



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

November 11, 2010

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Commissioner Buchanan at 6:30 p.m. at City Hall, 300 West Plant Street, Winter Garden, Florida. The invocation and Pledge of Allegiance were given.

Present: Commissioners Bob Buchanan, Harold L. Boulter, and Colin Sharman

Absent: Mayor John Rees, Commissioner/Mayor Pro Tem H. Gerald Jowers

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

In the absence of both the Mayor and Mayor Pro Tem, Commissioner Bob Buchanan presided over this meeting.

1. **APPROVAL OF MINUTES**

Motion by Commissioner Sharman to approve the regular meeting minutes of October 28, 2010 as submitted. Seconded by Commissioner Boulter and carried unanimously 3-0.

2. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

A. **Ordinance 10-33:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA; AMENDING THE CITY OF WINTER GARDEN COMPREHENSIVE PLAN; BY ADOPTING AN AMENDMENT TO THE CAPITAL IMPROVEMENTS ELEMENT PURSUANT TO SUBSECTION 163.3177 (3) (b), FLORIDA STATUTES TO MAINTAIN A FINANCIAL FEASIBLE 5-YEAR SCHEDULE OF CAPITAL IMPROVEMENTS; PROVIDING FOR CONFLICTS, SEVERABILITY, TRANSMITTAL AND EFFECTIVE DATE

City Attorney Ardaman read Ordinance 10-33 by title only.

Presiding Commissioner Buchanan opened the public hearing; hearing or seeing none, he closed the public hearing.

Community Development Director Wilson stated that this is the City's annual update to the Capital Improvement Element. The City has to maintain the comprehensive plan for fiscal years 2011-2015. He noted that Exhibit "A" is a schedule of the respective projects by various services that are supported in the infrastructure element of the comprehensive

plan. This mirrors the capital improvement projects list that was recently adopted in the budget. Staff recommends approval and the second reading to be held on December 9, 2010.

Motion by Commission Sharman to approve Ordinance 10-33 with a second reading scheduled for December 9, 2010. Seconded by Commissioner Boulter and carried unanimously 3-0.

3. **REGULAR BUSINESS**

A. **Recommendation to approve entering into a contract to purchase the Tucker Ranch property consisting of 204+ acres in unincorporated Orange County located to the south of the Florida Turnpike and on the west side of Avalon Road**

City Manager Bollhoefer stated that this property is the Tucker Ranch property located on CR 545 that the City has been reviewing for quite some time to purchase. The purchase price has been negotiated for \$2,075,000. The vote tonight would be on approving the contract contingent upon the results of the Phase II environmental study. The future uses would be park land for the City of Winter Garden.

Presiding Commissioner Buchanan asked if the City was told what was found in Phase I.

City Manager Bollhoefer replied yes and acknowledged Alex Size with The Trust for Public Land to address this issue.

Mr. Size stated that the Phase I report did note a number of historical uses of the property, including an old railroad spur that crisscrosses the property from the southeast to the northwest. There were citrus groves, a cattle pen area which is somewhat of a likely spot to find some contamination. It has not been determined if this will rise above the State and Federal threshold for those types of contamination. There are a couple of sites on the property that their environmental consultant recommended for additional testing.

Presiding Commissioner Buchanan stated that he knows what would be in a cattle dip but inquired about what would be contaminated in a railroad spur.

Mr. Size stated that railroads usually use arsenic on the rail beds. The issue with arsenic is it binds to the soil and does not leach out and can stay in the soil for quite some time. This is different from a citrus area that is usually grown in sandy well drained soil allowing pesticides to leach out into the aquifer. Railroad beds that have arsenic will usually remain in the soil for some time. He doesn't know yet if there will be a contamination level above the threshold.

City Attorney Ardaman stated that he thinks there was also an area on the property that was used for some kind of testing or formulation of a bug repellent.

Mr. Size responded yes, that was noted in the Phase I report and the information came from a woman working with the local historical society. There has been no other verification, but it was noted. Mr. Size noted that he has seen no other documents pertaining to the use of bug repellent.

Commissioner Boulter asked how long it would take before finding out the concentration levels.

Mr. Size stated that Phase II has already been started and soil samples were taken last Friday. Those lab results should be back by the end of next week.

Mr. Size noted that this contract does not bind the City to buy the property if the contamination is found to be above the State thresholds.

Commissioner Sharman stated that the City would not be able to use the land for parks if it is found to have thresholds above the acceptable levels. He asked what the worst case scenario would be for the City.

Mr. Size stated that the worst case scenario would be that the entire property would be contaminated, which he does not think is likely. In most cases, they would bind the area and examine the size of the contamination area. In some cases small areas would be replaced with clean fill dirt.

Commissioner Sharman asked if it is expected there will be minor areas found.

Mr. Size responded minor at best because the railroad on the property went defunct in the 1920's.

City Attorney Ardaman stated that this is the expectation because it was used as a grove and it was typical for chemicals to be used on the groves over the years. He noted that this would be the case for most of Central Florida.

Mr. Ardaman noted that assuming the City Commission approves this contract; the City then has until December 15, 2010 to do our due diligence, which is typically a short window. The Trust for Public Land then closes on the property on December 17, 2010 from Tucker Ranch. The City would then close on January 14, 2011 with the Trust for Public Land, who would then own the property and the City would then buy it from them. Ms. Tucker would have the right to remain on the property for about a 60-day period pursuant to an agreement. The Trust for Public Land will make sure this is an agreement the City is comfortable with before they close on the property.

Mr. Ardaman noted that the agreement includes that if the City posts plaques on the property; the City would be required to recognize The Trust for Public Land as a partner in the acquisition process.

Mr. Ardaman addressed that the original contracts the City Commission received in their agenda packet has since been modified. These changes are reflected in the final distributed version, which has been agreed upon by The Trust for Public Land as well as City staff.

Motion by Commissioner Sharman to approve entering into a contract to purchase the Tucker Ranch property consisting of 204+ acres in unincorporated Orange County located to the south of the Florida Turnpike and on the west side of Avalon Road. Seconded by Commissioner Boulter and carried unanimously 3-0.

B. Recommendation to approve Annual Construction Services Contract with APEC, Inc. at the unit priced rates previously approved and bid by T. D. Thomson Construction

Public Services Director Cochran stated that in March 2010 the City entered into a contract with three contractors for the City's annual construction services. The contract includes work on utilities, roadway, stormwater, and emergency services. Those contractors were with T. D. Thomson, Conpilog Construction, and Stage Door II Construction. T. D. Thomson had been kept fairly busy on the State Road 50 project and other projects around the City. Stage Door II has been very responsive to some small jobs. Conpilog has been non-responsive and either cannot make it or cannot schedule the work in a timely manner. Mr. Cochran stated that tonight he is recommending that the City add another contractor to the City's list who will be more responsive and that is APEC, Inc. The City used APEC, Inc. on a previous job last year and they did a fairly good job. They kept their site clean, and the job was done on time, and was within budget.

Motion by Commissioner Boulter to approve the annual construction services contract with APEC, Inc. at the unit priced rates previously approved and bid by T. D. Thomson Construction. Seconded by Commissioner Sharman and carried unanimously 3-0.

C. Appointment to the Police and Fire Employees Pension Board for a two-year term for expiring term of Mildred Holt-Washington on November 30, 2010

Assistant City Clerk Grimmage stated that at the last City Commission meeting this item was addressed and there was a partial resolve in that the City Commission voted to reappoint Mr. Joe Morabito. That left only one expiring seat to fill, that of Ms. Mildred Holt-Washington. Ms. Holt-Washington has graciously served on this board for many years but is currently wishing to vacate her seat when the term expires on November 30th. Ms. Grimmage stated that interest applications have been provided in the agenda packet and staff is seeking to know the desire of the City Commission in filling this soon to be vacant seat.

It was the **consensus** of the City Commission to postpone this item until the next meeting.

4. **MATTERS FROM CITIZENS**

Jerry Carris, 347 Bayside Avenue, Winter Garden, Florida, commented on prior conversations about the cattle dip procedure and noted that the cows, rather than walking through it, wanted to jump over it and caused some splashing. He commented also on the railroad property with arsenic and stated that it was common that they used sodium arsenate as a weed killer that lasts a long time. He recently has been working with the University of Florida on some bioremediation for arsenic and they have a fern that can soak this arsenic up like a blotter, making it really easy to remediate the arsenic.

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

6. **MATTERS FROM CITY MANAGER** – There were no items.

7. **MATTERS FROM COMMISSIONERS**

Commissioner Sharman asked about the status on State Road 50.

City Manager Bollhoefer responded that things have been going along better; there have been issues here and there. The last he checked it is scheduled to be completed in September 2011.

Commissioner Bouler encouraged everyone to drive down West Crown Point and take a look at the progress made at the new Magic Recreation Center. They are almost complete and most of the landscaping is done. He understands that this facility will be opening this December.

The meeting adjourned at 6:48 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC