



CITY OF WINTER GARDEN

CITY COMMISSION BUDGET WORKSHOP AND REGULAR MEETING MINUTES

August 26, 2010

The **BUDGET WORKSHOP** and **REGULAR MEETING** of the Winter Garden City Commission were 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, H. Gerald Jowers, Colin Sharman and Bob Buchanan

Also Present: City Manager Mike Bollhoefer, City Attorney A. Kurt Ardaman, City Clerk Kathy Golden, Community Development Director Tim Wilson, Public Services Director Don Cochran, Police Chief George Brennan, Building Official Skip Lukert, Economic Development Director Tanja Gerhartz, Fire Chief John Williamson, Information Technology Director Bob Reilly, Finance Director Robin Hayes, Parks and Recreation Director Jay Conn, and Human Resources Director Frank Gilbert

At this time, Mayor Rees presented retiring Police Sergeant Robert Butler with **Proclamation 10-07** in recognition of his 29 years of service with the Winter Garden Police Department.

Mayor Rees called the budget workshop to order for Fiscal Year 2010/2011.

City Manager Bollhoefer began by noting that this is an extremely tough budget year. Revenues are reduced and property tax values have dropped. Based on the current millage rate, revenues have dropped basically \$1.3 million dollars. He noted two corrections to the budget packet provided to the City Commission. One correction is to the asset for the downtown pavilion and water park that shows \$500,000.00, which should be \$1,225,000.00. Also, \$100,000.00 should be added to capital for the Police Department to help pay for radio dispatch consoles. This also changes the transfer to fund balance.

Finance Director Hayes came forward and presented her PowerPoint presentation (see attached **Exhibit A**).

City Manager Bollhoefer gave his PowerPoint presentation (see attached **Exhibit B**).

Mr. Bollhoefer shared what has been done to reduce costs. He then addressed his plan to reduce pension costs as well as other possible cuts and savings that included charging for downtown events, outsourcing mowing, reducing the frequency of mowing, police take-home vehicles, outsourcing dispatch, and self-insuring our health care coverage. He shared the Parks and Recreation Programs that could potentially have their net costs cut; swimming pools, major events, senior programs, Kids Café, reduce time spent on parks and hours of operation, and the

contribution to the Heritage Foundation. He also looked at Police and Fire and the elimination of eight police officers, which would cause a reduction in the number of police zones. He has looked at outsourcing dispatch and converting to three firefighters on a fire truck. Coverage for firefighters is determined by the "circle" measure for our three stations with the idea that they cover residents within a 1.5 mile radius. He presented that currently our officer to population ratio is 2.26 per thousand residents.

For the future, if we are looking at a 5 to 14 percent drop in property values next year, we could stand to be reduced in revenue by \$400,000.00 to \$1.2 million. We also have a legislator candidate who has pledged to freeze our millage rates for a minimum of two years. What may happen is that we lose the opportunity to adjust our millage rate.

He assured the City Commission that he will continue with the process of long term improvement and itemized some examples. Mr. Bollhoefer stated that he feels one of the most important things we can do for our future is economic development. Cutting costs is one way, but we also have to find ways to increase our revenues. This can be achieved by bringing in more businesses, which is a long-term benefit. He also provided the City Commission with copies of his first round budget cuts, possible budget reductions in Parks and Recreation, and various financial fund balance sheets as of July 31, 2010. He will be providing an updated list prioritizing the items based on their importance.

Mayor Rees suggested to the Commissioners that if they have questions they could go through and mark up their budget workbook, as he has, and go over their questions with the City Manager, or whomever, over the week or so.

The budget workshop concluded at 7:23 p.m. and the regular meeting was immediately opened.

1. **APPROVAL OF MINUTES**

Motion by Commissioner Jowers to approve the regular meeting minutes of August 12, 2010 as submitted. Seconded by Commissioner Boulter and carried unanimously 5-0.

2. **PROCLAMATION**

A. **Proclamation 10-07:** Honoring Retired Sergeant Robert Butler for his 29 years of service with the Winter Garden Police Department (*This item was handled before the budget workshop.*)

3. **REGULAR BUSINESS**

A. **Recommendation to approve the replat of Oaks at Brandy Lake with conditions (Applicant: Meritage Homes) (Continued from August 12, 2010)**

Community Redevelopment Director Wilson stated that this item was postponed from the last meeting to allow the developer to attend this meeting and answer questions from the City Commission. The replat involves reducing half of the units from townhome units to zero lot line. There are also conditions being recommended by the Development Review Committee.

Commissioner Jowers stated that zero lot line subdivisions historically have deteriorated significantly after being built and he asked if this project will have two-car garages for each unit.

John Townsend, P.E. with Donald McIntosh Associates, Inc., responded that they will be consistent with the current single family detached homes. They have gone from 32 attached townhomes to 16 single family detached homes, which are rear loaded.

Jeff Porter, with Meritage Homes, noted that the product is not changing. There will be two car garages.

Commissioner Jowers stated that he does not currently see cars parked all over the place but with zero lots lines with one or two car garages, it can create a problem. His concern is with homeowner associations not enforcing parking restrictions. He wants a guarantee that it will be kept up.

Mr. Townsend stated that the units are rear loaded with alleys, with no parking, that are out of view. What you see in the front subdivision now, is what you will see in the back development.

Motion by Commissioner Boulter to approve the replat of Oaks at Brandy Lake with the conditions recommended by staff (see attached Exhibit C). Seconded by Commissioner Buchanan and carried unanimously 5-0.

B. Consideration of a proposed rental policy, including alcohol consumption, and rental contract for Jessie Brock Community Center

Parks and Recreation Director Conn stated that since opening the facility there has been considerable interest expressed by groups wanting to rent various rooms within the new community center. Staff felt it was prudent to invite the surrounding neighbors to a couple of public meetings for the purpose of discussing some of what the groups may want included in renting the facility such as the consumption of alcohol, allowing music, and what the hours might be. The primary topic and comments made by the neighbors was regarding the alcohol policy. The majority did not want to see alcohol allowed in the facility and staff understands their concerns.

Staff is recommending that rentals be allowed to move forward. Also, based on resident's comments, staff recommends that alcohol not be allowed at events. He suggested that a good compromise would be to allow class reunions and homeowner association (HOA) functions, who serve food, to also serve alcohol. These two events are less likely to generate alcohol related problems.

City Manager Bollhoefer clarified that it would be Winter Garden HOA's and Winter Garden school reunions, with very few reunions. The residents that have spoken are comfortable with this suggestion.

Commissioner Buchanan asked how wide an area in the community was approached for comments.

Mr. Conn replied that it was approximately a three block radius.

Commissioner Buchanan stated that he has a problem with only 18 residents, as represented in the paperwork, showing up and speaking for all city residents whose tax dollars are being used to pay to remodel the building. That does not seem like enough input from residents for staff to be able to address all the concerns or make a recommendation. He would like to see it extended a little further when something of this nature comes up of this importance. If something were to happen at the center, it is a “black eye” to Winter Garden and not just a three block area.

Mayor Rees stated that the area directly around the recreation center is the most affected.

Mr. Bollhoefer clarified that there were many more than 18 who attended that were sent invitations. The three blocks was for the perimeter, so there were a significant number of homes given invitations.

Commissioner Jowers added that the residents were there before the school site was and he wants to honor the requests of the residents.

Motion by Commissioner Jowers to approve the proposed rental policy and contract to exclude alcohol consumption, with the exception of Winter Garden Homeowners Associations and Winter Garden school class reunions being allowed to serve alcohol. Seconded by Commissioner Buchanan and carried unanimously 5-0.

C. Recommendation to grant a transmission power line easement to Florida Power Corporation/Progress Energy, located at the City’s percolation pond site, upon the City’s receipt of \$434,000.00 and authorize the City Manager to execute the necessary documents

Public Services Director Cochran stated that in June 2009, Progress Energy made a presentation to the Commission and requested to purchase a 50 foot transmission power line easement on approximately 3.39 acres. The easement follows the east boundary of the City’s reclaimed water percolation pond site. Since renegotiating the first offer of \$167,900.00, their offer is now \$434,000.00. Staff believes this offer is a fair exchange and recommends approval of the easement.

City Attorney Ardaman noted that the easement, as provided in the agenda packets, does not have exhibit “3” or page 2, but both are required and therefore need to be included in the approval being recommended by staff.

Motion by Commissioner Boulder to approve a transmission power line easement to Florida Power Corporation/Progress Energy as recommended by staff. Seconded by Commissioner Sharman and carried unanimously 5-0.

D. Recommendation to approve Change Order #1 for additional street paving of six streets in the amount of \$53,739.00 to Middlesex Corporation

Public Services Director Cochran stated that at the time the City Commission approved and awarded the 2010 street paving projects, the City Commission also approved spending the amount up to the budgeted amount for additional paving projects. This work has been completed and this item is requesting approval of payment for the work completed on North Plant, Donald, Bray, Foster, Oak and Central Avenue. He noted a correction to his agenda item cover memo under recommended action that should state the amount is \$53,739.00.

Motion by Commissioner Jowers to approve Change Order #1 with Middlesex Corporation for \$53,739.00 as recommended by staff. Seconded by Commissioner Boulter and carried unanimously 5-0.

E. Recommendation to approve a tri-party agreement for the Winter Garden Theatre

City Manager Bollhoefer stated that the tri-party agreement and the operating agreement have been provided to the City Commission. He assured the Commission that they contain what has been discussed at previous meetings such as ownership, performance standards, an initial five-year lease with the opportunity to renew at three years, that can be renewed for four additional ten-year terms, with the City owning the theater and all the buildings. However, the one difference is that the City was going to own all the furniture and fixtures, but the theater group wants to own the equipment to help them out on their balance sheet when they are trying to obtain grants. There is language that they technically own it but they cannot borrow against it and if they leave, the equipment goes back to the City. If they purchase more equipment or fix it, it also belongs to the City under the same arrangement.

City Attorney Ardaman noted that the risk to the City is not substantial. The version he handed out includes some changes just made this afternoon. They are relatively minor and he wanted the City Commission to see it since it is slightly different than what the City Manager had provided them. He noted that it is not the operating agreement being approved tonight, but the actual agreement. The operating agreement will become exhibit "C" to this agreement. There were no changes being made to the operating agreement.

Mr. Ardaman itemized the agreement changes as follows:

- Page 1 clarifies that the \$1.3 million debt will be satisfied when closing occurs
- Page 2 under the last whereas clause clarifies that the Garden Theatre will have to ask the City Commission for renewal of its initial five-year term, two years prior to the end of that term and after that, in each of the four ten-year terms, they will have to come to the Commission one year before the term is up
- Page 3 shows that the conveyance will be done by quit-claim deed in the same manner as the City conveyed it to them initially
- Page 6 clarifies that in the event the Heritage Foundation takes back over the theater, they would also take over ownership of the theater equipment subject to the same liens the City has with the Garden Theatre owning the equipment

- Page 9 paragraph 14 includes language that the Heritage Foundation, after the transaction is closed, that all the provisions in the agreement would continue to survive

Mayor Rees asked if both the Heritage Foundation and Winter Garden Theatre have agreed with the documents. (*The Representatives present in the audience both indicated their agreement with the documents.*)

Commissioner Buchanan asked about any provisions for subleasing.

Mr. Ardaman identified that on page 9 under paragraph 11, the agreement provides there is no assignment and read "...no party may assign, sublet or transfer the rights contained herein to any third party, directly or indirectly, without first obtaining the express written consent of the other parties, which consent shall be the absolute discretion of each party." However, this language does not appear in the operating agreement, which should have that same language.

Mr. Beckett, with Lowndes, Drosdick, Doster, Kantor & Reed, P.A., noted that the referenced provision has been included in the operating agreement under paragraph 14.

Mr. Ardaman read the referenced provision noting that it has been included. Additionally, he noted that the operating agreement includes a provision whereby if the agreement is terminated and the license to the Garden Theatre is terminated, the agreement allows the Heritage Foundation to step in.

Commissioner Sharman asked what is in place to ensure that the quality of product we expect to see continues.

Mr. Ardaman replied that the performance standards are addressed in the agreement on page 3 under paragraph 5 (A) that lists all the items that have to be performed by the Garden Theatre. Those same standards are contained in the operating agreement.

Motion by Commissioner Jowers to approve the City Attorney's recommended versions of the revised tri-party agreement and operating agreement as presented, with the Winter Garden Heritage Foundation and Garden Theatre, Inc. Seconded by Commissioner Sharman and carried unanimously 5-0.

4. **MATTERS FROM CITIZENS** - None
5. **MATTERS FROM CITY ATTORNEY** – There were no items.

6. **MATTERS FROM CITY MANAGER**

Roads within Westside Townhomes

Mr. Bollhoefer updated the City Commission on paving the roads within Westside Townhomes that are privately owned. The City would take ownership and assess a special assessment to pay for the cost. Initially, his original estimate was about \$56.00 per resident

per year for 20 years. Once the financing was added in, the estimate became \$88.68 per resident. This increased amount may cause the residents to not vote for transferring ownership. He suggested that the City pay part of the interest to get the project done because it is important to the community.

The interest estimate is 4.5 percent and he recommended that the City Commission consider having the residents pay 2 percent and the City pay the remaining 2.5 percent. The cost to the City would be \$105,000.00 over a period of 20 years. This would bring the assessment to \$70.55 per year, per unit owner. He believes the residents may be more willing to approve the additional assessment if it is at the lower rate. He stated that the public purpose for this project is because the community is not gated and if they would have been made public roads, they would have been paved with Local Option Gas Taxes (LOGT). He believes the interest can be paid with LOGT. He requested direction from the City Commission.

Motion by Commissioner Sharman to approve moving forward with the City Manager's recommendation. Seconded by Commissioner Buchanan and carried unanimously 5-0.

Pat Primrose, 1070 Dolphin Drive, Winter Garden, Florida, a resident of Westside Townhomes, came forward and thanked the City Commission for approving this item.

At this time, Mr. Ardaman shared that Senate Bill 360 that was passed last year to extend permits by two years and deals with developments of regional impacts, has just today been held unconstitutional by the Circuit Court because in part, the legislature created an unfunded mandate. He also noted it will probably be appealed.

7. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Boulter announced that he recently returned from a state conference and once again he experienced nothing but positive feedback about how Winter Garden is doing. He stated that he believes it is because of the leadership of our City.

Commissioner Buchanan asked for an update on the interactive downtown fountain/pavilion.

Mr. Bollhoefer responded that the bids are in and now it's a matter of finding the money in the budget. He thinks the total cost is a little over \$1.6 million. The pavilion is about \$1 million and the fountain is \$600,000.00, but he will get the Commission the figures.

The meeting adjourned at 8:00 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

 /S/
City Clerk Kathy Golden, CMC