

**CITY COMMISSION AGENDA
CITY OF WINTER GARDEN
TANNER HALL
29 W. Garden Avenue
(REVISED 8/7/07)**

REGULAR MEETING

August 9, 2007

6:30 P.M.

CALL TO ORDER

Roll Call and Determination of a Quorum

Invocation and Pledge of Allegiance

1. **APPROVAL OF MINUTES**

Regular Meeting of July 26, 2007

2. **PRESENTATION**

Community services provided by the Winter Garden Heritage Foundation (*added on 8/7/2007*) – Ms. Cappleman

3. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

A. **Ordinance 07-27:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA; VACATING THE SOUTHERLY FIVE FEET OF THE TEN FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE NORTHERNMOST PROPERTY LINE, LESS 5 FEET OF THE EASTERN AND WESTERN PROPERTY LINES OF 1200 THORNBURY COURT, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for August 23, 2007** – City Planner Williams

4. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

A. **Ordinance 07-39:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 88 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO SITE INSPECTION FEES AND REGULAR WORKING HOURS BY AMENDING THE FOLLOWING SECTIONS THEREOF: 88-8(1) SITE PLAN REVIEW FEES, 88-8(2) PLATTING REVIEW FEES, AND 88-14 ADDITIONAL FEES FOR ROAD, DRAINAGE, WATER, OR WASTEWATER FACILITIES SITE INSPECTION; PROVIDING FOR CODIFICATION, CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE – Assistant City Engineer Kelley

4. **REGULAR BUSINESS**

A. Requests for donation by the West Orange High School Choral Department – Phyllis Eury and Teresa Troncoso

B. Recommendation to approve the final plat with conditions for Stoneybrook West Unit 8 (Parcel 17) located along CR 545 – City Planner Williams

C. Recommendation to approve a Right-of-Way Maintenance Agreement, Hold Harmless and Indemnity Agreement, Road and Utility Easement Agreement, and Amendment #1 to

the Developer's Agreement for Johns Lake Pointe located along CR 545 – City Planner Williams

- D. Recommendation to approve the final plat with conditions for Johns Lake Pointe located along CR 545 – City Planner Williams
- E. Recommendation to approve a Right-of-Way Maintenance Agreement for Oakland Park Phase 1A located on the east side of CR 545 (Postponed from July 26, 2007) – City Planner Williams
- F. Recommendation to approve the final plat with conditions for Oakland Park Phase 1A located on the east side of CR 545 **AND** approval of an Environmental Contamination Hold Harmless and Indemnity Agreement (Postponed from July 26, 2007) – City Planner Williams
- G. Recommendation to approve Change Order #1 to the Annual Construction Services Contracts with T. D. Thomson and Emerald Utilities and setting the priced unit costs – Public Services Director Cochran
- H. Recommendation to approve BRPH Construction Services, Inc., Clancey & Theys Construction Company, and Wharton-Smith, Inc, as pre-qualified general contractors for the City of Winter Garden for a period of five years – City Manager Bollhoefer
- I. Recommendation to approve a new two-year contract with City Manager Michael Bollhoefer – Mayor Quesinberry

5. MATTERS FROM CITIZENS

6. MATTERS FROM CITY ATTORNEY – Kurt Ardaman

8. MATTERS FROM CITY MANAGER – Mike Bollhoefer

- A. Vacancy on the MetroPlan Orlando Citizens' Advisory Committee

9. MATTERS FROM MAYOR AND COMMISSIONERS

- 10. **ADJOURN** to a Budget Workshop for Fiscal Year 2007/08 immediately following this meeting and to a regular City Commission meeting on Thursday, August 23, 2007 at 4:00 p.m. in City Hall Chambers

Please Note: In accordance with Florida Statutes 286.0105: Any person who desires to appeal any decision at this meeting will need a record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based, which such written record is not provided by the City of Winter Garden.

Also, in accordance with Florida Statute 286.26: Persons with disabilities needing assistance to participate in any of these proceedings should contact the Office of the City Clerk, 251 W. Plant Street, Winter Garden, FL 34787, (407) 656-4111 x 2254 48 hours in advance of the meeting.

ORDINANCE 07-27

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA; VACATING THE SOUTHERLY FIVE FEET OF THE TEN FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE NORTHERNMOST PROPERTY LINE, LESS 5 FEET OF THE EASTERN AND WESTERN PROPERTY LINES OF 1200 THORNBURY COURT, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the owner of property generally known as 1200 Thornbury Court, Winter Garden, Florida, has petitioned the City of Winter Garden to partially vacate the drainage and utility easement of said property and legally described in Section I below, and

WHEREAS, after due consideration of public comment given at an advertised public hearing, the City has determined that the aforesaid easement is not needed,

THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA:

SECTION I - The City of Winter Garden hereby vacates all interest in the aforesaid easement as legally identified as follows:

THE PLATTED SOUTH WEST CORNER OF LOT 23, TUSCANY PHASE 2 ACCORDING TO PLAT BOOK 36 AT PAGE 66 IN THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN S 89°47'30"E ALONG THE SOUTH LINE OF SAID LOT 23 A DISTANCE OF 26.00 FEET; THENCE LEAVING SAID SOUTH LINE, RUN N 00°12'30"E A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 00°12'30"E A DISTANCE OF 5.00 FEET; THENCE S 89°47'30"E A DISTANCE OF 45.50 FEET; THENCE S 00°12'30"W A DISTANCE OF 5.00 FEET; THENCE N. 89°47'30 W A DISTANCE OF 45.50 FEET TO THE POINT OF BEGINNING.

SECTION II - Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION III: This Ordinance shall become effective upon adoption at its second reading.

READ FIRST TIME: _____, 2007.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2007.

APPROVED:

JACK QUESINBERRY, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ORDINANCE # 07-39

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 88 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO SITE INSPECTION FEES AND REGULAR WORKING HOURS BY AMENDING THE FOLLOWING SECTIONS THEREOF: 88-8(1) SITE PLAN REVIEW FEES, 88-8(2) PLATTING REVIEW FEES, AND 88-14 ADDITIONAL FEES FOR ROAD, DRAINAGE, WATER, OR WASTEWATER FACILITIES SITE INSPECTION; PROVIDING FOR CODIFICATION, CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Winter Garden desires to amend the City's regulations concerning site inspection fees and regular working hours as it pertains to infrastructure construction within the City; and

WHEREAS, the City Commission finds that the costs, expenses and fees incurred by the City in the review of development related applications and proposals and in the inspection and regulation of development, should be incurred by those responsible for said development and not by the taxpayers in general; and

WHEREAS, the City has the authority to review, inspect and regulate the construction of infrastructure that is installed within the City; and

WHEREAS, substantial costs, fees and expenses are incurred by the City, directly and solely caused by and related to the inspection and regulation of said infrastructure; and

WHEREAS, the City Commission has determined that it is necessary and appropriate to have a portion of the costs, expenses and fees incurred for the review, regulation, and inspection of development related activities borne by those responsible for such.

THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN:

SECTION 1. The City Commission of the City of Winter Garden has the authority to adopt this Ordinance pursuant to Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

SECTION 2. Chapter 88 of the Winter Garden Code of Ordinances is hereby amended and restated as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Section 88-8. Fee Collection and Schedule.

The Site Plan Review Fees, Platting Review Fees, Zoning Plan Amendments, Other Permits Associated With Development of Property Fees and Advertising Costs, respectively located below in subparagraphs A, B and C, as such may be amended from time to time, establish the Flat Fee for the matters referenced therein, which flat fees in addition to any Review Deposit required pursuant to section 88-3 shall be paid by the applicant to the City upon submittal of any application to the City. The City shall ensure the required flat fee is collected, and, if applicable, the Review Deposit is posted to an account for said application. The City Finance Director or his designee shall also notify the City Manager or appropriate City Staff of the applicant's proof of payment of the flat fee and, if applicable, the posting of the Review Deposit.

Should the City Manager or his designee determine that the required Review Deposit for an Application is inadequate to cover the reasonably anticipated fees, costs and expenses to be required by the City, the City Manager shall direct the City Finance Director or his designee to increase the minimum deposit to the minimum extent necessary to cover such reasonably anticipated fees, costs, and expenses. The Flat Fees are established as follows:

- (1) *Site Plan Review Fees.*
 - a. Communication antenna site plan approval.
 1. New communication tower greater than or equal to 35 feet in total height: \$1,000.00.
 2. New antenna less than 35 feet in total height: \$200.00

3. Alteration of an existing antenna, alteration plus building permits, special exception (if required) and/or variance fees (if required): \$200.00.
 - b. De minimis industrial or commercial site plan review (less than 300 square feet of building or 500 square feet of impervious surface). No flat fee required (considered part of building permit fee).
 - c. Major industrial, commercial, or institutional site plan approval (the addition of greater than 4,000 square feet of building or 5,000 square feet of impervious surface).
 1. Site plan review fee: \$200.00, plus \$20.00 per 1,000 square feet of the total of both building area and impervious surface.
 2. Site inspection fee: An additional fee of ~~one and one-half~~ two and one-quarter (2¼) percent of the cost of the improvements, including, but not limited to, materials, labor, and construction of the site (parking areas, lighting, landscaping, stormwater retention areas, and water and sewer utilities) or \$200.00, whichever is greater, will be collected prior to the time of the issuance of building permits.
 - d. Minor industrial, commercial, or institutional site plan approval (all site plans smaller than a major industrial or commercial site plan review but greater than a de minimis industrial or commercial site plan review). The site plan review fee and inspection fee shall be \$500.00 each.
 - e. Multi-family site plan review.
 1. Site plan review fee: \$300.00, plus ten dollars (\$10.00) per unit.
 2. Site inspection fee: An additional fee of ~~one and one-half~~ two and one-quarter (2¼) percent of the cost of construction of the site improvements (parking areas, lighting, landscaping, stormwater retention areas, and water and sewer utilities) or \$200.00, whichever is greater, will be collected prior to the time of the issuance of building permits.
 - f. Single-family residential. No site plan review fees are required, except for platting fees.
- (2) *Platting Review Fees.*
- a. Preliminary plat review fees. The fee for plans review shall be \$250.00 plus ten dollars per residential lot, five-hundred dollars per nonresidential lot.
 - b. Plat construction plan review. \$500.00, plus two dollars per residential lot; two-hundred and fifty dollars per nonresidential lot for the first two revisions. An additional ten dollars per residential lot or five-hundred dollars per nonresidential lot will be charged for each successive revision.
 - c. Plat infrastructure inspections: ~~One and one-half~~ Two and one-quarter (2¼) percent of the construction cost of the infrastructure to include but not limited to roads, stormwater facilities, water facilities and wastewater facilities to be paid prior to final plat approval.

Section 88-14. Additional Fees for Road, Drainage, Water, or Wastewater Facilities

Except in the event of an emergency, no road, drainage or water or wastewater utility installation shall be performed (1) before sunrise and after sunset, (2) nor between the hours of 5:00 p.m. and 7:00 a.m., (3) nor on ~~Saturday and~~ Sunday and (4) nor any holiday of the city. "Regular working hours" shall be between 7:00 a.m. and 5:00 p.m. and shall be established by the City at the preconstruction meeting and shall not exceed eight hours per day and 40 hours per week. If construction or maintenance work for roads, drainage or water and wastewater utilities requires operations during other than regular working hours, the contractor shall obtain written permission of the City at least 48 hours in advance of starting such work, and shall set forth the proposed schedule for overtime to give the City ample time to arrange for their personnel to be at the site of work. The contractor shall be invoiced and pay for all additional charges to the City on account of such overtime at the rates, as established from time to time by the City Manager. Work on weekends shall be charged a four-hour minimum. Such additional charges shall be a subsidiary obligation of the contractor and no extra payment shall be made by the City on account of such overtime work.

SECTION 3. Codification. It is the intention of the City Commission of the City that the provisions of Section 2 of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances; and that Sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such is included in the code, Sections of this Ordinance may be renumbered or relettered and the correction of obvious typographical errors that do not affect the meaning of the provisions corrected may be authorized and made by the City Manager by filing a corrected copy of the Ordinance with the City Clerk.

SECTION 4. Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not effect the validity of the remaining portions of this Ordinance. The City Commission declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more of section, subsection, sentence, clause, phrase or portion would be declared invalid or unconstitutional.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

FIRST READING: July 26, 2007

SECOND READING AND PUBLIC HEARING: August 9, 2007

PASSED AND ADOPTED THIS _____ DAY OF _____, 2007.

APPROVED:

Jack Quesinberry, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk