



# CITY OF WINTER GARDEN

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## CITY COMMISSION REGULAR MEETING MINUTES

July 22, 2010

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:32 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, Assistant City Clerk Angee Grimmage, Planning Consultant Ed Williams, Public Services Director Don Cochran, Police Chief George Brennan, Building Official Skip Lukert, Economic Development Director Tanja Gerhartz, Finance Director Robin Hayes, Fire Chief John Williamson, Senior Network Specialist David Boddy, Parks and Recreation Director Jay Conn, Human Resources Director Frank Gilbert, and West Orange Times Reporter Michael Laval

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

**Motion by Commissioner Jowers to approve the regular meeting minutes of July 8, 2010 as submitted. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

### 2. **SECOND 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

**Motion by Commissioner Boulter to postpone Ordinance 10-25 until August 12, 2010 to meet advertising requirements. Seconded by Commissioner Jowers and carried unanimously 5-0.**

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

**Motion by Commissioner Jowers to postpone Ordinance 10-26 until August 12, 2010 to meet advertising requirements. Seconded by Commissioner Boulter and carried unanimously 5-0.**

- C. **Ordinance 10-27:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 54, ARTICLE III, SECTION 98-121 OF THE WINTER GARDEN CITY CODE; LIMITING TERMS TO THREE YEARS FOR MEMBERS OF THE COMMUNITY REDEVELOPMENT ADVISORY BOARD; CREATING TERM LIMITS AND IDLE PERIODS FOR MEMBERS OF THE COMMUNITY REDEVELOPMENT ADVISORY BOARD; ARRANGING FOR TERMS OF OFFICE FOR THE COMMUNITY REDEVELOPMENT ADVISORY BOARD TO EXPIRE AND COMMENCE WITHIN THE SAME MONTH; PROVIDING FOR THE FILLING OF VACANCIES; AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 10-27 by title only. City Manager Bollhoefer stated that this ordinance will create term limits for the Community Redevelopment Advisory (CRA) Board members. Similar changes have already been made to the Planning and Zoning Board and the Code Enforcement Board. Current members would be allowed to complete their current term and serve one additional term.

Mayor Rees opened the public hearing.

Larry Cappelman, 105 W. Plant Street, Suite 7, Winter Garden, Florida, CRA Advisory Board Chairman stated that the CRA does undertake projects that occur over an extended period. It may be beneficial to maintain continuity on the advisory board during the entire process of a particular project. He suggested that the ordinance be modified as to allow the flexibility for increasing someone's term to three terms, in the event there is another large project. The CRA, as the appointing body, does have that privilege.

Mayor Rees closed the public hearing.

Mayor Rees stated that he has no issue with Mr. Cappelman's suggestion.

Commissioner Jowers stated that he could see where it might be necessary for the City Commission to extend a member's term if there is a long project.

Commissioner Buchanan stated that the City Commission has the ability to extend an advisory board member's term in the event it is necessary for a certain project. He suggested that the City Commission set the standard the same as it is for the others and if there is a special need, the City Commission could at that time override the provision.

City Attorney Ardaman indicated that the City Commission could include a provision to bypass the term limitation and add one additional term.

Commissioner Boulter asked if this provision could be added into the ordinance.

Mr. Ardaman voiced his concern that this is a second reading and questioned whether or not it is a substantial change. He asked the City Commission if they would like to have a third term for one of the members to a special project or expand the City Commission's authority beyond a special project.

Mayor Rees asked how a special project would be defined.

Mr. Ardaman stated that this would be up to the discretion of the City Commission. He stated that he would craft some language to make it a general category as opposed to a special project.

Commissioner Sharman stated that the City currently has staggered terms and asked if the City Commission would want this to apply to one member for extending as opposed to possibly two or three at one time, thereby giving some continuity. There was discussion on the ability of the City Commission to appoint one or several members.

City Attorney Ardaman read the current language "A member of the advisory board cannot be reappointed after serving two consecutive full terms until he or she has remained off the board for one year; however, for members serving on the board as of August 1, 2010 and who are in the process of serving two or more consecutive terms at any such time such members may serve one additional succeeding term without interruption regardless of the term limitations contained herein." Mr. Ardaman suggested the added language could include "Further, in the event that the City Commission determines that special circumstances exist, the City Commission may reappoint any member of the advisory board for a third consecutive term." In addition, Mr. Ardaman stated that special circumstances would not be defined and will be left up to the City Commission for a determination.

Mayor Rees announced that this is still a public hearing for those wishing to speak to the proposed change. Hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Buchanan to adopt Ordinance 10-27 with the additional language as stated by the City Attorney. Seconded by Commissioner Sharman and carried unanimously 5-0.**

3. **REGULAR BUSINESS**

A. **Recommendation to approve a two-year Memorandum of Understanding with Crealde Arts, Inc., a non-profit organization, to provide certain instructional art classes at the Jessie Brock Center**

Recreation Director Conn stated that in hope of improving our Arts and Cultural programs available to our residents, staff is requesting approval to enter into a two-year agreement with the Crealde School of Arts. This agreement would bring their instructors to the Jessie Brock Community Center. Staff recommends approval of the agreement with Crealde who has been a leader in art education in Central Florida.

City Attorney Ardaman suggested a change to page two of the Memorandum of Agreement under Section A-4. The first four words of that section state “the property interest conveyed” and since it involves two rooms in the facility, he does not believe the City wishes to convey a property interest. Therefore, he suggested the language be deleted and be replaced with “during the effectiveness of this agreement, the interest provided herein by the City is a license.”

**Motion by Commissioner Jowers to approve the two-year Memorandum of Understanding with Crealde Arts, Inc., a non-profit organization, to provide certain instructional art classes at the Jessie Brock Center with the added provision as stated by the City Attorney. Seconded by Commissioner Boulter and carried unanimously 5-0.**

**B. Recommendation to approve entering into a Utility Extension Agreement with the West Orlando Baptist Church to include reimbursement of \$11,747.00 for the upsizing of the water line**

Public Services Director Cochran stated that it has been the City’s past practice that whenever it is to the City’s benefit, to require a developer to upsize their utility lines whenever they are extending utility lines to their property. In this case, the City has asked the West Orlando Baptist Church on East Crown Point Road to upsize their 8-inch line, which is the minimum line required, to a 12-inch water main. This agreement allows the City to reimburse the developer for the difference between the 8-inch water main and the upsized 12-inch water main. The cost in this case is \$11,747.00 and staff recommends approval with this condition included.

**Motion by Commissioner Buchanan to approve entering into a Utility Extension Agreement with the West Orlando Baptist Church to include reimbursement of \$11,747.00 for the upsizing of the water line with the condition as stated. Seconded by Commissioner Sharman and carried unanimously 5-0.**

**C. Presentations and discussion regarding the future of the Garden Theatre**

City Manager Bollhoefer gave a PowerPoint presentation on the future of the Garden Theatre (*See attached Exhibit A*). This has been approximately a 7-year project. He noted that back in December an agreement was reached in principle and staff is moving forward to take this one more step.

Mr. Bollhoefer noted that currently the City has a \$2.5 million performing arts center with an outstanding debt of approximately \$1.35 million. A volunteer group operates the theatre and is present to discuss how we move forward. Last year we left off that the City would take ownership of the theatre that included responsibility for major building maintenance. The volunteer group would be responsible for the daily maintenance and the Heritage Foundation would operate the theatre. Since then, the Heritage Foundation has decided that they would prefer to split into two separate groups because each group has a different passion; one is historical and the other is theatre.

From staff's point of view, it is recommended that an operating agreement be entered into with the new non-profit organization. He suggested there be a five-year agreement with an option to renew after three years. The reason for the three year option is because generally they have to book shows several years in advance and they shouldn't be prevented from being able to make bookings. He noted there are three years remaining on the agreement with the Heritage Foundation that includes the City funding \$75,000 a year. He recommended it be divided as \$20,000 into a building fund, \$20,000 to the theatre group, and \$35,000 to the Heritage Foundation. He noted that they have been splitting the funds 50/50 between the groups.

Commissioners Sharman and Bouler asked how far in the filing process for a non-profit is the theatre group.

Becky Stafford, 1355 Castle Blvd., Windermere, Florida in unincorporated Orange County, representative and chairperson for the Garden Theatre, stated that their non-profit application has not yet been completed because they felt an affirmative vote by City Commission would be what triggers the completion of their application.

Alauna McMillen, 110 Agnes Street, Winter Garden, Florida, stated that the Articles of Incorporation have been completed and they have received their employer identification number (EIN).

City Manager Bollhoefer noted that if for any reason this organization could not be completely formed or could not operate the theatre, the Heritage Foundation would have first right to take over running the theatre, which would be included in the agreement.

Commissioner Buchanan asked if the theatre group was aware of the agreement referenced by the City Manager and do they agree.

Ms. Stafford stated that the terms were a lively part of their discussion with staff and they are agreeable. She thinks they should move forward.

John Murphy, 10239 Trout Road, Orlando, Florida, in unincorporated Orange County, representative for the Heritage Foundation, stated that the foundation is proud of what has been achieved and acknowledged the City's support thus far. Their board voted unanimously to support the proposal as presented and noted the terms are consistent with what the board has discussed.

Ms. Stafford stated that the Garden Theatre board is interested and excited about taking on this project.

Commissioner Jowers asked if the City were to take over the theatre and the Winter Garden Heritage Foundation were to absolve itself of the debt and it becomes the City's debt, would they be willing to co-sign or become the guarantor should it fail.

Mr. Murphy replied that there would be no instrument of debt (note) but an operating agreement. There would no longer be a note. Therefore, co-signing would not apply. The responsibility was negotiated into the deal as the initial terms were being formulated that included the right of first refusal. That is both a responsibility and an intention to make sure the theatre succeeds. He thinks there is co-signing, if you would like to call it that.

Ms. Stafford added that she wants her group to operate the theatre.

Commissioner Jowers stated that he thinks it is a worthy project that will work and be a good deal.

Frank Siano, 2640 Cedar Bluff Lane, Ocoee, Florida, producer of several events including the MusicFest, suggested that the City also consider which volunteer group will eventually run the theatre. There are other organizations that would like to be involved and may even do a better job. The current organization is basically a rental organization with 90 percent of what they produce being brought in from other companies. Many professional groups go under because they cannot afford to rent the spaces they are in. Mr. Siano suggested forming a committee of professionals to determine if this is the best fit for running the theatre. His concern is not allowing other proposals to be brought forward, which is not best serving the citizens of the City. He wants all bases covered so there is no favoritism implied.

Commissioner Buchanan shared that the City Manager has obtained a lot of information on how other theatres are ran. He feels the City Commission has done its homework on this matter.

Commissioner Boulter noted that if it was so important to others, they should have approached the City regarding their interest in the theatre, but to date there have been none.

**Motion by Commissioner Jowers to approve bringing back to the City Commission, for their consideration, a proposed operating agreement for the Winter Garden Theatre. Seconded by Commissioner Boulter and carried unanimously 5-0.**

**D. Selection of a voting delegate for the Florida League of Cities annual conference in August 2010**

**Motion by Commissioner Jowers to designate Commissioner Boulter as the voting delegate for the Florida League of Cities annual conference in August 2010. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

**E. Recommendation to approve setting the proposed tax millage rate at 4.25 for Fiscal Year 2010/2011**

City Manager Bollhoefer stated that the City has two opportunities to set the millage rate. He suggested setting the initial millage rate at 4.25, which is still less than the roll back rate. He has no intention of recommending this millage as the final millage, but this

gives the City Commission an opportunity throughout the process to make changes if they want to add anything to the budget. The actual millage is set at the next hearing. It is staff's intention to recommend setting the millage at 3.75, but because we are early in the budget process, he recommends setting the millage a little higher to allow the extra budgeting opportunities.

**Motion by Commissioner Buchanan to approve setting the millage rate at 4.25 for Fiscal year 2010/2011. Seconded by Commissioner Bouler and carried unanimously 5-0.**

**F. Recommendation to reduce Code Enforcement Board fines in Case #07-1625 against 217 E. Cypress Street to \$1,511.59 to be paid within 30 days**

Code Enforcement Manager Lukert stated that back in 2007 this property was in violation of the Housing Code. The original owners, Rafael Alvarez and Janette Cruz, attempted to make repairs, but financially they could not and vacated the property. The lien holders got a court order because they could not get a permit because they did not own the property. With a court order, the lien holder was able to repair the property and subsequently was issued a Code Enforcement Affidavit of Compliance in May. They are now requesting a reduction in Code Enforcement fines. Staff recommends reducing and satisfying the Code Enforcement lien from \$210,250.00 to \$1,511.59. This is the difference between paying the other liens and what they offered to pay in the foreclosure. They have actually spent thousands of dollars on the repairs. Staff has reviewed the request and recommends approval.

**Motion by Commissioner Jowers to approve reducing Code Enforcement Board fines in Case #07-1625 against 217 E. Cypress Street to \$1,511.59 to be paid within 30 days, otherwise the fines will revert back to the original amount. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

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

5. **MATTERS FROM CITY ATTORNEY** – There were no items.

6. **MATTERS FROM CITY MANAGER**

**A. Recommendation to establish the budget workshop and public hearing dates for Fiscal Year 2010/2011**

Finance Director Hayes stated that staff would like to propose that the City Commission move their September meetings dates from Thursday the 9<sup>th</sup> and 23<sup>rd</sup> to Wednesday, the 8<sup>th</sup> and 22<sup>nd</sup>.

**Motion by Commissioner Buchanan to approve changing the dates of the September City Commission meetings to Wednesday, September 8<sup>th</sup> and September 22<sup>nd</sup>. Seconded by Commissioner Jowers and carried unanimously 5-0.**

- **West Orange Chamber of Commerce Board Member**

City Manager Bollhoefer stated that the West Orange Chamber of Commerce has asked that the City Commission select a board member. For the past two years Commissioner Buchanan has served and he is interested in remaining a board member.

**Motion by Commissioner Boulter to appoint Commissioner Buchanan as the City's representative on the Board of the West Orange Chamber of Commerce. Seconded by Commissioner Jowers and carried unanimously 5-0.**

- **Donation of Surplus Equipment**

City Manager Bollhoefer stated that at the last meeting the City Commission approved sending surplus equipment to be auctioned. However, he would like to remove 10 chairs from the auction and donate them to the local United Cerebral Palsy School, located on Dillard Street, who is in need of the chairs.

**Motion by Commissioner Boulter to remove 10 chairs from the equipment surplusd at the last meeting and donate them to the United Cerebral Palsy School on Dillard Street. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

- **Spaghetti Lunch Fundraiser**

Community Relations Manager Vaughn invited the City Commission to a Spaghetti Lunch Fundraiser for \$5.00, or a minimum donation, to benefit the Stars of West Orange on Wednesday, August 18<sup>th</sup> at the Jessie Brock Center from 11:30 p.m. to 1:00 p.m.

7. **MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Jowers** stated that he has been working with the City Manager regarding the problems being experienced by businesses on State Road 50 with customers not being able to get to them. He thanked Public Services Director Cochran for the work he and the City Manger have done in this effort. The merchants he has spoken with are smiling again because they can at least get their customers to them.

**Commissioner Buchanan** thanked the City for fixing Park Avenue that is looking great. He wanted staff to know that it was noticed.

**Commissioner Sharman** asked about getting Hob Nob tickets. The City Manager stated he would get the tickets.

The meeting adjourned at 7:38 p.m.

APPROVED:

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

ATTEST:

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