



CITY OF WINTER GARDEN

CITY COMMISSION SPECIAL MEETING MINUTES

December 17, 2009

A **SPECIAL MEETING** of the Winter Garden City Commission was called to order by Mayor Rees 6:30 p.m. at City Hall Commission Chambers, 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, Community Development Director Tim Wilson, Human Resources Director Frank Gilbert, Fire Chief John Williamson, Police Chief George Brennan, Code Enforcement Manager Skip Lukert, Recreation Director Jay Conn, and West Orange Times Reporter Michael Laval

1. **Discussion and possible action regarding the outstanding debt owed to the City by the Winter Garden Heritage Foundation for the Garden Theatre**

City Manager Bollhoefer opened by stating that this has been one of the most difficult projects he has ever worked on. There are so many people passionate about this project. He feels that the community strongly supports the theater, which has been great for downtown Winter Garden. His presentation included the theater's history, issues, importance, and economic impact for the project (*see attachment "A"*).

Option No. 1 Ownership Transfer Option

This option would transfer ownership of the theater to the City in lieu of the debt being paid back to the City. In effect, the City would be purchasing the building back from the Heritage Foundation. The City would lease the building to the Heritage Foundation for a nominal fee; the term is yet to be determined by the City Commission. The City would be responsible for the building's structural maintenance and the Heritage Foundation would be responsible for the theater equipment, daily maintenance and janitorial. The CRA Board would contribute \$138,000 towards the R.C. Stevens debt contingent upon the foundation raising an additional \$102,000 to pay off the debt. The foundation would be responsible for focusing on programming, daily operating of the theater, and fundraising.

Option No. 2 Dr. Phillips Grant Option

In this option, the City obtains \$400,000 from the Heritage Foundation, who receives \$500,000 from Dr. Phillips, and the City would forgive the remaining \$960,000 in debt. In this option the City would not obtain ownership of the building. The City would have to require specific performance standards that if they are not met, the theater would revert back to the City. In this option, performance standards may have to be determined by the courts. He stated that although this option would also allow the theater to move forward without

debt, the forgiveness of the debt is an issue with some citizens that could be a cause for concern.

Option No. 3 Restructure Debt

Mr. Bollhoefer noted there are many ways of restructuring the debt and gave a few examples. He stated that it is unlikely it could be repaid within 10 years.

In conclusion, Mr. Bollhoefer stated that in his opinion the ownership transfer option is the best option for the City as it would give the City an asset in exchange for the debt. This option will allow the theater to be free from debt and focus on operating the theater and raising funds. They will be setup to be successful and be a viable part of the community.

Commissioner Sharman asked Mr. Bollhoefer for clarification in the numbers given in the presentation.

Mr. Bollhoefer responded that the \$1.5 million was a loan and the \$500,000 was a direct donation for the restoration.

Mayor Rees recognized John Murphy to speak on this issue.

John Murphy, 10239 Trout Road, Unincorporated Orange County, Florida, came forward stating that he was speaking on behalf of the Winter Garden Heritage Foundation President, Ron Sikes. The foundation is really proud of this project and he thinks that Mr. Bollhoefer's presentation shows there is pride within City staff as well and hopefully within the City Commission. He stated that they (the Foundation) have worked on this project for almost seven years, as shown in the presentation, and they feel that this is an unprecedented success that they have achieved bringing it this far. The theater is the jewel in the crown of Winter Garden that is Plant Street and they are very proud of that. They are grateful for the creativity that is being applied to finding answers to the financial challenge. He noted that their board met telephonically today and unanimously approved endorsing staff's Option No. 1 and would like to focus on that plan going forward.

Mr. Murphy stated that his group looks forward to moving beyond solving the debt issue and back to the main focus of programming the kind of material that the City of Winter Garden and the community would like to see. They are anxious to get back to developing patronage and theatrical development. He stated that they humbly ask the City Commission to support the ownership transfer option.

Commissioner Jowers noted that this has been probably one of the toughest battles he has experienced in the 13 years he has been on the City Commission. He is glad to see that everyone has come to an agreement. He thinks it can be made to work and this will give the City the part that it needed and the Heritage Foundation the financial freedom to go forward and do this like it should be done.

Motion by Commissioner Buchanan to approve moving forward with finalizing Option No. 1 transferring ownership of the Garden Theatre building to the City. Seconded by Commissioner Boulter.

Mayor Rees commented that he will go along with the motion but that is not what he prefers but he understands the Heritage Foundation has agreed. Mayor Rees called for the vote. **Motion carried unanimously 5-0.**

2. **Recommendation to approve an amendment to the Winter Garden Commerce Center Developer's Agreement**

Public Services Director Cochran stated that due to current economic conditions, the developer of the Winter Garden Commerce Center, Winter Garden Industrial Park, LLC, has brought a request to the City to amend their developer agreement. One of the reasons is that they have had difficulty getting their 20 percent maintenance bond, which is required as part of the original development agreement. The developer has requested a reduction of the maintenance bond from 20 to 10 percent for a total of \$130,928.00. The original agreement required that the City reimburse the developer for certain improvements they made to the wastewater collection system, which totals \$84,190.00. The City would allow the use of these funds and issue a credit against the 10 percent that they have asked for, leaving the developer with a balance of \$46,738.00. The agreement would also require that if any expenses occur from the repair or maintenance of the infrastructure that exceeds the 10 percent, then the developer would be responsible for anything exceeding \$130,928.00. Staff recommends approving the amendment.

Commissioner Sharman asked the general location of the parcel. Mr. Cochran replied that this is the industrial park on Story Road.

Motion by Commissioner Jowers to approve the amendment to the developer agreement for the Winter Garden Commerce Center as recommended by staff. Seconded by Commissioner Boulter and carried unanimously 5-0.

At this time, Mayor Rees acknowledged that there were residents present that would like to address the City Commission and invited them to come forward to speak.

Andrew Bruns, 3 Palm Drive, Winter Garden, Florida, thanked City Manager Bollhoefer, Facilities Manager James Dillon, and staff for the fantastic job on refurbishing the laundry facility in Trailer City. He also wanted to give credit to Trailer City Park Manager Tony Brienza for his contribution for getting the new washers and dryers.

Rod Reynolds, 1308 Vic Kay Court, Winter Garden, Florida, stated that he felt that someone needed to come and represent the taxpayers. He noted that when he sat on the City Commission and the theater came up for a vote, he voted against it (*Garden Theatre*). It was not because he was not in favor of beautifying downtown Winter Garden, he lives here, a claim which quite a few members associated with the theater cannot claim. The reason he voted against it is because monetarily and fiscally it did not make any sense. For the City to

