



# CITY OF WINTER GARDEN

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## CITY COMMISSION REGULAR MEETING MINUTES

June 24, 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, and Colin Sharman

**Absent:** Commissioner H. Gerald Jowers

**Also Present:** City Manager Mike Bollhoefer, Assistant City Attorney Daniel Langley, City Clerk Kathy Golden, Community Development Director Tim Wilson, Planning Consultant Ed Williams, Public Services Director Don Cochran, Police Chief George Brennan, Economic Development Director Tanja Gerhartz, Controller Brian Strobeck, Fire Chief John Williamson, Information Technology Director Bob Reilly, Parks and Recreation Director Jay Conn, and Human Resources Director Frank Gilbert

### 1. **APPROVAL OF MINUTES**

**Motion by Commissioner Boulter to approve the regular meeting minutes of June 10, 2010 as submitted. Seconded by Commissioner Buchanan and carried unanimously 4-0.**

### 2. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

A. **Ordinance 10-25:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.15 ± ACRES LOCATED AT 555 BETHUNE AVENUE, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (*Applicant: West Orange Habitat for Humanity*)

Assistant City Attorney Langley read Ordinance 10-25 by title only. Community Development Director Wilson stated that this property is located on the east side of Bethune Avenue adjacent to a previously annexed property owned by the West Orange Habitat for Humanity. Staff would like to recommend the annexation and zoning to R-4 on the same property.

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

**Motion by Commissioner Sharman to approve Ordinance 10-25 with the second reading and public hearing being scheduled for July 22, 2010. Seconded by Commissioner Boulter and carried unanimously 4-0.**

- B. **Ordinance 10-26:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.15 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 555 BETHUNE AVENUE FROM ORANGE COUNTY R-2 TO CITY R-4; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (*Applicant: West Orange Habitat for Humanity*)

Assistant City Attorney Langley read Ordinance 10-26 by title only.

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

**Motion by Commissioner Boulter to approve Ordinance 10-25 with the second reading and public hearing being scheduled for July 22, 2010. Seconded by Commissioner Buchanan and carried unanimously 4-0.**

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

- A. **Ordinance 10-19:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA SUBSTANTIALLY AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF WINTER GARDEN, TO BE KNOWN AS “CITY PLAN 2020”; AMENDING THE FUTURE LAND USE ELEMENT, TRANSPORTATION ELEMENT (TO BE KNOWN AS THE MULTIMODAL TRANSPORTATION ELEMENT), HOUSING ELEMENT, PUBLIC FACILITIES ELEMENT, CONSERVATION ELEMENT, RECREATION AND OPEN SPACE ELEMENT, INTERGOVERNMENTAL COORDINATION ELEMENT, CAPITAL IMPROVEMENT ELEMENT, AND PUBLIC SCHOOLS ELEMENT BY UPDATING THE COMPREHENSIVE PLAN DATA AND ANALYSIS AND THE GOALS, OBJECTIVES AND POLICIES TO A NEW HORIZON YEAR OF 2020, INCORPORATING THE 2009 EVALUATION AND APPRAISAL REPORT AMENDMENTS, ADDRESSING THE REQUIREMENTS OF THE 2008 HOUSE BILL 697 CONCERNING GREENHOUSE GAS REDUCTION STRATEGIES, AND ESTABLISHING A TRANSPORTATION CONCURRENCY EXCEPTION AREA IN ACCORDANCE WITH THE 2009 SENATE BILL 360; FINDING CONFORMITY WITH STATE STATUTES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

Assistant City Attorney Langley read Ordinance 10-19 by title only.

Community Development Director Wilson stated that the State Department of Community Affairs (DCA) responded on three matters. The first relates to annexations from last July that has since been included as a concurrency item. The second item addresses our transportation concurrency and the solution is to adopt interim policies between now and July along with another amendment.

Mayor Rees asked about the sidewalk project list. Mr. Wilson responded that the list is merely an inventory list to start with and not intended to be the end result.

Commissioner Buchanan asked when the process would be completed. Mr. Wilson responded that this will go back to the DCA next week and we will have a compliance determination by the middle of September. If we receive a notice of non-compliance back, the City will have 45 days to negotiate the items.

Commissioner Buchanan asked if there was a penalty involved. Mr. Wilson replied no.

Mr. Wilson stated the third item was additional clarification on the City's wetlands and conservation area; the green lettered text is the additional language.

Mr. Wilson noted that although these specific changes are being presented tonight the City Commission will vote on the entire set of goals, objectives and policies as presented in the original agenda package at the March hearing and is on file in the City Clerk's office.

There was discussion on the possible elimination of the DCA.

Mr. Wilson advised that there is a sign-in sheet available at the meeting room entrance for anyone interested in receiving notifications from the DCA on this matter.

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

**Motion by Commissioner Buchanan to adopt Ordinance 10-19. Seconded by Commissioner Boulter and carried unanimously 4-0.**

**FIRST AMENDMENT TO AMENDED INTERLOCAL AGREEMENT WITH ORANGE COUNTY SCHOOL BOARD FOR PUBLIC SCHOOL FACILITY PLANNING AND IMPLEMENTATION OF CONCURRENCY**

Community Development Director Wilson stated that in the materials related to the comprehensive plan just voted on and in this interlocal agreement there is language that updates and modifies the level of service for school concurrency. More specifically, the school board wants to eliminate the K-8 program. They still have the schools; they just won't be subject to school concurrency. While it does not affect Winter Garden, since the City is a party to the interlocal agreement, we also have to be party to the amendment. The City included the adjustments in the comprehensive plan so we remain up-to-date with the adjustments made to the level of service because the concurrency standard is still in effect and is subject to the comprehensive plan requirements.

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

**Motion by Commissioner Boulter to approve entering into the first amendment to the amended interlocal agreement with Orange County School Board for public school facility planning. Seconded by Commissioner Sharman and carried unanimously 4-0.**

- B. **Ordinance 10-20:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN TO, IN PART IMPLEMENT THE FUTURE LAND USE ELEMENT OF THE CITY PLAN 2020 BY CHANGING THE FUTURE LAND USE DESIGNATION OF APPROXIMATELY 1,880.44 ACRES OF REAL PROPERTY LOCATED THROUGHOUT THE CITY OF WINTER GARDEN FROM VARIOUS DESIGNATIONS TO APPROXIMATELY 31.69 ACRES OF RESIDENTIAL NEIGHBORHOOD COMMERCIAL, 371.34 ACRES OF INSTITUTIONAL, 43.11 ACRES OF CONSERVATION, 65.87 ACRES OF TRADITIONAL DOWNTOWN, 642.73 ACRES OF URBAN VILLAGE, 235.85 ACRES OF MULTI OFFICE INDUSTRIAL, 122.66 ACRES OF LOW DENSITY RESIDENTIAL, 253.53 ACRES OF MULTI USE DEVELOPMENT, 9.70 ACRES OF INDUSTRIAL, 77.23 ACRES OF SUBURBAN RESIDENTIAL AND 26.73 ACRES OF COMMERCIAL; PROVIDING FOR A FINDING OF CONFORMITY; PROVIDING FOR TRANSMITTAL, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE

Assistant City Attorney Langley read Ordinance 10-20 by title only.

Community Development Director Wilson noted some changes were handed out earlier. A lot of the changes resolve some land use categories created by the City. The Urban Village on the Avalon and Marsh Road corridor that was annexed back in 2006, but the City was not able to place a land use on it due to the comprehensive plan compliance issues. He stated that an additional 27 acres was added along Plant Street and we took in Lulu Creek.

Mayor Rees asked about the total acreage for the City. Mr. Wilson replied we are at about 17 square miles.

Commissioner Sharman asked about the Urban Village designation on Marsh Road whether the property abuts the lake and if there are any plans for its use. Mr. Wilson replied that there have not been any plans submitted, but it has to be zoned first.

There was discussion that this property will be multi-use with residential along the lake.

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

**Motion by Commissioner Buchanan to adopt Ordinance 10-20. Seconded by Commissioner Boulter and carried unanimously 4-0.**

C. **Ordinance 10-24:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE CITY OF WINTER GARDEN FISCAL YEAR 2009-2010 BUDGET; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

Assistant City Attorney Langley read Ordinance 10-24 by title and an excerpt from Section 1 that the sum of \$188,780 is to be appropriated as follows:

<b><u>REVENUES</u></b>	
General Fund	\$ 27,654
Downtown Parking District Fund	64,478
Community Redevelopment Agency Fund	27,916
Local Option Gas Tax Fund	373,266
General Impact Fee Fund	458,311
Transportation Impact Fee-South of Turnpike Fund	--
Transportation Impact Fee-CR545	
Special Benefit Area Fund	(62,798)
Transportation Impact Fee-General Fund	323,587
Utility Operating Fund	60,800
Utility Impact Fee Fund	(980,552)
Utility Renewal and Replacement Fund	(52,600)
Stormwater Fund	7,918
Solid Waste Fund	(73,110)
Trailer City Fund	<u>13,910</u>
	\$ 188,780

Expenses are identically itemized to those of revenues with total expenses also equaling \$188,780.

Controller Brian Strobeck stated that this is the annual interim budget that is brought to the City Commission to adjust for changes and estimates for expenditures that were not anticipated in the original budget; staff recommends approval.

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

**Motion by Commissioner Boulter to adopt Ordinance 10-24. Seconded by Commissioner Sharman and carried unanimously 4-0.**

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

A. **Ordinance 10-08:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLES IX AND X OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES PRESCRIBING STANDARDS FOR THE S.R. 50 COMMERCIAL CORRIDOR OVERLAY BY REVISING LANGUAGE; PROVIDING FOR APPLICABILITY IN INSTANCES OF ANNEXATION, SUBSTANTIAL MODIFICATION, AND

EXISTING NONCONFORMITIES; PROVIDING ADDITIONAL DEFINITIONS AND REVISING EXISTING DEFINITIONS; PROVIDING AND REVISING DESIGN AND TECHNICAL STANDARDS FOR DEVELOPMENT, INCLUDING BUILDING MATERIALS, SHOPPING CART CORRALS AND SIGNAGE; REMOVING CERTAIN RESTRICTIONS ON LOCATING OUTDOOR VENDING MACHINES AND AMUSEMENTS; MODIFYING SETBACK AND BUFFER REQUIREMENTS; REFERENCING LIGHTING REQUIREMENTS; AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE

Assistant City Attorney Langley read Ordinance 10-08 by title only.

Community Development Director Wilson gave a PowerPoint presentation highlighting the current overlay versus the proposed overlay (*see attached Exhibit A*).

Commission Buchanan asked about any green space review as part of the review. Mr. Wilson responded no.

Mr. Wilson acknowledged all the work and effort put in on the part of the West State Road 50 Board and staff. In the end, the votes cast were unanimously in favor by the West State Road 50 Board as well as the Planning and Zoning Board in May. In addition, a letter of support has been received from the West Orange Chamber of Commerce and the Orange County Planning Department staff.

Commissioner Buchanan asked if anyone from GreenSpace of Florida has reviewed this ordinance. Mr. Wilson replied that this was an in-house review but it was also reviewed by the County and some of the local business interests. Commissioner Buchanan stated that with all the work that went into this, it would be good for them to review it so the City could possibly get a "Green" designation.

Mayor Rees asked about any research being done into State Road 50 becoming a Community Redevelopment District, which he is in favor of having done.

City Manager Bollhoefer replied that staff has been looking into it. In particular, that area from Main Street to Beulah that has to be submitted to the County. Thus far, the County has indicated no such interest.

Commissioner Sharman asked about those businesses not in favor of what's proposed for the side boundaries. Mr. Wilson stated that existing businesses could request a waiver and the new commercial locations could request a review of their extenuating circumstances. Commissioner Sharman asked if the buffer requirements could be an over kill in some cases.

Mr. Bollhoefer stated that the committee did a great job. If everyone remembers, the citizen survey showed one of the top concerns was the beautification of State Road 50. Ours is not as onerous as Ocoee or the County.

There was discussion on the City aggressively trying to get rid of the Orange County enclaves.

Mayor Rees opened the public hearing.

Theo Graham, 213 W. Tilden Street, Winter Garden, Florida, asked about connecting businesses so you don't have to travel on State Road 50 to get from one to another. Mr. Bollhoefer replied that the goal is to increase the connectivity in order to keep cars from having to go on and off State Road 50.

Dr. John Cappleman, a member of the review committee, stated that staff did a tremendous job on this item.

Hearing or seeing no more comments, Mayor Rees closed the public hearing.

**Motion by Commissioner Buchanan to approve Ordinance 10-08 with the fourth reading and public hearing being scheduled for July 8, 2010. Seconded by Commissioner Sharman and carried unanimously 4-0.**

5. **REGULAR BUSINESS**

A. **Oaks at Brandy Lake Subdivision**

(1) **Resolution 10-08:** A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA; AMENDING THE DEVELOPMENT SUMMARY OF THE OAKS AT BRANDY LAKE PUD WHICH WAS ADOPTED BY ORDINANCE 04-25; PROVIDING AN EFFECTIVE DATE

Assistant City Attorney Langley read Resolution 10-08 by title only.

Community Development Director Wilson noted that this resolution reduces the number of units and allows zero lot lines. He explained that there are two items for the City Commission's review: 1) amending the Oaks at Brandy Lake PUD and 2) approval of the amended preliminary plat.

Commissioner Sharman asked if notification was given to the residents of this community. Mr. Wilson responded that community meetings were held.

Commissioner Buchanan noted his concern regarding how close the two entrances are and the potential hazards.

Mr. Wilson noted that the subdivision is working with the Police Department regarding the street parking issue.

**Motion by Commissioner Boulter to approve Resolution 10-08. Seconded by Commissioner Sharman and carried unanimously 4-0.**

- (2) Recommendation to approve a revised preliminary plat with Development Review Committee conditions

**Motion by Commissioner Buchanan to approve the revised preliminary plat with Development Review Committee conditions (see attached Exhibit B). Seconded by Commissioner Sharman and carried unanimously 4-0.**

**B. Architectural Review and Historic Preservation Board appointments**

- (1) Correction to a prior appointment, and  
(2) Two appointments; one owner of commercial property in the Historic District and one property owner in the Historic District who is also a City resident.

City Clerk Golden advised that at the last meeting the appointments made ultimately created three resident members, but it only allows for two residents. Two additional seats need to be filled that include one owner of commercial property in the district and one property owner in the district who resides in the City. Two interest forms meeting the criteria have been included in the agenda packet for consideration.

**Motion by Commissioner Sharman to rescind the prior appointment of Mary Zahl. Seconded by Commissioner Buchanan and carried unanimously 4-0.**

**Motion by Commissioner Sharman to appoint Andy Crabtree and Wendy Byrd Jung to the Architectural Review and Historic Preservation Board. Seconded by Commissioner Buchanan and carried unanimously 4-0.**

**Motion by Commissioner Sharman to rescind the appointment of Wendy Byrd Jung to the Canvassing Board. Seconded by Commissioner Boulter and carried unanimously 4-0.**

6. **MATTERS FROM CITIZENS** – There were no items.

7. **MATTERS FROM CITY ATTORNEY**

Assistant City Attorney Langley advised that the agreement entered into with Orange County on the CR 535 improvements at a prior meeting included conveying additional right-of-way that was to be approved by the County within so many days. The County's next meeting is July 13<sup>th</sup>, which is beyond what is stated in the agreement. Therefore, he recommended extending the approval date for the conveyance provision by 120 days.

**Motion by Commissioner Buchanan to approve extending the right-of-way transfer for CR 535 improvements by an additional 120 days. Seconded by Commissioner Sharman and carried unanimously 4-0.**

8. **MATTERS FROM CITY MANAGER**

- Mr. Bollhoefer asked Planning Consultant Williams to come forward and share the latest development regarding the purchase agreements for the two Bradford properties.

Mr. Williams stated that two weeks ago the City Commission approved purchase agreements for two properties that have different owners and banks. The sale was to close at the same time. There was a settlement reached on the front property and they were working with the bank on the second piece of property when the bank backed out. Staff hopes to settle this and if not, another option is do a condemnation. Mr. Williams asked the City Commission to authorize a change to the agreement and allow the City Manager to sign the documents. He also noted that the second parcel is collateral on a third property and the bank is trying to get more money.

**Motion by Commissioner Sharman to approve the requested changes to the purchase agreement with Bradford Properties of Central Florida and authorized the City Manager to execute the documents. Seconded by Commissioner Boulter and carried unanimously 4-0.**

- Mr. Bollhoefer advised that the State's contractor for State Road 50 improvements has submitted a "project delay" claim for approximately \$130,000, with our subcontractor being involved. City Staff has asked Prince for copies of their records supporting their claim. Assistant City Attorney Langley added that whenever a contractor takes on the role of government, they are subject to the public records laws and must produce them when requested. Mr. Bollhoefer asked the City Commission to approve, if all other options fail, initiating legal action to secure the records. Mr. Langley shared that it is possible to also get attorney fees.

**Motion by Commissioner Sharman to approve taking all actions necessary to secure the documentation relating to the SR 50 delay claim as filed by Prince Contracting. Seconded by Commissioner Buchanan and carried unanimously 4-0.**

**A. Discussion on proposal regarding bicyclists and traffic regulations**

Mr. Bollhoefer stated he has handed out some information on this subject. He shared that while the downtown area has been made to be pedestrian/bike friendly, sometimes they come into conflict with those driving vehicles. Police Chief Brennan has shared some of his ideas. One is to remove the trail stop signs and not exercise enforcement efforts, but under the streetlights have signs telling vehicles to yield to all pedestrians and bikes. There could be soft enforcement on bicyclists on the roadways with warnings being issued. He will take a look at the trail intersections to make them safer for everyone. He will look into developing a master plan and bring it back to the Commission.

It was a **consensus** of the City Commission for the City Manager to move forward with his ideas and bring back a report to them.

- Mr. Bollhoefer shared that there was an article in the West Orange Times about our local eateries winning 10 awards this year. Commissioner Buchanan stated that these awards are a great stimulus for our local businesses and the awards were given by those from Orlando.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Sharman invited everyone to come out and enjoy the annual 4<sup>th</sup> of July celebration on July 3<sup>rd</sup> on Lake Apopka.

The meeting adjourned at 7:48 p.m.

APPROVED:

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

ATTEST:

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