



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

October 8, 2009

A **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. The invocation and Pledge of Allegiance were given.

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

Also Present: City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, City Clerk Kathy Golden, Public Services Director Don Cochran, Finance Director Robin Hayes, Director of Information Technology Bob Reilly, Planning Consultant Ed Williams, Human Resources Director Frank Gilbert, Fire Chief John Williamson, Police Chief George Brennan, Building Official Skip Lukert, Recreation Director Jay Conn, and West Orange Times Reporter Michael Laval

1. **APPROVAL OF MINUTES**

Motion by Commissioner Boulter to approve minutes of the Joint Workshop with the Architectural Review and Historical Preservation Board on September 17, 2009 and Budget Hearings / Regular Meeting on September 21, 2009. Seconded by Commissioner Jowers and carried unanimously 5-0.

2. **PRESENTATIONS**

City Manager Bollhoefer advised that additional names are being added for recognition and will be presented at the next meeting.

3. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 09-65:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 90, ARTICLE II OF THE WINTER GARDEN CODE OF ORDINANCES TO CONFORM WITH FEDERAL LAW AND NEWLY ENACTED FEDERAL EMERGENCY MANAGEMENT AGENCY REGULATIONS AND COMPLY WITH THE PARTICIPATING CRITERIA OF THE NATIONAL FLOOD INSURANCE PROGRAM AND FLOODPLAIN MANAGEMENT RELATED REQUIREMENTS OF THE STATE OF FLORIDA; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-65 by title only. Public Services Director Cochran stated that the purpose of this ordinance is to adopt the floodplain management regulations as set by the Federal Emergency Management Agency (FEMA). This will bring the City into compliance with the National Flood Insurance Program. He added that this is a routine requirement for the City.

Commissioner Sharman asked if this will change anyone's property designation. Mr. Cochran replied not that he knows of. As far as he knows, it does not change the floodplain levels.

Commissioner Buchanan asked how someone could obtain a map of the floodplain. Mr. Cochran responded that they could call his department and it will be provided.

Motion by Commissioner Buchanan to approve Ordinance 09-65 with the second reading and public hearing being scheduled for October 22, 2009. Seconded by Commissioner Bouler and carried unanimously 5-0.

- B. **Ordinance 09-66:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 78-51 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN TO PROVIDE AN EXEMPTION FOR THE PAYMENT OF WATER AND SEWER IMPACT FEES AND CONNECTION FEES FOR PREMISES OWNED AND OPERATED BY THE CITY OR PREMISES THAT ARE OTHERWISE PUBLICLY OWNED AND OPERATED AND DETERMINED TO SERVE A VALID PUBLIC PURPOSE AND BENEFIT THE COMMUNITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman suggested deferring this item until the next meeting. *No objections were noted.*

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

- A. **Ordinance 09-19:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING SECTIONS 118-890, 118-893, 118-889 and 118-989 AND CREATING SECTION 118-829 and 118-830 OF CHAPTER 118 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING TIME RESTRICTIONS FOR FILING AND OBTAINING APPROVAL OF FINAL DEVELOPMENT PLANS AND FINAL PLATS FOR PLANNED UNIT DEVELOPMENTS; PROVIDING A PROCESS FOR CITY COMMISSION APPROVAL OF TIME EXTENSIONS FOR PLANNED UNIT DEVELOPMENTS; PROVIDING FOR RETROACTIVE EXTENSION OF EXPIRED PLANNED UNIT DEVELOPMENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-19 by title only. Planning Consultant Williams stated that the current planned unit development (PUD) zoning expires one year after approval if certain permits are not approved or if construction has not begun. Staff recommends changing the expiration to five years. In addition, staff is asking the City Commission to retroactively reinstate several recently expired PUDs. The Planning and Zoning Board and staff recommend approval.

Mayor Rees asked how many PUDs are involved in the retroactive request. Mr. Williams replied that he thinks it is less than half-a-dozen.

Commissioner Buchanan noted five years is a long time and a lot can happen in five years to the surrounding areas. Are there any provisions for dealing with incompatibility?

Mr. Williams stated that when they get to their expiration date, the developer can ask the City Commission for another five year extension and if the Commission is not comfortable with the conditions approval, the Commission doesn't have to grant it. It will expire and they would have to file a new application. Staff is suggesting five years because of a lot of regulation changes can occur at the state level during that period of time.

Mr. Ardaman noted that developers can rely heavily on the City's zoning approval for their financing, which could be affected if it were thought that the terms of the approval could be changed.

Mr. Williams stated that these are typically the larger and more complex projects that have a longer lead time before they get underway. If during the approval process the Commission is not comfortable with the project, a condition of approval can be added that is only good for two or three years.

Commissioner Jowers spoke against a project with such a long period and the fact that he does not like long term contracts. In the case of five years, it restricts the City more than it does the developer who could later just walk away.

Mr. Williams noted that what speaks in favor of granting extensions is that the City wants planned developments that meet the higher standards; higher quality, better design, less signage, more landscaping, and more open space. As opposed to giving someone a straight commercial zoning that is good forever so they can do anything without a quality standard. The City could commit for five years in order to get the higher quality development.

Commissioner Sharman asked if the City has the ability to change its standard zoning and increase its standards across the board. Mr. Williams replied yes, the City can amend those ordinances.

Commissioner Buchanan stated that he felt one year was too short and five years was too long. He would like to think about something in between like two years and at the most three years.

Mayor Rees opened the public hearing.

Julie Kendig-Schrader of Greenberg Traurig, P.A., 450 S. Orange Avenue, Suite 650, Orlando, Florida, representative of Lennar Homes addressed the issue of timing the PUD zoning. She explained that the ordinance provides a time during which someone can get a zoning and have a certain period of time to achieve a final plat. The problem they have is with any PUD project of a significant size. The time it takes to get from zoning to final plat has enough steps which make a development of any size almost impossible to do within a year. They feel that the five year time period gives a reasonable time to work through issues. She requested the five years with the option, it is not appropriate at rezoning, to shorten the time only because of all the steps that have to take place.

City Manager Bollhoefer asked for a legal clarification regarding shorter periods that would allow someone to have some vested rights since they have given up some right-of-way.

City Attorney Ardaman stated that he thinks there are multiple reasons. There are legal reasons in addition to the practical reasons from a planning standpoint. Legally, if someone grants right-of-way, park space, or pays fees as part of the development process, it is more difficult for the City to enforce something when the owner has given up property rights in reliance of approval. The City's counter to that issue is that the owner knew what they were getting into coming in.

Mayor Rees asked if it creates a liability to the City. Mr. Ardaman replied that in certain circumstances it can. He explained how this could create a liability issue if the City was not to grant an extension. If they fail to ask for an extension, they will start the process over.

Theo Graham, 213 W. Tilden Street, Winter Garden, Florida, suggested granting the extensions to the few that currently need it instead of tying the City down to five years by placing it in an ordinance. He felt that five years is a long time and agrees with cutting that time period down.

Mayor Rees closed the public hearing.

Motion by Commissioner Jowers to amend the time restrictions and extensions to three years and adopt Ordinance 09-19. Seconded by Commissioner Buchanan and carried unanimously 5-0.

5. **PUBLIC HEARING MATTER**

A. **Interlocal Agreement with Orange County, Florida, to construct the Magic gymnasium in Winter Garden**

City Manager Bollhoefer stated that this agreement has been discussed in the past regarding Orange County building a gymnasium on the east side of Winter Garden. The agreement includes all of the items previously discussed, which has been reviewed by the City Attorney, Police Chief, and Recreation Director. He recognized Matt Suedmeyer with Orange County to answer any questions they may have. Mr. Bollhoefer stated that staff thinks this is a great opportunity for the City of Winter Garden. The City will be

able to use the gym and the programs they provide will save the City money in the long run. Staff recommends approval.

Commissioner Sharman stated that Orange County Commissioner Scott Boyd went to bat for the City on this project and it is a good opportunity for the City of Winter Garden.

Mayor Rees opened the public hearing.

City Manager Bollhoefer explained that the City will spend \$561,000 for site work on the \$5 to \$6 million gym. It is approximately 28,000 square feet consisting of a double gymnasium, fitness room with free weights, machines, aerobic room, game room, and is a full service community center that will be run by the County. There will also be space available for a police officer. He noted City residents will be charged the same as County residents.

Mayor Rees closed the public hearing.

Motion by Commissioner Boulter to approve the interlocal agreement with Orange County, Florida, to construct the Magic gymnasium in Winter Garden. Seconded by Commissioner Sharman and carried unanimously 5-0.

6. REGULAR BUSINESS

A. Appointments to the Planning and Zoning Board for expiring terms of members in Districts 1, 2, 3, and 4 (McKinney, Carris, Ramlackhan, and Dunn) for a two-year term expiring September 1, 2011

City Clerk Golden stated that applications have been submitted to the City Commission for their consideration for filling the four expiring seats.

City Manager Bollhoefer stated that he has distributed a list of the current board member's service history. The City Commission would need to appoint someone from District 4 as required by the City's code that there be at least one member from each district.

Commissioner Jowers stated that the issue of term limits for all appointed boards has discussed at a prior meeting and he feels that it should be reviewed in depth.

City Manager noted that term limits is scheduled to be discussed under his agenda item but it can be discussed at this point. On the list he provided shows the service history for members serving on the Code Enforcement Board, the Planning and Zoning Board, and the Community Redevelopment Agency Advisory Board (CRAAB). It is not pertinent to the West State Road 50 Board because that board has a limited life. At some point in time, term limits will need to be considered for the Architectural Review and Historic Preservation Board but for now it is its infancy stage. He pointed out that the Code Enforcement Board terms are 3-years, Planning and Zoning Board are 2-years, and CRAAB is 4-years.

Commissioner Buchanan stated that there are a lot of applications from those interested in serving. He stated that a new commissioner may want to make an appointment.

Mayor Rees stated that he feels it is the responsibility of the City Commission to put people on these boards that are competent and will do the best job for the City of Winter Garden regardless of whether they have been on the board one year or eight years. He stated that sometimes by limiting the terms you pull qualified or good people off of the boards.

Commissioner Sharman stated that he takes a different approach. He is not in favor of term limits. The City Commission can change the board and those who have served a long time can take a break. They would not be ousted due to term limits and can come back and serve at a later date. He suggested that the City Commission speak to their appointed board members and suggest they allow someone else a chance to fill the positions on the board or serve on another board instead of imposing a term limit ordinance.

There was discussion that the City Commission currently decides who is on a board and who is not. It was noted that when serving on the Planning and Zoning Board it takes awhile to get up to speed.

There was discussion that the ordinance could be written that once that person sat off of a board for a certain number of years, they could be reappointed.

It was determined that all the current Planning and Zoning Board members with expiring seats are interested in maintaining their seat.

Mayor Rees stated that by implementing term limits, in 2013 the Planning and Zoning Board would have to replace four out of the seven members it has. He does not feel that is in the best interest of the City. Terms would have to be better staggered if the City Commission were to do this.

City Manager Bollhoefer asked the City Attorney if the City Commission decided to go with term limits, could the ordinance be written so that term limits were staggered the first time in order to avoid such a situation. Mr. Ardaman replied yes it could be staggered.

Commissioner Boulder suggested that the City Commission take some time to look this issue over.

Commissioner Jowers suggested instructing the City Attorney and the City Manager to create an ordinance, with options, to be brought back to the City Commission at a later date for review. Mr. Bollhoefer clarified that the Commission would like staff to look at all of the boards with the exception of West State Road 50 due to its limited life. It was the **consensus** of the City Commission that all boards be reviewed except West State Road 50.

Motion by Commissioner Jowers to appoint Mac McKinney to the Planning and Zoning Board for a two-year term. Seconded by Commissioner Buchanan and carried unanimously 5-0.

Motion by Commissioner Buchanan to appoint Jerry Carris to the Planning and Zoning Board for a two-year term. Seconded by Commissioner Boulter and carried unanimously 5-0.

Motion by Commissioner Boulter to appoint Rohan Ramlackhan to the Planning and Zoning Board for a two-year term. Seconded by Commissioner Buchanan and carried unanimously 5-0.

Motion by Commissioner Sharman to appoint James Dunn to the Planning and Zoning Board for a two-year term. Seconded by Commissioner Buchanan and carried unanimously 5-0.

7. **MATTERS FROM CITIZENS**

Rod Reynolds, 1308 Vic Kay Court, Winter Garden, Florida, distributed a copy of every City employee's salary and benefits, and a copy of the most recent statistics from the 2000 Census. He noted the City now has 266 employees with a payroll that exceeds \$16 million. The average City employee, with benefits, is paid over \$60,000 a year. The average household income for City residents is only \$37,000. According to the Department of Justice website the average for a city our size in the southeast should have 1.8 police officers per 1,000 people, which is approximately 54; we are approaching 76. Our fire and paramedic support is at 46 but the national statistics show 30-32. We are at about one City employee for every 114 residents. He noted revenues are declining because of declining property values and his concern is whether the City is going to be proactive and use good fiscal management or be reactive, as the City was this year by raising the millage. He stated that when he sat on the City Commission the information is not presented in the way he is presenting it to the City Commission.

Mayor Rees responded that the City Commission does have this information; it is provided in a different format. He stated that he will read through the material and try to see where the differences are and discuss them.

Pat Primrose, 1070 Dolphin Drive, Winter Garden, Florida, stated that as the Vice President of the Winter Garden Community Garden she is pleased to announce their Fall Festival in the Garden will be held October 17th from 10:00 a.m. to 4:00 p.m. and invited everyone to attend.

8. **MATTERS FROM CITY ATTORNEY**

City Attorney Ardaman stated that he has distributed a map to the City Commission. The City received a request from the City of Ocoee that the City Commission of Winter Garden take a vote to confirm that the City wants to de-annex from the City of Ocoee the southerly property that the City purchased from the Expressway Authority, which is on the east side of

Windermere Road just a little south of Warrior Road. The northern part of the property is in unincorporated Orange County. The City of Ocoee is looking to de-annex this piece of property but they need confirmation from the City of Winter Garden City Commission in order to process the request.

Commissioner Buchanan asked about the rest of the property. Mr. Ardaman confirmed the Commissioner was referencing the piece to the south of the property the City purchased. Mr. Ardaman stated that the City can make a request to expand it to pick up that piece as well.

Motion by Commissioner Buchanan to approve of the City of Ocoee de-annexing City of Winter Garden property located on the east side of Windermere Road just a little south of Warrior Road. Seconded by Commissioner Jowers and carried unanimously 5-0.

9. **MATTERS FROM CITY MANAGER**

A. **Discussion on term limits for all city boards** - *This item was covered earlier in the meeting.*

• **Citizen Comments by Mr. Reynolds**

City Manager Bollhoefer stated that the information given by Mr. Reynolds was not accurate and he will provide the City Commission with the correct information.

10. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Jowers stated that he has received calls from his constituents regarding the corner of Virginia Drive and Tilden Street and the corner of Gary Drive and Tilden Street. There is no curbing or guttering and water is pooling. **Mayor Rees** confirmed that there is no curbing because at the time, it was a quick way of fixing the road. **City Manager Bollhoefer** stated that he will have staff take a look at it.

Commissioner Buchanan complimented the City on the Music Fest held this past weekend. He shared that he heard comments from the downtown shops that profited because of the event.

Commissioner Boulter thanked the City for their handling of the Music Fest and noted that the event is growing and being noticed by cities all over Florida.

Commissioner Boulter announced a Community Health Fair to be held in East Winter Garden by the National Hook-Up of Black Women, Inc. at the Maxey Center, October 10, 2009. He recognized Ms. Charlie Mae Wilder, 284 11th Street, Winter Garden who gave additional details on the event.

Commissioner Sharman stated that the Music Fest was an exciting event.

Mayor Rees thanked City staff and the Heritage Foundation for the Music Fest event. He thought that it was well attended and a lot of fun.

City Manager Bollhoefer stated that with reference to the Music Fest event, staff will be looking at the layout closely to make some improvements for next year.

The meeting adjourned at 7:34 p.m.

APPROVED:

____/S/_____
MAYOR JOHN REES

ATTEST:

____/S/_____
City Clerk Kathy Golden, CMC