



CITY OF WINTER GARDEN

CITY COMMISSION BUDGET HEARINGS AND REGULAR MEETING MINUTES September 21, 2011

BUDGET HEARINGS AND 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 (*arrived at 6:52 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, Parks and Recreation Director Jay Conn and Economic Development Director Tanja Gerhartz

1. **SECOND READING AND PUBLIC HEARING TO ADOPT THE PROPOSED MILLAGE RATE AND BUDGETS FOR FISCAL YEAR 2011/2012**

- A. **Ordinance 11-23:** AN ORDINANCE LEVYING TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2011 AND ENDING ON SEPTEMBER 30, 2012

City Attorney Ardaman read Ordinance 11-23 by title and stated that this ordinance establishes and levies a millage rate for ad valorem taxation of real and tangible personal property within the City of Winter Garden at the rate of 4.25 mills, which is less than the roll back rate of 4.5987 mills by 7.58 percent.

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

Motion by Commissioner Buchanan to adopt Ordinance 11-23. Seconded by Commissioner Boulter and carried unanimously 4-0.

- B. **Ordinance 11-24:** AN ORDINANCE APPROPRIATING AND ALLOCATING ALL REVENUE AND FUNDS OF THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2011 AND ENDING ON SEPTEMBER 30, 2012

City Attorney Ardaman read Ordinance 11-24 by title only and read the following excerpt from Ordinance 11-24:

Collection of Ad Valorem	\$ 7,828,271
Revenue other than Ad Valorem	<u>16,004,440</u>
TOTAL REVENUES	\$23,832,711

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

Motion by Commissioner Boulter to adopt Ordinance 11-24. Seconded by Commissioner Buchanan and carried unanimously 4-0.

- C. **Ordinance 11-25**: AN ORDINANCE APPROPRIATING AND ALLOCATING ALL REVENUE AND FUNDS OF THE COMMUNITY REDEVELOPMENT AGENCY (CRA) OF THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2011 AND ENDING ON SEPTEMBER 30, 2012

City Attorney Ardaman read Ordinance 11-25 by title and the following excerpt from Ordinance 11-25:

Collection of Ad Valorem	\$322,287
Revenue other than Ad Valorem	<u>371,492</u>
TOTAL REVENUES	\$693,779

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

Motion by Commissioner Buchanan to adopt Ordinance 11-25. Seconded by Commissioner Boulter and carried unanimously 4-0.

- D. **Ordinance 11-26**: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, AUTHORIZING THE APPROPRIATIONS OF CITY FUNDS FOR FISCAL YEAR 2011-2012 IN ACCORDANCE WITH ARTICLE 3 SECTION 30 (5) OF THE CITY CHARTER OF THE CITY OF WINTER GARDEN, FLORIDA, AND FLORIDA STATUTE 166.241 FOR THE PURPOSE OF FULFILLING THE FINANCIAL OBLIGATIONS OF THE CITY

City Attorney Ardaman read Ordinance 11-26 by title only.

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

Motion by Commissioner Boulter to adopt Ordinance 11-26. Seconded by Commissioner Buchanan and carried unanimously 4-0.

REGULAR CITY COMMISSION MEETING

2. APPROVAL OF MINUTES

Motion by Commissioner Buchanan to approve the budget workshop minutes and regular meeting minutes of September 7, 2011 as submitted. Seconded by Commissioner Makin and carried unanimously 4-0.

3. FIRST READING OF PROPOSED ORDINANCES

A. **Ordinance 11-21:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING SECTIONS 38-28, 38-59, 38-60, 38-61, AND 38-93 IN ARTICLE II OF CHAPTER 38, SECTION 62-62 IN ARTICLE III OF CHAPTER 62; CREATING SECTION 62-167 THROUGH 62-174 IN ARTICLE VI OF CHAPTER 62 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN DEFINING AND REGULATING LOT CLEANING AND RIGHT-OF-WAY MAINTENANCE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-21 by title only.

Community Development Director Williams stated that this item is a cleanup of several portions of the code that addresses the clearing of lots, keeping sidewalks clean, and mowing the areas between the sidewalk and the road right-of-way. This ordinance does exempt certain roads where other agencies provide the mowing.

Mayor Rees noted Sections 62-62 (Planting on right-of-way) and 62-172 (Liens; assessment) that the City is not going to seek out and site people for planting shrubs and irrigation etc. in the right-of-way. Property owners think these areas (right-of-way) belong to them, and they take care of them. They may not realize that they would have to first obtain permission from the City to plant their items.

Mr. Williams agreed with the Mayor and stated that whenever there are new subdivisions, they will be encouraged to not plant certain items. However, planting of trees will not be allowed, for example, within the second phase of Lake Cove Pointe because of the special drainage system. If there are existing planted items, they will not be asked to tear them up.

City Manager Bollhoefer stated that there may be one exception in those cases where someone has planted a hedge that obstructs the view of drivers thereby creating a traffic hazard. Mr. Williams indicated that it may be a matter of trimming or removal in some instances.

City Attorney Ardaman stated that this change does require the City's written consent. If there is an issue, we can use this provision to remove an offensive item if necessary.

Motion by Commissioner Buchanan to approve Ordinance 11-21 with the second reading and public hearing on October 13, 2011. Seconded by Commissioner Makin and carried unanimously 4-0.

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

- A. **Ordinance 11-20:** AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING ARTICLE VI, CHAPTER 118 OF THE CITY'S CODE OF ORDINANCES TO INCLUDE NEW DIVISIONS 10, 11, AND 12 ESTABLISHING PERMITTING PROCEDURES AND STANDARDS FOR DOCKS, SEAWALLS, BOAT RAMPS, AND SHORELINE ALTERATIONS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-20 by title only.

Community Development Director Williams stated that during the adoption of the comprehensive plan many of the goals, objectives, and policies within environmental quality dealt with water quality in our lakes and protecting them. The need for these ordinances was clearly documented in the comprehensive plan in those policies and objectives. The ordinances were prepared to go into our land development code to address development within lakes on these types of structures. Staff has tried to model this ordinance after Orange County's and other city jurisdictions. He feels it provides adequate protection and it does differ from the County's in how the appeals of decision are taken. Rather than going to a hearing officer the appeals will come directly to the City Commission.

City Manager Bollhoefer stated that if the City does not have this ordinance that means the County would have this authority. Staff prefers to have the authority to watch over this and he feels we can do a better job for our community.

Mayor Rees opened the public hearing.

Jim Thomas, 15668 W. Colonial Drive, Winter Garden, Florida, stated that his company, Biosphere, which for 20 years has done a lot of lakefront restoration work in the Winter Garden area. He was not sure how much detail the City wants to include in the ordinance but he did want to share some things those in the business find confusing in other jurisdictions. He would like to see a real separation of the vegetation from the docks and boat ramps. His company takes out the bad vegetation and replaces it with the good stuff. He noted that the ordinance calls for using the normal high water elevation but wondered if those elevations will be established because our lakes fluctuate a great deal.

Community Development Director Williams replied that John's Lake is a big concern and it does fluctuate. In the last four years this lake has had a historic high and a historic low. Two provisions have been provided for in the ordinance; the normal high water which is the elevation that the County has adopted for lakes and the City can use the

frequent high or infrequent high from the water management district, which are currently being studied. Each lake will have a normal high that is said. If it is not said, whoever is proposing the dock or the structure would have to propose an elevation to the satisfaction of the City Engineer.

Mr. Thomas asked if the City was going to permit conservation easements as part of the shoreline restorations. Currently, to get a permit for lakefront from Orange County you need to get two permits; one from Orange County and one from the Florida Fish and Wildlife Conservation Commission (FWC) who each have different rules.

Mr. Williams responded that the City would not have a separate permitting procedure from another other agency. If the Florida agency issues the permit, then the City would honor the permit and not put different conditions or restrictions or anything else because we would accept their approval.

City Manager Bollhoefer clarified that because of this ordinance Orange County would no longer have permitting authority in Winter Garden.

Mr. Thomas addressed the issue of requiring sealed drawings and plans. Whenever he does lakefront drawings for planting plans and clearing plans for a shoreline, it is not an engineering issue and there isn't anyone who can seal these types of drawings. He asked that there be some clarification that these types of drawings do not have to be sealed for engineering standards. He stated that they are normally just sketches to show what is going to be done.

Mr. Williams stated that for boat docks, boat ramps, and seawalls the City will require engineered sealed documents but for alterations that can be removed as long as the City knows the normal high and what they are doing will be sufficient.

Mr. Thomas noted that under the dock requirements he did not see vegetation being addressed in terms of how much can be removed and what has to be replaced. He recommended the City avoid the use of unsightly rip-rap and encourage plants. He addressed the mechanical uprooting of plants when heavy equipment is used and he thinks this should be spelled out better.

Mr. Williams replied that mechanical equipment will only be used with installing boat ramps.

Mr. Thomas stated that there is the question about the justification for replacement vegetation and he would like to see that changed to require replacement vegetation. He also encouraged that the 30 foot wide access corridor remain 30 feet and that the rest of the area be planted which helps the lake.

Mr. Williams agreed to keep it at 30 feet.

Mr. Thomas stated that he has been maintaining certain lake front areas in Winter Garden that have already been cleared and asked whether or not he has to get another permit from the County or a new permit from the City.

Commissioner Sharman arrived at this time.

Mr. Bollhoefer replied that the adoption of this ordinance will not require Mr. Thomas to obtain a County permit.

Mr. Williams indicated Mr. Thomas would not need to obtain a City permit.

Mr. Thomas addressed disturbing submerged grass and including some reference to the FWC permit that is required. He also addressed the need for timely issuance of a permit. In addition, the ordinance does not address renewals or extensions of the permit.

Mr. Williams stated that the docks may be shortened or extended in order to protect the vegetation. He noted that the FWC permit can be added to the ordinance. It was also noted that the City's permitting process will be less than the County's.

Shelly Stockdale, 21 Aspen Road, Winter Garden, Florida, asked if the shift in responsibility from the County to the City will also bring about a staff biologist to help with decisions on shoreline plants, animals, and vegetation.

Community Development Director Williams replied that the City will rely on the experts for those conditions in their plan proposal. The City will seek outside help when required.

City Manager Bollhoefer noted that these instances happen so rarely that there would not be enough to justify the position. In those instances where expertise is needed, outside assistance would be acquired.

Ms. Stockdale voiced her concerns about being within 30 feet of the shoreline would mean lawn care chemicals will drain off into the lake but she believes some plants will help mitigate some of that.

Mr. Williams shared that the required swale (berm) will capture the run off to the rear of a shoreline property. These types of barriers are designed to capture these types of materials.

Ms. Stockdale addressed her concerns about shoreline erosion.

Mr. Williams stated that the City discourages seawalls that cause erosion and the docks should be designed to prevent erosion. If seawalls are being insisted upon, staff will try to get them to build them above the high water elevation. There will not be any sand beaches.

Ms. Stocksdales asked who will evaluate the proposed method for filtering the run off.

Mr. Williams indicated the City Engineer would be responsible for reviewing the plans and making sure that the swale is present in the correct size and location to capture any water that may contain fertilizer.

Commissioner Makin noted that new construction requires an environmental berm on a lakefront property even if a dock is not being installed.

Mr. Williams stated yes and explained that one of great differences between the City and the County is that the City doesn't allow septic tanks. Owners must hook into the central sewer system, which provides another level of protection.

Ms. Stocksdales asked about the proposed method for reducing the nutrient concentration in both surface run off and lake waters.

Mr. Williams stated that this is accomplished by the swale and the engineer is responsible. If it is water quality in conjunction with a boat ramp, then the City will have to have outside help with water quality monitoring.

Commissioner Makin asked if the construction of an environmental berm includes being made of material that helps break down and percolates the water as it goes through.

Mr. Williams noted that the berm is actually impervious so that the water cannot get through it to the lake. The area behind the berm is where the nutrients either evaporate or are picked up by the plants.

Ms. Stocksdales asked if provisions have been made in the budget to allocate funds for the testing process.

Mr. Bollhoefer responded yes, for consultants.

Ms. Stocksdales inquired about rumors of a boat dock supposedly granted by the St. Johns Water Management District off the shores of Trailer City.

Mr. Bollhoefer stated not to his knowledge. The City's attorney is currently researching how far the City's property line goes to the lake. A private owner may have done something. Mr. Bollhoefer stated that he believes that the final authority will be under the City's jurisdiction.

City Attorney Ardaman responded that the dividing line is the normal high water line which has to be determined. Where the City's jurisdiction begins is a potentially separate issue from the location of the normal high line, but may be exactly along that line.

Mayor Rees closed the public hearing.

Motion by Commissioner Buchanan to adopt Ordinance 11-20 as amended to include the FWC permit when it is required. Seconded by Commissioner Sharman and carried unanimously 5-0.

- B. **Ordinance 11-22:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA; AMENDING § 58-39 OF CHAPTER 58, ARTICLE II OF THE WINTER GARDEN CODE OF ORDINANCES; IMPOSING STORAGE REQUIREMENTS FOR GARBAGE AND TRASH CONTAINERS; CLARIFYING THE LOCATIONS FOR PLACEMENT OF SUCH CONTAINERS; PROVIDING FOR PENALTIES, ENFORCEMENT, CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-22 by title only.

City Manager Bollhoefer stated that this is not something that the City is going to go out and actively enforce, but enforcement will be based on citizen requests for enforcement.

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

Motion by Commissioner Boulter to adopt Ordinance 11-22. Seconded by Commissioner Buchanan and carried unanimously 5-0.

5. **REGULAR BUSINESS**

- A. **Resolution 11-10:** A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA, WITH THE INTENT TO ENTER INTO AN LOCAL AGENCY PROGRAM AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE DESIGN AND CONSTRUCTION OF THE LULU CREEK TRAIL

Public Services Director Cochran stated that this is the second part of an agreement the City already has entered into with the FDOT for the Lulu Creek Trail, which has been in progress and is almost 100 percent complete. This portion of the agreement is for the construction of the trail. The engineer's estimate is \$258,398.00 and this is a grant for this amount for funding by FDOT. This trail will be located between Division and Crest Avenue along the west side of Lulu Creek.

Commissioner Buchanan asked if the trail will connect to the existing trail. Mr. Cochran responded that it will connect to the West Orange Trail and then go north alongside the creek and then connect to the sidewalk on Crest Avenue.

Motion by Commissioner Sharman to approve Resolution 11-10. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- B. **Resolution 11-11**: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, SUPPORTING THE OAKLAND NATURE PRESERVE EVENT “FLORIDA’S WATER: IT’S WORTH CELEBRATING”

Public Services Director Cochran stated that on September 24, 2011 the Oakland Nature Preserve is hosting an event known as Florida’s Water: It’s Worth Celebrating. They have asked Winter Garden to pass this resolution in support of this event, which will include guided tours, exhibits, and cleanup of the Lake Apopka shoreline.

Motion by Commissioner Makin to approve Resolution 11-11. Seconded by Commissioner Boulter and carried unanimously 5-0.

- C. **Recommendation to approve entering into a Highway Landscape Construction and Maintenance Memorandum of Agreement for the City of Winter Garden medians on State Road 50**

Public Services Director Cochran stated that the FDOT has requested that the City enter into this agreement. The City is funding the construction and installation of upgraded landscaping in the medians on State Road 50 between State Road 429 and Avalon Road. This agreement commits the City to funding, installing, and maintaining the upgraded landscaping.

City Manager Bollhoefer noted the exhibits were not attached and asked if they could be explained. Mr. Cochran responded that there were no exhibits provided with the agreements. Mr. Ardaman replied that Exhibit A is the actual landscaping plan, Exhibit B is the maintenance plan, and Exhibit C is the work zone traffic control plan. He stated that executing this agreement without those agreements is not really recommended. He stated that if the FDOT has them they need to provide them.

Motion by Commissioner Buchanan to postpone entering into a Highway Landscape Construction and Maintenance Memorandum Agreement for the City of Winter Garden medians on State Road 50 until the next meeting. Seconded by Commissioner Sharman and carried unanimously 5-0.

6. **MATTERS FROM CITIZENS**

Jerry Carris, 347 Bayside Drive, Winter Garden, Florida, circulated a photo of Commissioner Sharman’s garden located at the Winter Garden Community Garden. He stated that he has harvested the vegetables and delivered them to the Christian Service Center.

Mr. Carris addressed the traffic on the corner of CR 545 and Tilden Road and asked if it can be addressed for safety reasons.

City Manager Bollhoefer replied that it is his goal to get it fixed by this year and is part of the improvements to be made on CR 545.

Shelly Stocksdales, 21 Aspen Rd, Winter Garden, Florida, asked whose authority is it to regulate the privately owned ultra jets that are flying low over Lake Apopka.

City Manager Bollhoefer responded that he thinks it is the State but does not know which department.

Ms. Stocksdales asked about the transfer of jurisdiction from county to city for the docks, would citizen security also transfer from the Sheriff to Police.

City Manager Bollhoefer responded that he thinks that is a separate issue altogether and he doesn't believe it is related.

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

8. **MATTERS FROM CITY MANAGER**

- **West Orange Montessori Charter School**

City Manager Bollhoefer distributed pictures of the Trailside Center and the Montessori Charter School. He stated that the school was allowed to build a platform for their playground as a requirement of them being able to put the school there. A new owner has purchased the shopping center and may be requesting that they move their school to the rear of the building. They are concerned about spending their money to put their playground in their current location and then moving. Therefore, they have come to the City to ask if they could use the adjacent City property to the eastside of the school. They would like to lease this property for a nominal fee for three years with an option to renew. Mr. Bollhoefer noted that there are currently no plans for this property in the future. What the school would do is install a removable fence and playground in case they would move to another location.

Commissioner Makin asked how the children would get to the playground and how many children would there be. Mr. Bollhoefer stated that he believes there will be less than 100 children being escorted out the front and across the trail.

Commissioner Buchanan asked about the potential liability for the City.

City Attorney Ardaman responded that clearly as the property owner the City has the certain liability and has the advantage of sovereign immunity but notwithstanding that protection, the City would have the school provide insurance and liability protection for the City. Chances of the City being ultimately held liable are very small.

Mayor Rees stated that while there is no intended use for the property, should it be for three years. Mr. Bollhoefer responded that he has communicated to the school that if there was a great opportunity for the City, we would include a provision in the contract that would allow us to assist them in relocating.

Motion by Commissioner Buchanan to approve use by the West Orange Montessori Charter School of the City's property adjacent to the Trailside Center. Seconded by Commissioner Sharman and carried unanimously 5-0.

- **Community Meeting with Winward Cay Subdivision**

City Manager Bollhoefer stated that there was a community meeting held last night in City Hall with the residents of the Windward Cay Subdivision. The residents addressed a commercial business that wants to locate within the commercial property next door to them. Part of the meeting they addressed the problems they have had with this commercial location and other problems they have had over time. Many of the neighbors in this community have not been happy with the shopping center that was approved with only a 25 foot setback from the residential zoning. He stated that this project was done back in 2000 and noted that it would not be approved based on today's standards. Mr. Bollhoefer proposed using funds from the tree fund as was done with the Stone Crest berm. He suggested utilizing the tree funds again to install trees and vegetation in affected area to help them with this issue.

Mayor Rees asked what amount is being considered. Mr. Bollhoefer replied that he is estimating approximately \$10,000.00. Mr. Bollhoefer added that he knows this would go a long way to make them feel better and give them a little more protection from the shopping center. It will be required that whosever property the vegetation is located will be responsible for maintaining it; the City will not.

Motion by Commissioner Sharman to approve the City Manager to use the tree fund as stated, contingent upon both parties mutually agreeing to a maintenance agreement. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- **City's Relations with Orange County**

City Manager Bollhoefer shared some examples of the deteriorating relationship with Orange County and suggested he be allowed to write a letter to the County Mayor to make her aware of our issues and to give her an opportunity to see what she can do to help us correct these matters going forward.

It was the **consensus** of the City Commission to allow the City Manager to write a letter to the Orange County Mayor in order to address various issues affecting our City.

- **West Orange Regional Update**

City Manager Bollhoefer invited the Mayor and City Commissioners to an economic update hosted by the Orlando Business Journal on September 30, 2011 at 9:30 a.m.

- **Art at City Hall**

City Manager Bollhoefer announced the opening of Art in Public Places exhibit at City Hall for tomorrow evening.

