



CITY OF WINTER GARDEN

CITY COMMISSION SPECIAL MEETING MINUTES November 3, 2008

A **SPECIAL MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 8:04 a.m. at City Hall Commission Chambers, 300 West Plant Street, Winter Garden, Florida.

Present: Mayor John Rees, Commissioners Harold L. Boulter, Bob Buchanan, H. Gerald Jowers and Commissioner Colin Sharman

Mayor Rees stated that this special meeting was called to discuss a flyer (*see attached Exhibit A*) sent to city residents by a candidate running for Orange County Commissioner of District 1. He recognized City Manager Bollhoefer to address this issue.

City Manager Bollhoefer advised that this meeting was called by the City Commission because of a flyer distributed by Shannon Gravitte. He received the flyer and immediately called the City Attorney because of statements made in the flyer that were possibly defamatory and clearly untrue. He personally found the false statements about the City of Winter Garden to be offensive. He then called the City Commission and they decided to have this special meeting. He recognized the Planning Director Williams to explain what really happened as opposed to what is stated in the flyer.

Planning Director Williams noted a number of factual errors in the flyer. Ms. Gravitte begins in the second paragraph with the "Official documents reveal that in August of last year, Boyd pulled the strings of the good old boy network and got his land annexed out of Orange County." Mr. Williams stated that if Ms. Gravitte had reviewed the official records, she would have found that 13 annexations were brought to the City Commission at that meeting as part of an area covered by a Joint Planning Area. He is disturbed that Ms. Gravitte doesn't understand the annexation process. It is determined in advance those parties responsible for providing vital services; the City and the County had an agreement that covered this area. Ms. Gravitte implies that Scott Boyd pulled the strings on this process, which could not be further from the truth. Staff approached the property owners to plan for widening CR 545, extending conserve sewer and water systems, and for building the necessary infrastructure.

Mr. Williams stated that Ms. Gravitte implies that Orange County's rules are tougher than the City's rules. He explained that in this particular instance the County would have allowed the property owners to develop ten units per acre versus the City's restriction of four units per acre so he doesn't understand how Ms. Gravitte could see the County as having tougher development rules.

Mr. Williams stated that Ms. Gravitte has not contacted anyone from City staff to analyze these annexations and the Joint Planning Area information nor has Mr. Boyd contacted City staff about

his properties either. City staff approached the (13) property owners because it was in the best interest of the City and the County to provide sewer, water, and roads in that area. In closing, Mr. Williams stated that all of the documentation for the annexation and hearings is available for review and he is available for questions.

City Manager Bollhoefer stated that this project has probably had the most public input in City history. The project was a three and a half year project with probably over 20 related public meetings with all interested parties including both the Orange County Joint Planning Area voting in favor 7-0 and the Planning and Zoning Board voting in favor.

Mr. Bollhoefer stated this project has been in the works for quite some time and will be a neo-traditional project on Marsh Road. He thinks it will be one of the finest projects in the entire state of Florida. It will not add more urban sprawl, but do just the opposite and that is what is most disturbing about this issue is that Ms. Gravitte did not check her facts.

City Attorney Ardaman advised that no one on the City Commission or a City official should use their official authority or influence for the purpose of interfering with an election. The focus for the City and the Commission should have nothing to do with an election. It should be to protect, repair, or recover for any damage to the City's reputation and the disparaging negative and untrue statements made in Ms. Gravitte's flyer.

Mr. Ardaman stated they looked at the substantive points in the flyer and its overall impact to the City. He read the disparaging remarks that Mr. Boyd "pulled the strings of the good old boy network and got his land annexed... into a neighboring City." The second statement is "Quietly, Boyd set up his land for residential development," to set up his development clearly involves the City. The third statement is that "Scott Boyd is hiding his developer plans from voters" which clearly would involve the City because the property is in the City and he cannot develop without the City's approval. Further, there is a statement in the flyer that says this is how the "good old boys do business" Therefore, Mr. Boyd and the City are hiding the plans, which is apparently not true. There is also the statement "it is time to ... reform the political system and break up the good old boy network." All of these statements are juxtaposed right next to two City of Winter Garden letterhead memos, copied with red circles naming the City's prior Mayor Quesinberry, Commissioner Boulter, Commissioner Jowers, and the City Attorney. Contrary to the mailers, the City Manager, City Planner, and City Clerk have said that the City has completely complied with all public hearing rules and statutory requirements. The process was open. There were multiple community meetings with an opportunity for all involved and the public to see.

Mr. Ardaman stated that whether these statements are defamatory is a difficult determination, but defamation or a defamation action by members of a group such as a City Commission or a City are viable if the group is small enough for the defamation to be reasonably understood to refer to the members maintaining the action. Further research is needed to determine whether it would be viable to maintain a defamation action. The primary focus in the analysis is to see whether the City has suffered punitive damage. The other potential action the City Commission may take is to require some type of response to correct the inaccuracies in the flyer. The City Commission may also choose to do an automated call, if it is available. Also, the City Commission could choose to not respond.

Commissioner Jowers asked if Ms. Gravitte was invited to this meeting. **City Manager Bollhoefer** responded that he called her the day before and left a message on her answering machine to call him and invited her to attend this meeting.

Commissioner Jowers stated that it disturbs him that Ms. Gravitte doesn't understand what a Joint Planning Area Agreement is and being on a County Commission. He suggested instructing the City Attorney to review corrective measures available through the court system. He also suggested that a letter of apology be requested prior to the election to be made public or we will proceed forward.

Mayor Rees clarified that the City Commission is considering having the City Attorney continue looking into any legal ramifications and requesting an immediate response from Ms. Gravitte. He asked the Commission if they wanted to send out a response.

Commissioner Jowers agreed that the Commission needs to give a response. He does business in the community and despises the fact that accusations will be made about a very legitimate action.

Mayor Rees suggested that if using the reverse 9-1-1 the City Manager and City Attorney draw up a response that strictly addresses the facts as they relate to the flyer and stay away from any political ramifications.

Commissioner Boulter stated that he agrees with what Commissioner Jowers has stated but since his name is on the flyer as the maker of the motion, he wants it to be clear that it was for a second reading and public hearing for anyone who was opposed had the opportunity to do so. He had an opportunity to meet with Ms. Gravitte and he thinks that if she had a problem with what was done, she should have approached him at that time. He agrees that the City Commission should ask for a letter of apology.

Commissioner Sharman stated that he thinks that any time the City's reputation is defamed the City Commission needs to take action.

City Attorney Ardaman asked for clarification on the City Manager doing an automated call but is it to Winter Garden residents. The flyer was apparently targeted to Orange County District 1 residents and asked if this information should be included. **Mayor Rees** stated that it should at least go out to Winter Garden residents. **Mr. Ardaman** asked if the Commission wants to include County District 1 residents. **Mr. Bollhoefer** stated that we could pay someone to call County District 1 residents.

Mr. Ardaman stated that it is important that the City Commission make the determination that this is of public importance and a public matter, this is not a political matter. This is affecting the welfare of the City of Winter Garden and its citizens.

Commissioner Buchanan stated that he would also like to have the City Attorney follow up on the defamation aspect as a part of the motion.

Motion by Commissioner Buchanan to authorize the City Attorney to check further on the defamation and liability and the automated call to all citizens of Orange County District 1 and that this constitutes a public matter of public importance. Seconded by Commissioner Boulter and carried unanimously 5-0.

The meeting adjourned at 8:24 a.m.

APPROVED:

/S/ _____
MAYOR JOHN REES

ATTEST:

/S/ _____
City Clerk Kathy Golden, CMC