bed assisted living facility, parking, pond and a new road. He described the Road Construction Agreement requirements, noting that the developer would build the road and the City would credit them for the impact fees for the 60 beds. He stated that the rest of the road would be dedicated to the City through the final plat. Mr. Pash displayed an aerial of the site and noted that the construction would remove certain trees. The proposed development is consistent with the approved planned unit development (PUD) and staff would recommend approval, subject to conditions.

Commissioner Buchanan inquired about one of the roads coming to a dead end. City Manager Bollhoefer responded with information on the intent of the property owners next door allowing a connection to help with the grid system long term. There was discussion that this would eventually lead to the West Orange Trail and to Tildenville School Road.

City Attorney Ardaman noted a correction to Section 2 of the Road Construction Agreement. He read and excerpt stating that it should read "*prior to any certificates of occupancy*".

Motion by Commissioner Buchanan to approve SITE PLAN and Road Construction Agreement for development of Phase 2 for the Golden Pond Assisted Living Facility. Seconded by Commissioner Maciel and carried unanimously 5-0.

- C. Recommendation to approve RFP rankings and awarding Construction Services Contract for Bradford Park and Lulu Creek Erosion Control to Southern Development & Construction, Inc. in the amount of \$861,300 which includes a 10 % contingency

Assistant City Manager of Public Services Williams stated that staff completed the request for proposal process for construction services at Bradford Park and Lulu Creek. The project consists of replacing a 54" pipe, installing end walls, control structures and

rip rap. Three companies responded with submittals for this contract and were ranked as follows: Number 1 - Southern Development & Construction, Inc., Number 2 - Cathcart Construction Company of Florida, LLC, and ranked number 3 - TD Thomson Construction Company, Inc.

Mr. Williams noted that during the submittal process, a request to provide a bid alternate for the use of flexible concrete mat versus Rip Rap was requested of each responder. Mr. Williams noted the comparisons and stated that staff recommends approving the RFP rankings and awarding Construction Services Contract to Southern Development and Construction, Inc.

Commissioner Buchanan inquired about the longevity of the flexible mat. Mr. Williams noted that it depends on the ability for water getting behind the mat. There was discussion that the Rip Rap is more sustainable in the long term and it costs less.

Motion by Commissioner Sharman to approve RFP rankings and awarding Construction Services Contract for Bradford Park and Lulu Creek Erosion Control to Southern Development & Construction, Inc. in the amount of \$861,300, which includes a 10 % contingency. Seconded by Commissioner Bennett and carried unanimously 5-0.

D. Recommendation to approve Shop, Dine & Stroll Sidewalk Sale - Saturday, March 27, 2021

Community Development Director Pash stated that this is a special event request for a sidewalk sale on March 27, 2021 from 8:00 a.m. to 9:00 p.m. He noted that there would be no street closures and it is an event to allow all merchants to come out and display their merchandise on the sidewalk. City Manager Bollhoefer noted their past success for the merchants.

Motion by Commissioner Bennett to approve Shop, Dine & Stroll Sidewalk Sale - Saturday, March 27, 2021. Motion seconded by Commissioner Buchanan and carried unanimously 5-0.

5. **MATTERS FROM PUBLIC** – There were no items.

Mayor Rees opened the public hearing; reading a dedicated phone number and instructions for the public's participation in this meeting. After waiting and receiving no public calls or comments, he closed the public hearing.

6. **MATTERS FROM CITY ATTORNEY** – There were no items.

7. **MATTERS FROM CITY MANAGER** – There were no items.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Sharman shared an update on recently discovered scientific data regarding airborne virus deactivation by the Phenomenal Aire unit he personally donated to the City for use in its public chambers.

The meeting adjourned at 7:47 p.m.

APPROVED:

/s/

Mayor John Rees

ATTEST:

/s/

City Clerk Angee Grimmage, CMC