



# CITY OF WINTER GARDEN

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## CITY COMMISSION REGULAR MEETING MINUTES

August 25, 2011

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:42 p.m. at City Hall, 300 West Plant Street, Winter Garden, Florida. The invocation and Pledge of Allegiance were given at the budget workshop that was held immediately prior to this meeting.

**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, 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, Parks and Recreation Director Jay Conn and West Orange Times Reporter Michael Laval

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

**Motion by Commissioner Boulter to approve the regular meeting minutes of August 11, 2011 as submitted. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

### 2. **PRESENTATION**

#### **Orange County School Board on 2011 school grades and teacher performance evaluations**

Orange County School Board Member for District 7, Christine Moore, displayed a 3-minute video that was created by their facilities department. The video highlighted what the Orange County School Board is doing throughout Orange County to promote the importance of their new facilities.

Ms. Moore introduced the Chief Academic Officer, Dr. Barbara Jenkins, to discuss school grades and teacher evaluations.

Dr. Jenkins thanked the Orange County community for the half-penny sales tax which allowed Orange County to build beautiful facilities for its students. Dr. Jenkins shared there are eight schools within the Winter Garden city limits and in the past three years they have continually shown growth in the area of academics for schools in reading, math, science and writing. Dr. Jenkins shared that for elementary and middle schools, school grades are based purely on FCAT outcomes. She noted that Winter Garden only has "A" and "B" schools,

having six A's and one B; West Orange High School grade is still pending until released in November.

Dr. Jenkins spoke of the "Race to the Top" federal grant, as applied for by the State of Florida and won. Orange County's portion of that grant was approximately \$21 million over a four year period. As part of the MOU, developed by the state requires a new teacher evaluation system, which Orange County supported because the previous evaluation system was outdated. She noted that the new evaluation system includes a core of effective practices linked to research. The evaluation of teachers is based on Robert Marzano's who is an education researcher. The observations are based on four different categories of teachers.

In closing, Dr. Jenkins shared the promise is to have a consistent high quality instructional practice in all schools; consistent evaluation process for teachers and principals; and observe and measure improvement in teaching and learning throughout the district.

3. **SECOND 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

Assistant City Attorney Langley read Ordinance 11-16 by title only.

Planning Director Wilson stated that this is the second reading and public hearing for property located at 70 East Palmetto Street that it is located on the south side of East Palmetto Street. He stated there are two actions proposed on this property. The first item is a land use change from low density residential to neighborhood residential commercial. The second item is to put the companion zoning on the same property from residential R-2 to R-NC zoning. Staff recommends adoption of this ordinance.

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

**Motion by Commissioner Boulter to adopt Ordinance 11-16. 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

Assistant City Attorney Langley 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 Buchanan to adopt Ordinance 11-17. Seconded by Commissioner Sharman and carried unanimously 5-0.**

- C. **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 54-203, 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

Assistant City Attorney Langley read Ordinance 11-18 by title only.

City Manager Bollhoefer stated that this has been discussed several times and staff has removed all references made relating to the types of investments allowed.

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

**Motion by Commissioner Boulter to adopt Ordinance 11-18. Seconded by Commissioner Sharman and carried unanimously 5-0.**

- D. **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

Assistant City Attorney Langley read Ordinance 11-19 by title only.

Planning Director Wilson noted that this is a second reading and public hearing of Ordinance 11-19 on property located within the Covington Park Subdivision. The property is being developed and the encumbrances are being removed from the property. A portion of this easement was abandoned back on 2004 with the development of the subdivision to the south. The easement is no longer needed with the change to drainage patterns and improvements to the drainage due to the development of the adjacent property. He stated staff recommends approval. He noted there was a minor correction

distributed to the City Commission to the legal description in Exhibit "C" for added clarification.

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

**Motion by Commissioner Buchanan to adopt Ordinance 11-19. Seconded by Commissioner Boulter and carried unanimously 5-0.**

4. **PUBLIC HEARING MATTER**

A. **Appeal of denied annexation application for 1089 Walker Street and 176 Water Street for development of an AutoZone business at 13822 W. Colonial Drive (parcels 23-22-27-8104-00-331 and 23-22-27-8104-00-341) (Continued from July 28, 2011)**

City Manager Bollhoefer stated that staff has spoken to the applicant's attorney who is present. Staff is recommending this item be delayed to work out some other details. Mr. Bollhoefer asked the attorney if a 30-day delay would be sufficient time to work out these details or would a date uncertain be needed instead. The attorney agreed to the date uncertain.

**Motion by Commissioner Sharman to postpone this item until a date uncertain. Seconded by Commissioner Makin and carried unanimously 5-0.**

5. **REGULAR BUSINESS**

A. **Recommendation to approve and authorize the City Manager to sign an agreement to acquire right-of-way on Plant Street for road widening from Bethlehem Missionary Baptist Church, Inc.**

Community Development Director Williams stated that the church has graciously agreed to sell the City the property that is needed in order to widen Plant Street. He explained that it is the strip along the front of Plant Street and a strip along 9th Street. He noted that in the past the church offered to donate the property when the City was reviewing approvals for possible expansion of the church. Those plans have not gone forward.

Mr. Williams stated that the right-of-way that the City will be taking is slightly larger than originally anticipated. There may be some impact on the vegetation and signage on the property. Mr. Wilson stated that staff feels it appropriate, rather than to accept the donation, to pay them this fee and they have agreed to accept it; staff recommends approval.

Mayor Rees asked what the width of this acquisition is because it changes.

Mr. Williams responded that Plant Street is between five and six feet wide, then 9<sup>th</sup> is ten feet wide and irregularly shaped.

Commissioner Bouler asked if some of the trees will be lost.

Mr. Williams stated that staff is hoping not to but there could be some impact to the roots.

City Manager Bollhoefer assured everyone that staff is always mindful of saving the trees.

**Motion by Commissioner Sharman to approve and authorize the City Manager to sign the agreement to acquire right-of-way on Plant Street for road widening from Bethlehem Missionary Baptist Church, Inc. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

- B. **Recommendation to approve bids and award contract for South Main Street (Smith to Tremaine) Roadway and Utility Reconstruction Project to T. D. Thomson Construction Company to include a ten percent contingency for a total of \$337,858.13**

Public Services Director Cochran stated that staff is asking the City Commission to approve the bids and the contract for roadway and utility reconstruction on south Main Street between Smith and Tremaine. This will include replacement of utilities, storm drainage work and the street will be replaced with brick. On June 28, 2011, T. D. Thomson was the lowest responsible bidder at \$307,143.75. Staff is asking for an additional contingency of ten percent for a total approved project cost of \$337,858.13.

Mayor Rees asked when this project would start and how long will it last.

Mr. Cochran replied that the preconstruction meeting will be next week with the project being approximately 120 days.

**Motion by Commissioner Buchanan to approve the bids submitted and award the contract for South Main Street (Smith to Tremaine) Roadway and Utilities Reconstruction Project to T. D. Thomson Construction Company to include a ten percent contingency for a total of \$337,858.13. Seconded by Commissioner Sharman and carried unanimously 5-0.**

*Dispensed as the City Commission and convened as the Community Redevelopment Agency at 7:20 p.m.*

**Present:** Chairman John Rees, Members Harold L. Bouler, Bob Buchanan, Kent Makin, Colin Sharman and CRAAB Chairman Larry Cappleman

- C. **Recommendation to award and authorize the City Manager to execute the agreement for a Facade Matching Grant to JoJo Smoothies and Frozen Yogurt**

**LLC/Garden City Realty located at 141 W. Plant Street owned by Garden City Realty, LLC, in the amount of \$5,000**

Economic Development Director Gerhartz stated that the agency has before them two Facade Matching Grants submitted for final approval. She stated that both applications have been approved by City staff, the Architectural Review and Historic Preservation Board, and the Community Redevelopment Agency Advisory Board (CRAAB). There is currently \$50,000 in the budget for this program.

Ms. Gerhartz stated that the first application for review and approval is for 141 W. Plant Street. The applicant is JoJo Smoothies and Frozen Yogurt, LLC (tenant) and Garden City Realty (property owner). Ms. Gerhartz acknowledged that the applicants were in attendance. The tenant came forward and encouraged the agency to approve the funding and thanked staff for their assistance.

Ms. Gerhartz stated that the CRAAB recommended approval for a matching grant of up to \$5,000.00 for improvements that include a new corner window, paint, exterior lighting, sign hardware, and a new awning. Action is needed to approve and give authorization to the City Manager to enter into an agreement so that the City can provide reimbursement.

Mr. Cappleman, Chairman of the Community Redevelopment Agency Advisory Board (CRAAB) noted that the CRAAB considered all of the applications and voted unanimously to recommend approval.

**Motion by Member Cappleman to award and authorize the City Manager to execute the agreement for a Facade Matching Grant to JoJo Smoothies and Frozen Yogurt, LLC located at 141 W. Plant Street as owned by Garden City Realty, LLC, in the amount of \$5,000.00. Seconded by Member Bouler and carried unanimously 6-0.**

**D. Recommendation to award and authorize the City Manager to execute the agreement for a Facade Matching Grant to Winter Garden Restaurant/China Panda located at 7 S. Dillard Street owned by Antonio and Alda Congalves, in the amount of \$10,000**

Economic Development Director Gerhartz stated that this is the second application for City Commission approval. The property is at 7 S. Dillard Street and the applicants are Tony and Alda Congalves, who are in attendance.

Ms. Gerhartz stated that this building was the victim of a fire back in March. The owner agreed to work with the City to go beyond just repairing the building as is, and agree to upgrade some critical design elements to make the building more compatible with our downtown. She stated that the improvements include removal of the mansard roof, adding a parapet wall all around the building, installing an overhang in front, and adding a faux brick veneer around different aspects of the building. The CRAAB has

recommended approval of up to \$10,000.00 for these building upgrades. Action is needed to approve and give authorization to the City Manager to enter into an agreement so that the City can provide reimbursement.

Mayor Rees thanked the Congalves and stated that their building is looking great.

Mr. Congalves thanked the CRA for making the funding available.

City Manager Bollhoefer stated that staff has worked very closely with the business owners. He stated that the staff acted in the capacity of facilitators as opposed to being regulators and this actually helps in getting a lot more done. He noted that this has been a great experience.

Agency Member Cappleman stated that the CRAAB reviewed this application and unanimously recommends approval. He also disclosed that Mr. Congalves is a client of his and they have had a business relationship for several years. He stated that he has no relationship with this particular building and he does not feel it necessary to recuse himself from voting.

**Motion by Member Cappleman to award and authorize the City Manager to execute the agreement for Facade Matching Grant to Winter Garden Restaurant/China Panda located at 7 S. Dillard Street owned by Antonio and Alda Congalves, in the amount of \$10,000.00. Seconded by Member Makin and carried unanimously 6-0.**

*Adjourn as the Community Redevelopment Agency and reconvene as the City Commission at 7:33 p.m.*

6. **MATTERS FROM CITIZENS**

Dorothy Richards, 146 Plant Street, Winter Garden, Florida, representative of the North Orlando Mission, stated that over the past six years the mission has come into the area to make an impact on people who are in need. She spoke of their efforts to start a school whereby they could teach and counsel those in need of learning how to live a better life. She mentioned the obesity rate and the need for healthy choices. She stated that they would be seeking funding and donated space for this effort. She encouraged everyone to help those that are less fortunate.

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

8. **MATTERS FROM CITY MANAGER**

• **Chamber Luncheon Announcement**

City Manager Bollhoefer announced and confirmed who would be attending the Chamber luncheon tomorrow at Valencia Community College West campus off of Kirkman Road for Congressman Webster and other state elected leaders.

- **Grant for Tucker Ranch**

City Manager Bollhoefer stated that Planning Director Wilson and Community Development Director Williams went to Tallahassee today to give their pitch for the \$800,000.00 grant and it looks like we have a good chance of receiving the funds.

- A. **Discussion on proposed ordinance regarding shoreline alterations; boat docks, sea walls, and boat ramps**

City Manager Bollhoefer pointed out that the primary purpose of this ordinance is because according to the Orange County Charter they are the ones that issue the permits. If a municipality does not have an ordinance that is at least as strict as Orange County's, then they have the right to issue the permit. It appears that they are starting to exercise that right and require people to go through them to do the permitting. Mr. Bollhoefer stated that staff felt it more appropriate to require permitting to go through the City instead of Orange County. He stated that the majority of the ordinance is straight from Orange County's ordinance with some changes made by the city's attorney and staff.

Community Development Director Williams explained that the County has established two committees. One committee is to look at planning and zoning, engineering, drainage and traffic issues, and remove duplicate regulations and streamline their processes. The second committee deals strictly with environmental protection. This committee is looking to expand their powers throughout the municipalities. Mr. Williams stated that because good customer service is a priority in the City of Winter Garden. If Orange County does the City's permitting, every gain we have made in good customer service will be lost.

There was a **consensus** to move forward with the proposed ordinance.

- **Pawn Shops and Garbage Container Ordinances**

City Manager Bollhoefer stated that he expects to include the pawn shop ordinance on the next meeting agenda and he will definitely be bringing back the garbage container ordinance to the next City Commission meeting.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Sharman** stated that he is glad to see the road construction underway at County Road 535 and State Road 429.

**Commissioner Boulter** stated that Ms. Richards and her organization have been in the east side of Winter Garden for some time now and they have done a wonderful job. He offered his assistance in helping when and if needed. He wanted to make sure that it is a city-wide effort; obesity is everywhere.

Commissioner Boulter thanked the City for their efforts on the sidewalk on Warrior Road.

Commissioner Boulter addressed the odor problem on 9th Street and stated that he spoke to one of the staff members regarding the machine and how it works. It is making a difference and thinks it was a good decision.

**Commissioner Buchanan** shared with Commissioner Boulter that director Rene Renoit of the health facility in District 1 would like to work with him to see if they can come up with any programs.

Commissioner Buchanan stated that State Road 50 is looking really good with new turnarounds and medians.

Commissioner Buchanan highly praised the staff in running the farmer's market; they have done a great job.

**Commissioner Makin** asked about the completion date for the Plant Street road project.

City Manager Bollhoefer stated that he believes it has sixty more days, but he will get the exact date.

**Mayor Rees** commended Fire Chief Williamson for his being elected President of the Florida Chief's Association.

**Commissioner Boulter** noted that a gentleman lost his life when a tree fell in Winter Garden by Hope Charter School and asked if the City could do something about looking at the trees overhanging the roads.

City Manager Bollhoefer replied that City crews go out every year and look at the trees. Some rot from the inside out and it can't be detected. This particular accident was caused by a tree in the County's jurisdiction.

The meeting adjourned at 7:54 p.m.

APPROVED:

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

ATTEST:

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