



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

April 28, 2011

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, Kent Makin, and Colin Sharman

Also Present: City Manager Mike Bollhoefer, Assistant City Attorney Dan Langley, Assistant City Clerk Angee Grimmage, 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, Deputy Fire Chief Matt McGrew, Police Chief George Brennan, Building Official Skip Lukert, Economic Development Director Tanja Gerhartz, and Recreation Director Jay Conn

1. **APPROVAL OF MINUTES**

Motion by Commissioner Buchanan to approve the regular meeting minutes of April 14, 2011 as submitted. Seconded by Commissioner Sharman and carried unanimously 5-0.

2. **PRESENTATIONS**

A. **Introduction of Kathy Salerno, Outreach and Education Coordinator for the State of Florida Chief Financial Officer Jeff Atwater**

Mayor Rees announced that Kathy Salerno, Outreach and Education Coordinator of the State of Florida, could not make this meeting but would be attending the next meeting.

B. Mayor Rees read **Proclamation 11-03** declaring the month of April as Water Conservation Month.

C. Mayor Rees read and presented **Proclamation 11-05** to Keith Baber, Social Skills and Communication Coordinator of Orange County Public Schools and a representative from Maxey Elementary School declaring the month of May as Character Development Month.

3. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 11-09:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 78-57 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN TO REMOVE OBSOLETE PROVISIONS PERTAINING TO SUPERSEDED IMPACT FEE RATES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

Assistant City Attorney Langley read Ordinance 11-09 by title only. Public Services Director Cochran stated that on January 13, 2011 the City Commission adopted Ordinance

11-02 amending the water and wastewater impact fees as well as miscellaneous fee charges. It was later discovered that there was some obsolete language in Section 78-57 related to the old impact fees for irrigation water. He stated that this is more of a housekeeping item. The new ordinance overrides the prior ordinance as it stands now, but staff thought it best to bring this item back to the City Commission to clean up the prior language.

Commissioner Buchanan asked if there is a schedule of what it costs now.

Mr. Cochran replied that he does not but indicated his estimates that the average cost for a three quarter / one inch meter is around \$1,200.00.

Motion by Commissioner Sharman to approve Ordinance 11-09 with the second reading and public hearing being scheduled for May 12, 2011. Seconded by Commissioner Boulter and carried unanimously 5-0.

- B. **Ordinance 11-10**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA RELATING TO PAIN MANAGEMENT CLINICS AND THE ABUSE OF PRESCRIPTION PAIN MEDICATION; ADOPTING FINDINGS OF FACT; PROVIDING DEFINITIONS; IMPOSING A TEMPORARY MORATORIUM ON THE OPENING OF NEW PAIN MANAGEMENT CLINICS AND ON THE EXPANSION OR RELOCATION OF EXISTING PAIN MANAGEMENT CLINICS; RESTRICTING HOURS OF OPERATION FOR SUCH CLINICS; DIRECTING STAFF TO STUDY AND REPORT TO THE CITY COMMISSION ON ISSUES RELATING TO PAIN MANAGEMENT CLINICS BY A DATE CERTAIN; PROVIDING FOR PENALTIES, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

Assistant City Attorney Langley read Ordinance 11-10 by title only. City Manager Bollhoefer noted that this matter has been discussed in previous meetings and the fact that pill mills have sprung up all across Florida. Our state has become the home for pill mills where people travel to purchase their prescription drugs for resale at a profit. This ordinance places a one-year moratorium on any new pain clinics and limits their hours of operation from 8:00 a.m. to 8:00 p.m. Mr. Bollhoefer stated he is looking at bringing back another ordinance to the City Commission to create some restrictions on any existing pill mills. Staff will meet with the legitimate drug companies such as CVS and Walgreens etc. to make sure we work with them first before creating any restrictive ordinances. He stated that this is similar to what the City of Maitland has done and staff recommends approval.

Commissioner Buchanan requested that The Medicine Shoppe be included on the City's list of those companies that will jointly review this issue with staff.

Mr. Bollhoefer responded that he will include them.

Mayor Rees asked if CVS and Walgreens have representatives who handle this ongoing issue for many cities.

Mr. Bollhoefer stated that when they actually worked in the City of Maitland, those companies sent their corporate people to discuss the policy. He stated that staff will definitely speak with the smaller stores also.

Motion by Commissioner Boulter to approve Ordinance 11-10 with the second reading and public hearing being scheduled for May 12, 2011. Seconded by Commissioner Sharman and carried unanimously 5-0.

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

A. **Ordinance 11-04:** AN ORDINANCE PURSUANT TO SECTION 125.01(1) (Q), FLORIDA STATUTES, CONSENTING TO THE ORANGE COUNTY BLACK LAKE/LAKE TILDEN MUNICIPAL SERVICE BENEFIT UNIT AND THE LEVY OF SPECIAL ASSESSMENTS ON CERTAIN BENEFITTED PROPERTIES LOCATED WITHIN THE MUNICIPAL BOUNDARIES OF WINTER GARDEN, FLORIDA IN ORDER TO PAY A PORTION OF THE COSTS OF LAKE MAINTENANCE AND CLEANING; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

Assistant City Attorney Langley read Ordinance 11-04 by title only. Community Development Director Wilson stated that this ordinance would get the City Commission's consent for Orange County to impose costs for lake cleaning, general lake maintenance and aquatic weed control for Black Lake and Lake Tilden. The County has taken action on this before but the City needs to consent to allow the City properties to be included the municipal service benefit unit.

Mr. Wilson displayed a map showing the properties in both the City and County. A majority of the properties that would be benefited are located in the City. He stated that there are a little over 100 parcels, with 67± in the City with the remainder being County properties. He stated that once this ordinance is adopted then the County would be able to move forward with the assessment on both City and County properties.

Mayor Rees opened the public hearing.

Pat Primrose, 117 Klondike Street, Winter Garden, Florida, asked how this would affect the amount of money people would be paying in that area.

City Manager Bollhoefer responded that the amount per lot assessment is calculated based on total cost of the lots divided by the number of lots. This was initiated at the request of the residents to insure it was done.

Ms. Primrose asked if it affects anyone else.

Mr. Bollhoefer responded no, it is just assessed to the residents affected by it.

Motion by Commissioner Buchanan to adopt Ordinance 11-04. Seconded by Commissioner Sharman and carried unanimously 5-0.

5. **REGULAR BUSINESS**

A. **Recommendation to approve the request for proposal rankings and authorize staff to negotiate a contract with Utility Services, Inc. for the exterior painting of the Fullers Cross and Palmetto water tanks in the amount not to exceed \$97,000.00**

Public Services Director Cochran stated that staff has gone through the request for proposal (RFP) process for painting the Fullers Cross and Palmetto water tanks. Through the RFP process, the highest rated and most experienced bidder was Utility Services, Inc. They were not the lowest bidder. The lowest bidder was about \$3,000 lower than this bid of \$97,000.00, which is \$48,500.00 per tank. This group (Utility Services, Inc.) is the most experienced and they have worked with the City of Winter Garden for several years.

Commissioner Boulter asked what color the tanks would be painted.

Mr. Cochran stated that the project was bid as plain white. There was discussion on including an insignia or logo. Mr. Cochran stated that at this point, staff is requesting approval to negotiate a contract. Including a logo can be added and brought back to the City Commission for approval.

Commissioner Makin asked if staff knew what the contractor guarantees as far as their workmanship.

Mr. Cochran replied that he believes it is a five year guarantee, which is not the typical one year guarantee for painting a water tank. They do offer a maintenance contract where they would come back and inspect it each year, but they are usually pretty expensive.

Motion by Commissioner Sharman to approve the request for proposal rankings and authorize staff to negotiate a contract with Utility Services, Inc. for the exterior painting of the Fullers Cross and Palmetto water tanks in an amount of \$97,000.00, with the additional option for a City logo on the Palmetto water tank. Seconded by Commissioner Makin and carried unanimously 5-0.

B. **Recommendation to waive the competitive bid process and approve the emergency purchase of a modular office building that will house Public Services operations, from ModSpace Corporation for \$218,716.00**

Public Services Director Cochran described a major storm that came through the City on March 31, 2011 that removed the roof of the Public Services Complex office located on West Bay Street. He stated that this unfortunate incident could be turned into an opportunity. He explained that the building was originally purchased approximately 15 years ago from Lake Apopka Natural Gas and even though the insurance claim would pay for a new roof at about \$30,000, the City's insurance premiums would probably go up as a result.

Staff has researched purchase prices from modular building manufacturers for a modular office building approximately 2,500 square feet (42' x 60'). This size would allow all of

the Public Services supervisors to be located in one office building so they would no longer have to travel from various locations to come to the main complex, which will save time and fuel.

Mr. Cochran stated that he has asked for a turnkey price. He described some of the building's construction that could last the City for 20 years. The City could fund this project by moving the utility sections into the same building and split the cost by having solid waste, water distribution, and wastewater collection each pay one third of the cost at approximately \$72,000.00 each. This way there would be no impact to the general fund.

Mr. Cochran stated that staff has called around to get other prices and found this bid to be competitive with the market. This company (ModSpace Corporation) has offered to bring in and set up a temporary double-wide portable office building while the other building is being demolished for approximately three months, at no cost to the City which is worth about \$8,000.00.

Commissioner Sharman clarified that this is the trailer near Lakeview Middle School.

City Manager Bollhoefer pointed out that in the budget's 5-year plan, the year 2014 includes spending \$1.7 million to build a new Public Services complex. This action would eliminate that need.

Mr. Cochran stated there are two reasons he is calling this an emergency. First, because the plastic sheeting over the office is already causing mold and secondly, the modular building can be constructed before the bad hurricane season arrives.

Commissioner Boulter asked if legally the City would have a problem waiving the competitive bidding process.

City Manager Bollhoefer stated that he believes the City Commission can do this if there is an emergency situation as provided in the Florida statutes. Assistant City Attorney Langley noted that the amount is allowed under the state statutory limit restriction for having to bid it if it is under \$250,000.00. He believes the purchasing policy also allows the City Commission to waive normal procurement procedures in emergency situations.

Commissioner Makin asked if the City would be responsible for the demolition.

Mr. Cochran confirmed that the City would be responsible for the demolition, but he was hoping someone would be interested in purchasing the old trailer. There could be some salvage value for someone.

Motion my Commissioner Boulter to waive the competitive bid process and approve the emergency purchase of a modular office building that will house Public Services operations, from ModSpace Corporation for \$218,716.00. Seconded by Commissioner Buchanan and carried unanimously 5-0.

C. **Resolution 11-05:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY WINTER GARDEN, FLORIDA, APPOINTING A MAYOR PRO TEM

Mayor Rees stated that there are two main functions to serving as the Mayor Pro Tem in his absence which includes presiding over the City Commission meetings and attending events.

Commissioner Sharman nominated Commissioner Boulter, if he is interested.

Commissioner Buchanan suggested first finding out who was interested and affirmed his interest.

Mayor Rees asked for all those interested in serving as Mayor Pro Tem.

Commissioner Boulter affirmed his interest.

Commissioner Buchanan stated that if it was open and Commissioner Boulter wasn't interested that he would be. Since Commissioner Boulter is, he can support that.

Mayor Rees suggested that he could speak with the City Manager about the City Commission possibly making this an annual appointment of the Mayor Pro Tem as something the City Commission can think about.

Motion by Commissioner Sharman to adopt Resolution 11-05 appointing Commissioner Harold L. Boulter as Mayor Pro Tem. Seconded by Commissioner Buchanan and carried unanimously 5-0.

D. **Resolution 11-06:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, ADOPTING A DOWNTOWN GOLF CART DISTRICT PURSUANT TO § 74-4 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES; IDENTIFYING STREETS UPON WHICH GOLF CARTS MAY BE OPERATED; PROVIDING FOR SIGNAGE; AND PROVIDING FOR AN EFFECTIVE DATE (Hyde Park)

Assistant City Attorney Langley read Resolution 11-06 by title only. City Manager Bollhoefer stated that at the last meeting the City annexed the streets into the City that allows the residents of Hyde Park to use golf carts. The City Commission also needs to pass a resolution to allow the use of golf carts. By passing this resolution the residents of Hyde Park will be able to drive from Jackson Street, to Burch, to Story Road then up to Vining Street. Once they get to Vining Street that would take them into the old historic neighborhood, which is already golf cart approved. He explained that by using this route, this keeps them on the two main roads for a minimum amount of time and distance which is the safest way and staff recommends approval of the resolution.

Commissioner Buchanan asked if there was any way to make a sidewalk through Veterans Park and have it come out at Vining Street rather than having to use Park Avenue.

City Manager Bollhoefer stated that it is actually more dangerous because they would have to cross over two lanes of traffic on Park Avenue and the other issue is that part of that park is not owned by the City of Winter Garden.

Motion by Commissioner Buchanan to adopt Resolution 11-06. Seconded by Commissioner Makin and carried unanimously 5-0.

6. **MATTERS FROM CITIZENS**

Xerxes Snell, 289 Regal Downs Circle, Winter Garden, Florida, stated that on behalf of the East Winter Garden Community Development Corporation (CDC) he wanted to thank the City, especially City Manager Bollhoefer and Economic Development Director Gerhartz for working with the CDC on a grant proposal. He shared that the CDC will be going before the Orange County Board of County Commissioners for approval of the grant to renovate housing. He expressed the corporation's appreciation of the City partnering with them.

7. **MATTERS FROM ASSISTANT CITY ATTORNEY** – There were no items.

8. **MATTERS FROM CITY MANAGER**

A. **Discussion on towing agreements**

City Manager Bollhoefer stated that the towing agreements are due to expire or have expired and requested an extension of 30 to 60 days to get the contracts renewed.

Mayor Rees suggested granting the 60 days.

Motion by Commissioner Buchanan to extend the two towing agreements (*Sly's and Car Store*) for 60 days. Seconded by Commissioner Sharman and carried unanimously 5-0.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Sharman shared that he attended the Tri-County League of Cities meeting in Sanford last week. He was seated with their Planning Director and Assistant Planning Director who attended the Bloom 'N Grow event. She could not believe all the things the City is doing downtown and was blown away by the interactive fountain. She was in awe of how we were able to do all this in the City of Winter Garden. He shared with her that it was smart planning; when the boom years were happening we put money in the bank and planned ahead. We are spending on projects while the prices are down and that is smart business and the way we run our City.

Commissioner Boulter thanked his fellow commissioners for the confidence they had in appointing him as the Mayor Pro Tem.

Commissioner Boulter addressed the issue of the smell on Ninth Street, across from Regal Point next to B & A Auto Sales and near the Shell station. He stated that it is terrible and the residents are complaining.

City Manager Bollhoefer stated that he will have staff look into why the smell is again coming from the lift station.

Commissioner Buchanan relayed a story he saw regarding the murder of Michael Jordan's father and the issue of the coroner involved not having any medical experience. He questioned if Orange County's coroner is certified in the medical field. City Manager Bollhoefer responded that he believes Orange County has a certified pathologist.

Commissioner Buchanan stated that he has seen a story that there are pharmacists with no more than a high school education because there are no real qualifications for pharmacists. He stated that now when there is such a dilemma over pill mills he wonders what qualifications are required of employees of CVS, Walgreens, and The Medicine Shoppe.

City Manager Bollhoefer stated that the City does not have the authority but the State licenses those professions. He believes that pharmacists have to be certified and asked the Assistant Attorney to look into it and get him the information.

Commissioner Buchanan shared that he has received a lot of e-mails on names for the new pavilion and interactive water fountain. He asked if the City Commission wants to think about naming them individually or separately. Do we need a committee of the citizens to look at suggesting names? Commissioner Boulter stated that he has also received e-mails on this issue.

Mayor Rees stated that the City Commission will be looking at this shortly.

Commissioner Makin stated that he has noticed the Ninth Street smell and was glad that Commissioner Boulter mentioned it. He has also noticed that the deodorizers at the wastewater plant on Crest Avenue have been working well.

City Manager Bollhoefer stated that the City is also looking to adding deodorizer fans there. He explained that there was an equipment breakdown in the past that contributed to the smell that has since been repaired.

The meeting adjourned at 7:13 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC