



# CITY OF WINTER GARDEN

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## CITY COMMISSION REGULAR MEETING MINUTES

August 11, 2011

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:31 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 (*arrived at 6:40 p.m.*)

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

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

**Motion by Commissioner Buchanan to approve the regular meeting minutes of July 28, 2011 as submitted. Seconded by Commissioner Makin and carried unanimously 4-0.**

### 2. **PRESENTATION**

#### **Proposed 2011/12 Budget**

City Manager Bollhoefer gave what he called a “Bucketology” presentation which is very basic fund accounting that is much different from private accounting. He stated that he was first taught this method when he came to government. Think of the city’s money as being in all different types of buckets. The primary buckets being the general fund, local option gas tax, internal services, which are funds that service other funds within the City, impact fees and enterprise funds. He described each fund and their uses. (*See attached **Exhibit A***)

Mr. Bollhoefer stated that the proposed budget book has been distributed to the City Commission in order to allow them time to review it prior to the budget workshop. He announced that the workshop will be held in two weeks and asked the City Commission to review the notebook and ask any questions they may have.

City Manager Bollhoefer gave a PowerPoint presentation on the proposed budget for Fiscal Year 2011/2012. (*See attached **Exhibit B***)

*Commissioner Sharman arrived during this presentation.*

3. **FIRST READING OF PROPOSED ORDINANCES**

- A. **Ordinance 11-18:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE III, PENSION PLAN FOR FIREFIGHTERS AND POLICE OFFICERS, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-186, DEFINITIONS; AMENDING SECTION 54-189, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 54-191, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 54-203, REPEAL OR TERMINATION OF SYSTEM; AMENDING SECTION 54-204, DOMESTIC RELATIONS ORDERS, RETIREE DIRECTED PAYMENTS, EXEMPTION FROM EXECUTION, NON-ASSIGNABILITY; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-18 by title only.

City Manager Bollhoefer recommended approving Ordinance 11-18, with the elimination of Section 2, and moving forward with the second reading and public hearing. At a later date, he will have the pension board investment counsel and a private pension board expert attend a City Commission meeting. Mr. Bollhoefer explained that the City Commission has a fiduciary responsibility because once it is turned over to pension board; the City Commission no longer has any control. Therefore, he thinks it is critical for the City Commission to be fully advised in their decision.

Mayor Rees agreed with the City Manager and noted that there were hardly any investment limitations and because the City Commission is responsible, he agrees with getting the additional information.

**Motion by Commissioner Boulder to approve Ordinance 11-18 with removal of Section 2 and scheduling the second reading and public hearing for August 25, 2011. Seconded by Commissioner Sharman and carried unanimously 5-0.**

- B. **Ordinance 11-19:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, ABANDONING AND VACATING A PORTION OF AN EXISTING TWENTY-FIVE FOOT DRAINAGE EASEMENT GENERALLY LOCATED NORTH OF DIVISION STREET, SOUTH OF CREST AVENUE AND EAST OF LULU CREEK; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-19 by title only.

Planning Director Wilson displayed the location of the property and stated that the owner is JTD Land at Covington Park. This vacation will allow for future platting of the remaining undeveloped property. He explained that the area shown was the remaining area of the drainage easement that was previously vacated when OakGlen was developed.

Now that the platting is being prepared for this section, they want to remove this easement. The drainage has been redesigned to go down along Lulu Creek between Crest Avenue and Division Street and is no longer needed. This has been reviewed by both Public Works and Engineering Departments. This matter has been brought forth based on the applicant's request. He noted that the application is in the name of the J&D Land at Covington Park and will be corrected at the second hearing.

**Motion by Commissioner Buchanan to approve Ordinance 11-19 with the second reading and public hearing being scheduled for August 25, 2011. Seconded by Commissioner Boulter and carried unanimously 5-0.**

4. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

- A. **Ordinance 11-16:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM CITY LOW DENSITY RESIDENTIAL TO CITY RESIDENTIAL-NEIGHBORHOOD COMMERCIAL FOR PROPERTY GENERALLY DESCRIBED AS 0.27 ± ACRES LOCATED AT 70 EAST PALMETTO STREET; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-16 by title only.

Planning Director Wilson stated that this ordinance and the next ordinance are for the same property. One item is for the rezoning the subject property and the other is a change in the land use. He noted that in the surrounding area there is a mixture of land uses and is in transition. The applicant intends to have a low intensive tax office, which would not bring a lot of commercial traffic into the neighborhood. Based on staff's findings they recommended approval to the Planning and Zoning Board and they have also recommend approval.

Mayor Rees asked if there were any concerns from the residential property owners.

Mr. Wilson replied there were none at the public hearing. The owners would have to bring back a special exception application.

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

**Motion by Commissioner Boulter to approve Ordinance 11-16 with the second reading and public hearing being scheduled for August 25, 2011. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

- B. **Ordinance 11-17:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.27 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 70 EAST PALMETTO STREET FROM CITY R-2 TO

**CITY R-NC; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE**

City Attorney Ardaman read Ordinance 11-17 by title only.

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

**Motion by Commissioner Makin to approve Ordinance 11-17 with the second reading and public hearing being scheduled for August 25, 2011. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

**5. REGULAR BUSINESS**

**A. Recommendation to approve entering into an agreement with the Orange County School Board to continue the School Resource Officer Program**

Police Chief Brennan stated that the new agreement is to provide School Resource Officers for Lakeview Middle School, Dillard Elementary, and Whispering Oak Elementary. This agreement is identical to last year's agreement including the reimbursement.

Mayor Rees confirmed with the Police Chief that Tildenville and Maxey are in the County and are taken care of by the County Sheriff's office.

**Motion by Commissioner Buchanan to approve entering into an agreement with the Orange County School Board to continue School Resource Office Program. Seconded by Commissioner Sharman and carried unanimously 5-0.**

**B. Appointment to the Code Enforcement Board to fill the unexpired term, until July 1, 2014, of resigning member Henry Wright**

**Motion by Commissioner Makin to appoint Jack Litteral to the Code Enforcement Board to fill the unexpired term, until July 1, 2014 of resigning member Henry Wright. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

**C. Appointment to the Police and Fire Pension Board to fill the unexpired term, until November 30, 2012 of resigning member Jerome Rodgers**

**Motion by Commissioner Makin to appoint Robert "Bobby" Olszewski to the Police and Firefighter Pension Board to fill the unexpired term, until November 30, 2012 of resigning member Jerome Rodgers. Seconded by Commissioner Boulter and carried unanimously 5-0.**

**D. Recommendation to approve ambulance services contract with Rural/Metro Corporation**

City Manager Bollhoefer stated that a little under 30 days ago the City was made aware that Health Central was no longer going to be providing ambulance services. Through negotiations, the City of Winter Garden, the Town of Windermere and City of Ocoee worked together to find a short-term solution.

Mr. Bollhoefer shared that Rural/Metro Corporation can provide the same level of service that is currently being provided by Health Central. Rural/Metro will follow the standard of being at the site in less than ten minutes at ninety percent of the time, provide services for one year, and the rates can only be revised with the approval of the City Commission. The City of Winter Garden Fire Department will still provide first response service and will have the capability of taking someone to the hospital. Rural/Metro is hiring Health Central employees, has also purchased some of the Health Central equipment, and will purchase some new ambulances. Staff has spoken with Orange County about providing the City with an offer but they later declined after they heard we were negotiating with a private provider.

Mr. Bollhoefer stated that because of the nature of the enclaves within the City of Winter Garden, the City of Winter Garden and the City of Ocoee offered to provide the service to the enclaves under our contract at no charge. The County decided they would rather provide this service to the enclaves. The County has indicated this would be a great time to move forward with annexing the enclaves, which would benefit both Orange County and the City of Winter Garden.

Mr. Bollhoefer stated that during this next year staff will look at the possibility of setting up the service in-house, after we get the figures and bring it to the City Commission. Staff was unable to get the true figures because they were comingled within our zip code area.

City Attorney Ardaman suggested that the second sentence in Section 35 be stricken.

Mr. Bollhoefer added that the change recommended by the City Attorney was actually agreed to but it did not make it to the contract.

City Attorney Ardaman stated that Exhibit B is the city's boundaries less all the unincorporated enclaves located within the City's boundaries.

Mayor Rees asked where they were going to station their ambulances.

Mr. Bollhoefer replied that it will be the same methodology as Health Central's but he is not sure of the location.

**Motion by Commissioner Buchanan to approve ambulance services contract with Rural/Metro Corporation. Seconded by Commissioner Boulter and carried unanimously 5-0.**

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

7. **MATTERS FROM CITY ATTORNEY**

City Attorney Ardaman stated that the City is currently involved in a lawsuit with DeWitt Excavating. The City has requested public records from DeWitt with respect to the roadway project on State Road 50. DeWitt's attorney has refused to comply with the public records request. Staff believes that this is covered under the Public Records Act because of their contract with the City includes a provision to make them available. He asked the City Commission to grant him permission to file a counter claim against DeWitt Excavating to comply with the Public Records Act. He stated that it does not mean that the City will do so but he would like to have that authority.

**Motion by Commissioner Sharman to give the City Manager the authority to authorize filing the recommended legal action stated by the City Attorney. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

8. **MATTERS FROM CITY MANAGER**

• **Impact Fees to cover lawsuit costs**

City Manager Bollhoefer requested permission from the City Commission to set aside \$300,000.00 from the City's impact fees to cover the costs from this [DeWitt] lawsuit. He noted that when the City wins the lawsuit, DeWitt Excavating will be responsible for paying the City back for all of the related fees. He stated that the insurance company is also covering the cost of several of the City's experts. He shared that staff has done the research and the City is allowed to pay for a lawsuit with impact fees. Therefore we will not be required to use taxpayer dollars.

Mr. Bollhoefer shared that when the City is in a lawsuit and it looks like we will be moving forward, the City Commission will be exempt from the Sunshine laws for a closed meeting that will be scheduled.

A. **Discussion on installing sidewalk on the south side of Warrior Road at the Westfield Subdivision**

City Manager Bollhoefer stated that he expects that staff will have this sidewalk finished within a week in an effort to have it installed before school starts. The funds to pay for it were found in the budget.

Mr. Bollhoefer assured Commissioner Makin that the installation of the sidewalk would not cause drainage problems elsewhere. He indicated that it was an engineering challenge.

• **Orlando-Orange County Expressway Authority (OOCEA) Contract**

City Manager Bollhoefer stated that he has distributed a proposed contract with the OOCEA who has agreed to reimburse the City \$75,000.00 to do their part of the work on improving the intersection at State Road 429 and Daniels Road/CR 535. He stated that

the City Attorneys have thoroughly reviewed this contract. The City's contractor will do the work and the OOCEA will reimburse the funds to the City. The road probably will not be completed before school starts, but the work is being done at night after 9:00 p.m.

**Motion by Commissioner Sharman to approve entering into the OOCEA contract as presented. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

- **Farmers Market Manager**

City Manager Bollhoefer stated he is hiring a new manager for the City's Farmer's Market. Now that the pavilion is complete, staff is taking steps to move the Farmer's Market to the next level with bringing a little more art and entertainment. He shared that changes will be seen in the upcoming months such as bringing in local produce. This will be a regional market and the new manager's connections will bring in micro-events.

Mayor Rees shared that he was approached by some members of the Rolls Royce Auto Club who want to participate in the Halloween festival. He noted that he would have them contact Parks and Recreation Director Conn.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Sharman** stated that he is happy to see the road project [State Road 429 and Daniels Road/CR 535 intersection] progressing.

**Commissioner Boulter** announced that this Saturday the East Winter Garden Community Development Corporation (CDC) will be having their second annual black tie fundraiser. Tickets are available for \$50.00 each. The proceeds go towards benefiting the community's senior citizens and offers student scholarships.

City Manager Bollhoefer pointed out that Economic Development Director Gerhartz has worked very closely with this (CDC) organization in obtaining a grant. Staff is also helping with the administration of the grant.

**Commissioner Buchanan** stated that Bill Criswell with Habitat for Humanity and Home Again, who work with disabled veterans, asked him if he knew of any properties in Winter Garden that would be suitable for placing one of their homes. He asked everyone to help him look for any potential locations for this cause.

**Commissioner Makin** shared that he was currently working with Habitat for Humanity and has located approximately five parcels.

Commissioner Makin stated that he is attending his first Florida League of Cities conference and noted that he has received numerous compliments about Winter Garden from the vendors.

The meeting adjourned at 7:37 p.m.

APPROVED:

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

ATTEST:

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