



# CITY OF WINTER GARDEN

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## CITY COMMISSION REGULAR MEETING MINUTES

January 28, 2010

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, Community Development Director Tim Wilson, 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 Jowers to approve the regular meeting minutes of January 14, 2010 as submitted. Seconded by Commissioner Boulter and carried unanimously 5-0.**

### 2. **FIRST READING OF PROPOSED ORDINANCE**

A. **Ordinance 10-12:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 98 OF THE WINTER GARDEN CODE OF ORDINANCES, ARTICLE VII, SECTION 98-189, CONCERNING THE COMPOSITION AND TERMS OF MEMBERS OF THE ARCHITECTURAL REVIEW AND HISTORIC PRESERVATION BOARD; AMENDING BOARD MEMBERSHIP REQUIREMENTS; PROVIDING FOR UNIFORM COMMENCEMENT, EXPIRATION AND LENGTH OF TERMS OF OFFICE IN JULY; PROVIDING FOR FILLING OF VACANCIES, MONTHLY MEETINGS, QUORUM REQUIREMENTS; PROVIDING FOR CODIFICATION, ENFORCEMENT, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 10-12 by title only. Community Development Director Wilson stated that this board has been in existence and minor adjustments are being made to the membership and how they operate. Staff recommends approval.

City Manager Bollhoefer added that the primary change to the board is to include a resident because residential units have been added. Mayor Rees clarified that there were three resident members and now there are two resident members with one member having to own property within the district and be a resident of the City.

**Motion by Commissioner Boulter to approve Ordinance 10-12 with the second reading and public hearing being scheduled for February 11, 2010. Seconded by Commissioner Sharman and carried unanimously 5-0.**

**3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

- A. **Ordinance 09-59:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE INTERGOVERNMENTAL COORDINATION ELEMENT, FUTURE LAND USE ELEMENT, PUBLIC FACILITIES ELEMENT, AND THE CONSERVATION ELEMENT OF THE COMPREHENSIVE PLAN OF THE CITY OF WINTER GARDEN; PROVIDING FOR COORDINATION WITH THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; PROPOSING NEW AND REVISING EXISTING INTERGOVERNMENTAL AGREEMENTS; REQUIRING AVAILABILITY OF ADEQUATE WATER SUPPLIES AND ASSOCIATED PUBLIC FACILITIES TO MEET PROJECTED GROWTH DEMANDS PRIOR TO FUTURE LAND USE MAP AMENDMENTS AND ISSUANCE OF CERTIFICATES OF OCCUPANCY; ENSURING EFFICIENT OPERATION OF THE RECLAIMED WATER SYSTEM; MAINTAINING MEASURES TO CONTROL OR PROHIBIT PACKAGE PLANTS; PROVIDING FOR WATER CONSERVATION BY PROGRESSIVE WATER USAGE RATE STRUCTURE AND OTHER MEASURES; IMPLEMENTING THE CITY OF WINTER GARDEN WATER, WASTEWATER, AND 2008 RECLAIMED WATER MASTER PLANS; MAINTAIN THE WATER CONSERVATION PROGRAM; ADOPTING THE 2009-2018 10-YEAR WATER SUPPLY AND FACILITY WORK PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-59 by title only. Community Development Director Tim Wilson stated that this item is an amendment to the Comprehensive Plan that has been reviewed by the Department of Community Affairs (DCA). The DCA had no objections to the proposed amendment.

Commissioner Buchanan asked how they came up with the cost projections. Mr. Wilson replied that staff took the costs in the water supply plan from the costs projected by the Public Services Department; the consultant used these amounts to project the capital improvement costs and put them into a ten year timeframe.

Commissioner Buchanan stated that the reason he asked is to find out if the plans had projected the growth as it would have been five years ago. Mr. Wilson stated that the growth projection is consistent with the current comprehensive plans; there was a readjustment of the growth projection.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Jowers to adopt Ordinance 09-59. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

- B. **Ordinance 10-07:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 09-58, THE CITY OF WINTER GARDEN FISCAL YEAR 2009-2010 BUDGET TO CARRY FORWARD PRIOR YEAR APPROPRIATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 10-07 by title and the following excerpt from Section 1: The sum of \$14,292,379 is to be appropriated as follows:

<b>REVENUES</b>	
General Fund	\$ 2,169,332
Downtown Parking District	9,929
Community Redevelopment Agency	-
Law Enforcement Grants Fund	88,540
Local Option Gas Tax Fund	237,307
General Impact Fee Fund	2,943,289
Transportation Impact Fee-South of Turnpike Fund	832,290
CR 545 Special Benefit Impact Fee Fund	-
Transportation Impact Fee Fund	1,340,196
Utilities Impact Fee Fund	6,068,467
Utilities Renewal & Replacement	584,286
Stormwater Fund	-
Trailer City Fund	18,743
	<u>\$14,292,379</u>

Mr. Ardaman noted that the itemized expenses are identical to those for revenues.

Finance Director Hayes stated that this ordinance was presented to the City Commission a couple of weeks ago and there has been one adjustment made to Exhibit 1. Under the Executive budget for Aids to Government Agencies \$511,000 was inadvertently left off for the Magic Gym and has been added to arrive at the revised total. She shared some of the other projects and stated staff recommends approval of carrying the funds forward.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Boulter to adopt Ordinance 10-07. Seconded by Commissioner Sharman and carried unanimously 5-0.**

- C. **Ordinance 10-09:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 98, ARTICLE II, SECTION 98-26 OF THE WINTER GARDEN CITY CODE; PROVIDING FOR UNIFORM COMMENCEMENT, EXPIRATION, AND LENGTH OF TERMS OF OFFICE IN

OCTOBER; PROVIDING FOR TERM LIMITS; PROVIDING FOR FILLING OF VACANCIES AND TRANSITION OF PREVIOUS TERMS ENDING IN MONTHS OTHER THAN OCTOBER; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 10-09 by title only. Mr. Ardaman noted that the City Manager indicated to him that the City Commission might want to have the ability to reappoint the member currently serving. If the City Commission desires having this ability, he has an updated ordinance to hand out that includes the language to accomplish this option. If the City Commission does not desire to have the ability to reappoint someone who has already served two terms, then the ordinance as presented in the agenda packet is fine.

City Manager Bollhoefer stated that in the last meeting he incorrectly stated that anyone currently serving on the board would be able to serve one more term. That was not correct and did not match the ordinance. The ordinance the City Attorney has brought to this meeting will allow the existing members to serve at least one more time before they are termed-out. Mr. Ardaman distributed the revised version of the ordinance and read the revised language.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Jowers to adopt Ordinance 10-09 amended version as distributed. Seconded by Commissioner Sharman and carried unanimously 5-0.**

- D. **Ordinance 10-10:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 2, ARTICLE II, SECTION 2-61 OF THE WINTER GARDEN CITY CODE PERTAINING TO THE COMPOSITION AND APPOINTMENT OF THE CODE ENFORCEMENT BOARD; PROVIDING FOR CODE ENFORCEMENT BOARD TERMS OF THREE YEARS TO BEGIN AND END IN JUNE; PROVIDING FOR CURRENT MEMBERS TO SERVE OUT THE REMAINDER OF THEIR CURRENT TERMS; REQUIRING THE CITY ATTORNEY TO SERVE EITHER AS COUNSEL TO THE CODE ENFORCEMENT BOARD OR PROSECUTOR OF CODE ENFORCEMENT VIOLATIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 10-10 by title only. Mr. Ardaman noted that he has made the same changes to this ordinance as noted in the last item. He distributed the revised version and noted the changes.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Buchanan to adopt Ordinance 10-10 amended version as distributed. Seconded by Commissioner Sharman and carried unanimously 5-0.**

- E. **Ordinance 10-11:** 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 54-27, MEMBERSHIP; AMENDING SECTION 54-29, FINANCES AND FUND MANAGEMENT; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 10-11 by title only. City Manager Bollhoefer stated that this ordinance changes who can opt out of the defined benefit plan and the defined contributions plan and how they can do so. There was a glitch in the previous ordinance that allowed someone to do so and be unjustly enriched. This corrects that problem and also gives the pension board more freedom when making investments which was suggested by the board's attorneys and investment advisors. The suggestion was due to the changing nature of investments in today's society.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Buchanan to adopt Ordinance 10-11. Seconded by Commissioner Jowers and carried unanimously 5-0.**

4. **REGULAR BUSINESS**

- A. **Recommendation to approve the bids for the Palmetto Water Treatment Plant Generator Improvements Project and awarding the contract to New Florida Industrial Electric, Inc. to include a 10 percent contingency for a total project amount of \$174,980.30**

Public Services Director Cochran stated that on January 5<sup>th</sup> the City received bids for the Palmetto Water Plant Generator Improvements Project. The engineer's estimate was \$234,017.53. There were four bidders submitting for this project with New Florida Industrial Electric being the lowest bidder at \$159,073.00. Staff recommends approval of the bids and awarding the contract to New Florida Industrial Electric, Inc. to include a ten percent contingency, bringing the total to \$174, 980.30.

Mayor Rees noted that this bid was \$9,000 under the estimate.

Commissioner Buchanan asked what the purpose of the 10 percent contingency is. Mr. Cochran explained that the ten percent contingency is included in the agreement so if something should come up that requires additional wiring etc., then staff does not have to bring the issue back to the City Commission to ask for additional funds; it is just a buffer.

Commissioner Sharman asked what the estimated timetable for the completion is. Mr. Cochran noted that he does not have the contract in front of him, but he anticipates that it

is approximately a 90-day project. He explained that the existing generator will power most of the plant. With the upgrade of the pumps over the years, during peak demands the current generator will not handle all of the plant and all of the pumps at the same time. The old pump will be utilized in another area.

Commissioner Sharman asked what has been is the longest period of time the water treatment plant has been without power. Mr. Cochran stated that it has not been without power during his time with the City. The generator will run most of the plant and satisfy most of the City's demands. He explained that if the City were at a peak flow situation during the summer and the power was off for a couple days, such as during hurricanes, it is then that the City would need a larger generator to keep the plant going.

**Motion by Commissioner Jowers to approve bids for the Palmetto Water Treatment Plant Generator Improvements Project and awarding the contract to New Florida Industrial Electric, Inc. to include a 10 percent contingency for a total project amount of \$174,980.30. Seconded by Commissioner Sharman and carried unanimously 5-0.**

5. **MATTERS FROM CITIZENS** – There were no items.
6. **MATTERS FROM CITY ATTORNEY** – There were no items.
7. **MATTERS FROM CITY MANAGER**
  - A. State Road 50 streetlights presentation - (*This item was tabled*)
  - B. Update on outstanding items

- **Golf Cart District Signage**

City Manager Bollhoefer stated that the signs are being made and will be up within two weeks. They will be covered up until all the signs are in place. Staff is also working on the other routes and will bring those back to the City Commission.

- **Private Property Stormwater Issues**

City Manager Bollhoefer stated that this item was presented to the City Commission at the last meeting and staff was directed to go back to the drawing board. Staff is working the criteria with the City Attorney and the Development Review Committee. This item will be brought back at a future meeting.

- **Chili Cook-Off**

Community Relations Manager Andrea Vaughn was recognized and announced that the Chili Cook-off is this Saturday. Rain is forecasted and if it is heavy, the event will be brought indoors at City Hall. She asked the City Commissioners to judge the tent decorations and the Mayor to assist the master of ceremonies for the awards ceremony at 7:00 p.m.

City Manager Bollhoefer stated that there is an organization willing to donate beer that could be sold at the event with 100 percent of the proceeds going to the Relay for Life.

He stated that there would be a roped off area that would serve as the restricted beer garden. He asked for the City Commission's approval.

**Motion by Commissioner Jowers to approve the sale of beer, in a restricted area during the chili cook-off, with 100 percent of the proceeds being donated to Relay for Life to benefit the American Cancer Society. Seconded by Commissioner Sharman and carried unanimously 5-0.**

• **Junior Miss Program**

Community Relations Manager Vaughn thanked the City Commission for the rehearsal space and allowing her to assist in their activities. She stated that it was a huge success. Everything was donated and provided by local families.

• **Maxey Elementary School**

City Manager Bollhoefer stated that approximately a year ago the City Commission directed staff to see what could be done to aid in keeping Maxey Elementary School open. Staff attended several presentations and meetings. The closing of the school was delayed for at least one year. He noted that in Wednesday's newspaper Maxey was included in the lifting of the desegregation plan. It has also been moved up for renovations to the top of the list with a few other schools. He stated that because of all of those things, it seems most likely that Maxey Elementary will not be closed in the short or long term.

• **Lynx Bus Line**

Mr. Bollhoefer stated that the City Commission directed staff to work on the Lynx bus lines when several months ago Lynx eliminated the City's two bus routes. Staff has since worked with them and met with County Commissioner Boyd. Lynx has restored the one route down State Road 50 that will be running a bus every 30 minutes. It will provide passage to the University of Central Florida. Lynx has added an additional pick up line within the Winter Garden area. Someone wanting to use the PickUpLine can call and it will take them to the Lynx bus stops. He thanked County Commissioner Boyd for working with the City to get the bus service restored.

• **CR 535**

Mr. Bollhoefer stated that the bridge over the Turnpike has been out for some time and their goal was to try and get it completed in November. The actual completion date was officially the end of February 2010. He has spoken to the contractor who has stated that it will be completed by March 31, 2010. However, the Turnpike Authority has said it would be February 28<sup>th</sup>. He has been trying to ascertain which date is correct.

Commissioner Bouler asked if staff has heard any concerns from any of the affected businesses.

Mr. Bollhoefer replied that he has heard concerns from day one and some of the businesses have really suffered. The City has done everything it can. Many of the

businesses were thankful for the access road the City installed. As a City, we are more concerned than the State and the contractor are. Mayor Rees added that we just need to keep the pressure on them. Mr. Bollhoefer replied that is being done.

Mr. Bollhoefer stated that County Road 535 has been on the drawing board for quite some time and the City has been ironing out some details. This project is trying to get started in the fall. Details have been ironed out on legal issues and right-of-way.

City Attorney Ardaman stated that there is one remaining issue with respect to a parcel that the City was obligated to attempt to acquire from Winn Dixie, which has been done. He requested a motion by the City Commission to convey this parcel to Orange County that will include a clause that it would revert back to the City in case they don't fulfill their obligation under the agreement to timely construct the road. Because the agreement does not expressly provide that the City Commission is to give the Winn Dixie sliver along the road to Orange County, he asked that the City Manager and the Mayor be given the authority to execute the deed.

City Manager Bollhoefer noted that the City obtained that portion of land on CR 535 just for this purpose.

**Motion by Commissioner Boulter to authorize the City Manager and Mayor to convey a small portion of City owned land on Winter Garden Vineland Road (CR 535) adjacent to the old Winn Dixie store to Orange County. Seconded by Commissioner Sharman and carried unanimously 5-0.**

• **Downtown Parking**

City Manager Bollhoefer addressed the issue of downtown parking and suggested an interim solution of limiting it to two hour parking. The goal with two hour parking is not to focus on someone who is a patron at a restaurant that may stay a little longer, but on those who flagrantly break the parking rules. The hours for the time restriction would be from 8:00 a.m. to 8:00 p.m.

There was discussion on the \$5.00 fine not being enough. Mr. Bollhoefer stated that the new ordinance would raise the fine to \$25.00, which will be brought back to the City Commission.

Mayor Rees stated that the City will need to sit down with the downtown merchants and go over this issue with them. Mr. Bollhoefer stated that he has actually spoken to the downtown merchants to let them know that the City is moving in this direction. He stated that most of them wanted parking meters but they are willing to try this method.

Commissioner Sharman asked about signage. Mr. Bollhoefer replied that as few signs as possible would be the preference in order to make them as unobtrusive as possible.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Buchanan stated that the intersection at Main and Smith Streets has a two-way stop sign but a resident's daughter got "T-boned" a couple of days ago. He recently had someone tell him that they had someone come very close to running that stop sign thinking it is a four-way stop and then proceed. He asked if there is any way to identify that it is not a four-way stop.

Mr. Bollhoefer stated that the sign would have to be a certain size based on Federal guidelines, but he and the Police Chief can take a look to see if it can be designated a four-way stop.

Commissioner Buchanan also mentioned that one of the concerns about this intersection is the white picket fence that is blocking a driver's view. Mr. Bollhoefer stated that there are other areas in the downtown area with this same issue. He thinks that the four-way stop is going to be the better solution.

Commissioner Boulter shared that the MLK multi-cultural event held on the 18<sup>th</sup> went very well. There were more in attendance than he expected. He thanked Recreation Director Jay Conn and staff for all their efforts.

Commissioner Sharman stated that the 2010 Census is coming up. He attended a meeting last week with representatives speaking on this subject. The Census will be mailing a questionnaire to every household that asks basic information. Their goal is to get at least 90 percent of the people to respond. There will be a follow up with a second mailing and then door-to-door visits for those not responding. They explained how they would count the homeless and even visitors from Haiti that could potentially be included in the City's population, which could mean some additional funding for the district. The official date for the Census count is April 1<sup>st</sup>.

Commissioner Boulter noted that the Census is still offering testing on Tuesday at 9:00 a.m. at the Maxey Center for jobs paying \$13 to \$27 per hour.

Mayor Rees stated that there were a lot of positive comments about our City through the Junior Miss event. The families really liked our city and are looking forward to next year. There were a lot of positive comments about Community Relations Manager Vaughn who represented our City very well.

The meeting adjourned at 7:10 p.m.

APPROVED:

/S/ \_\_\_\_\_  
Mayor John Rees

ATTEST:

\_\_\_\_\_/S/\_\_\_\_\_  
City Clerk Kathy Golden, CMC