



CITY OF WINTER GARDEN

CITY COMMISSION AND COMMUNITY REDEVELOPEMENT AGENCY MEETING MINUTES

December 8, 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, City Attorney Kurt Ardaman, Assistant City Clerk Angee Grimmage, Community Development Director Ed Williams, Public Services Director Don Cochran, Finance Director Robin Hayes, Human Resources Director Frank Gilbert, Deputy Police Chief Bill Sullivan, Fire Chief John Williamson, Building Official Skip Lukert, Parks and Recreation Director Jay Conn, Information Technology Director Bob Reilly, and Economic Development Director Tanja Gerhartz

1. **APPROVAL OF MINUTES**

Motion by Commissioner Boulter to approve executive session and regular meeting minutes of November 10, 2011 as submitted. Seconded by Commissioner Sharman and carried unanimously 5-0.

2. **OATHS OF OFFICE AND INTRODUCTION OF NEW POLICE OFFICERS**

Deputy Police Chief Sullivan administered the oaths of office and introduced police officers David Clarke and Joshua Earley.

3. **PRESENTATION**

Mayor Rees presented Certificates of Completion to City Commissioner Kent Makin for attending the Institute and Advanced Institute for Elected Municipal Officials.

4. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 11-39:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION IV OF ORDINANCE 03-50 PUD TO CONVERT TOWNHOMES TO SINGLE-FAMILY RESIDENCES ON APPROXIMATELY 19.24 +/- ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED AT THE NORTHWEST CORNER OF AVALON ROAD AND MARSH ROAD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR NON-SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Avalon Reserve Village 1 PUD)

City Attorney Ardaman read Ordinance 11-39 by title only. Community Development Director Williams stated that staff and the Planning and Zoning Board recommend

approval subject to the conditions. This item changes a portion of the planned development from 150 townhome units to 66 single family residential units.

Motion by Commissioner Buchanan to approve Ordinance 11-39 with the second reading and public hearing being scheduled for January 12, 2012. Seconded by Commissioner Makin and carried unanimously 5-0.

- B. **Ordinance 12-01:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION I AND SECTION II OF ORDINANCE 04-34 TUCKER PROPERTY PUD TO CONVERT TRIPLEX CONDOMINIUMS TO TWO-UNIT TOWNHOMES ON APPROXIMATELY 13.29 +/- ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED NORTH OF FLORIDA'S TURNPIKE AND SOUTH OF WEST COLONIAL DRIVE ON SCARLET OAK LOOP; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR NON-SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Tucker Oaks PUD)

City Attorney Ardaman read Ordinance 12-01 by title only. Community Development Director Williams stated that this item is also a reduction from the approved number of units from 390 to 345. The development has existing triplex units that will be reduced by 45 duplex units, which will be in a townhouse structure. The total units will be 345 consisting of 255 triplex units and 90 duplex units. Staff and the Planning and Zoning Board recommend approval.

Commissioner Makin asked if the redesign of the development is consistent with the current architectural design. Mr. Williams replied yes and noted that it has been reviewed by the residents in the area and it fits in very well.

Motion by Commissioner Buchanan to approve Ordinance 12-01 with the second reading and public hearing being scheduled for January 12, 2012. Seconded by Commissioner Sharman and carried unanimously 5-0.

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

- A. **Ordinance 12-02:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE V OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES ENTITLED "PLANNED UNIT DEVELOPMENTS" CREATING URBAN VILLAGE PLANNED UNIT DEVELOPMENTS; PROVIDING REQUIREMENTS FOR MIXTURE OF USES AND URBAN DEVELOPMENT CRITERIA FOR ALL PROPOSED PLANNED DEVELOPMENT PROJECTS IN THE URBAN VILLAGE PLANNED UNIT DEVELOPMENT ZONING DISTRICT; CLARIFYING, UPDATING, AND REMOVING REDUNDANT LANGUAGE FOR RESIDENTIAL PLANNED UNIT DEVELOPMENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-02 by title only. Community Development Director Williams stated that when the City adopted its comprehensive plan it created an urban village area in the Marsh Road and Avalon area. One of the policies in the plan directed staff to prepare an amendment to the planned development district to put in criteria to guide development within that area. Mr. Williams stated that staff has brought that criteria to the City Commission tonight and it is very similar to the discussion that the City Commission had a few weeks ago on the project in that area. Many of the properties will not be large enough to have their own commercial core or village; when they do not, this requires that they have pedestrian and vehicular connections to that village so that it develops as one unified area.

Mr. Williams stated that the guidelines also call for traffic calming devices which are appropriate on Marsh Road to discourage through traffic yet still handle the traffic being generated by the development in that area.

Mr. Williams stated that an additional guideline that is important is that this area is covered by the Wekiva Protection Act. Staff recognizes that in some areas of the development there may be conflicts between the urban village and the resource protection requirements of the Wekiva Protection Act. When there is that conflict, the environment will be given more weight than the urban village.

Mr. Williams stated that staff and the Planning and Zoning Board recommend approval of this ordinance.

Commissioner Buchanan asked for clarification on the traffic calming devices.

Mr. Williams responded that the first one being instituted in that area is the traffic circle, which will slow traffic down but still allow for the flow of traffic and discourage the through traffic from Lake County. Other calming devices could be speed bumps, which are not anticipated, but could be internal to some projects and signalization is also a good method.

City Manager Bollhoefer stated that at one point, Lake County had talked about building four to six lanes thereby putting all of their traffic along Marsh Road through Winter Garden, which would change the nature of our neighborhoods. Staff decided at that point to change the style of Marsh Road to make it more of a local road to benefit the neighborhoods in Winter Garden and not provide a thorough way for Lake County.

Commissioner Buchanan voiced his concerns about adding the round-a-bouts and causing difficulty for people who will still try to use it and clog up traffic for the local people.

City Manager Bollhoefer responded that staff does not believe that this will happen but the round-a-bouts are to be designed to give them the advantage. If it does cause problems, then staff will come in with signalization to ensure our residents will always

have a way to get out onto the road. This is one of the reasons for the connectivity between neighborhoods.

Mr. Williams added that a lot of the through traffic has been made worse by the construction on State Road 50. There was discussion on when the work on State Road 50 would be completed and the complications that having this road torn up could cause.

Commissioner Makin voiced his concerns about the sand trucks and those types of vehicles possibly having difficulty using Marsh Road with round-a-bouts installed.

Mr. Williams stated that they are designed so trucks can use them and trucks typically would try and avoid these types of roads and find an alternative route. City Manager Bollhoefer stated that this would actually make them drive slower and force them to be safer.

Commissioner Buchanan asked who owns Marsh Road. City Manager Bollhoefer replied that the City owns Marsh Road to the Lake County line.

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

Motion by Commissioner Sharman to approve Ordinance 12-02 with the second reading and public hearing being scheduled for July 12, 2012 *(Transcriber note: This date was changed to January 12, 2012 during a special meeting on December 14, 2011).*
Seconded by Commissioner Boulter and carried unanimously 5-0.

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

- A. **Ordinance 11-36:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 7.497 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTHWEST CORNER OF ROPER ROAD AND DANIELS ROAD, FROM CITY R-1 TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (Serenades by Sonata PUD)

City Attorney Ardaman read Ordinance 11-36 by title only. Community Development Director Williams stated that this is the project Serenades of Sonata which was discussed at the last meeting. This is a memory care facility with the second phase to the north that limits the uses to memory care, nursing, independent living, assisted living, hospice and medical office. There was a community meeting with the residents in the area and they were supportive of the project due to its reduced traffic generation and the fact that it fits in with the residential character and that there is very little noise or adverse impacts with the property. He noted that this is a very attractive property and staff is happy with the architectural features. Staff and the Planning and Zoning Board recommend approval

subject to the conditions as noted within the report. Mr. Williams noted that the applicants gave a presentation at the last meeting and are available for any questions.

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

Motion by Commissioner Boulter to adopt Ordinance 11-36. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- B. **Ordinance 11-38:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING AND REVISING CHAPTER 78, ARTICLE IV OF THE WINTER GARDEN CODE OF ORDINANCES PERTAINING TO UNIFORM REQUIREMENTS FOR PUBLICLY OWNED TREATMENT WORKS, INDUSTRIAL WASTE HANDLING, AND TREATMENT OF WASTEWATER IN ACCORDANCE WITH THE CLEAN WATER ACT AND RULE 62-625 OF THE FLORIDA ADMINISTRATIVE CODE AND OTHER APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-38 by title only. Public Services Director Cochran stated that this ordinance amends the City's sewer use ordinance in accordance with the requirements of the Florida Department of Environmental Protection.

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

Motion by Commissioner Boulter to adopt Ordinance 11-38. Seconded by Commissioner Makin and carried unanimously 5-0.

7. **REGULAR BUSINESS**

- A. **Recommendation to grant the City Manager the authority to approve up to \$1,000.00 matching grants to install outdoor seating and decorative fencing on an as needed basis in the Historic Downtown District**

Economic Development Director Gerhartz stated that this item is being brought to the City Commission based on current conditions in the City's downtown area. There is a strong interest amongst downtown restaurants to have outdoor cafes and seating areas. Ms. Gerhartz stated that while outdoor seating helps with restaurant sales it is also good for downtown. It encourages a pedestrian friendly atmosphere and it adds to the charm of the City's downtown environment.

In an effort to encourage outdoor cafes that promote downtown activity and that ensure quality outdoor environments, City staff is recommending a program that will help offset the costs of fencing and ensure that such fencing is complimentary to the downtown. City Staff is recommending matching grants of up to \$1,000.00 from the general fund to

assist in offsetting the cost of decorative fencing within the downtown CRA District and giving the City Manager the authority to make these grants on an as needed basis.

Mayor Rees asked for clarification that in order for the applicant to receive the grant, they would have to meet the City's fencing requirements. Ms. Gerhartz responded yes.

Commissioner Makin asked about the type of designs and architectural requirements standards. City Manager Bollhoefer responded that the City will have examples and standards in place.

Motion by Commissioner Buchanan to authorize the City Manager to approve up to \$1,000.00 in matching grants to install outdoor seating and decorative fencing in the Historic District. Seconded by Commissioner Sharman and carried unanimously 5-0.

B. Recommendation to approve a warehouse site plan for 756 Business Park Boulevard (Wingate Commercial Building)

Community Development Director Williams stated this item is for a site plan that includes 6,555 square feet of office and 2,332 square feet of warehouse. The majority of this business park is built out and this is one of the vacant lots that is for a fiber optic installation company. Mr. Williams stated that with conditions, staff is recommending approval.

Commissioner Buchanan stated that he did not recall seeing any of the recommendations in the agenda packet.

Mr. Williams stated that the site plan has incorporated all of the conditions so there is not a need for a separate listing.

Motion by Commissioner Sharman to approve the site plan for 756 Business Park Boulevard. Seconded by Commissioner Boulter and carried unanimously 5-0.

Dispense as the City Commission and convene as the Community Redevelopment Agency at 6:59 p.m.

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

C. Approve and authorize the City Manager to execute an agreement for a Facade Matching Grant of \$20,000.00 each for 2 and 12 West Plant Street and 24 and 28 South Main Street owned by The Bond Foundation, Inc.

CRA Advisory Board Chairman/CRA Member Larry Cappleman recognized Economic Development Director Gerhartz to present an overview of this item.

Ms. Gerhartz stated that before the board is a facade matching grant application for final approval. Several months back the Bond Foundation purchased and owns the subject buildings. As representative for The Bond Foundation, Mr. Derek Blakeslee was present.

Ms. Gerhartz stated that earlier this week the CRA Advisory Board recommended approval for a matching grant of \$20,000.00 for improvements at 2 and 12 West Plant Street and \$20,000.00 for improvements at 24 and 28 South Main Street. Exterior improvements that are eligible include new windows, new commercial store fronts, removal of the existing facade and the brick refurbishing of the original facade and a new hard canopy. Action is needed to approve and give authorization to the City Manager to enter into an agreement that allows grant disbursement to the owner.

CRA Advisory Board Chairman/CRA Member Larry Cappleman stated that the CRAAB did meet to hear the presentation from staff. When the original facade matching grant was established there was a provision that in the event that the total project exceeded \$500,000.00, there would be an opportunity for a \$20,000.00 matching grant. This project meets that criteria and the CRAAB unanimously voted to recommend that the CRA approve the matching grant for both locations.

Motion by Member Larry Cappleman to approve and authorize the City Manager to execute an agreement for a Facade Matching Grant of \$20,000.00 each for 2 and 12 West Plant Street and 24 and 28 South Main Street owned by The Bond Foundation, Inc. Seconded by Member Sharman. Motion carried unanimously 6-0.

Adjourned as the Community Redevelopment Agency and reconvened as the City Commission at 7:03 p.m.

8. **MATTERS FROM CITIZENS** - There were no items.

9. **MATTERS FROM CITY ATTORNEY**

City Attorney Ardaman stated that he has two items and has distributed a packet of information. The first item deals with the property on Plant Street and Main Street. The museum depot property is owned by the City and occupied by the Winter Garden Heritage Foundation (WGHF). Just to the east of the depot property is property owned by the Baptist Church. The WGHF has entered into a contract to purchase that property from the church. There is an existing easement between the two properties that provides for cross parking. In the easement agreement there is a provision for right of first refusal so whenever the church or the City gets ready to sell their property the other party has the right of first refusal to buy the property.

The WGHF has come to the City about them buying the piece east of the church's property and is asking the City to give up its right of first refusal to buy that property so the WGHF can go forward with purchasing the property for what he thinks is \$99,000.00.

Mr. Ardaman stated that the question is whether the City is willing to allow the WGHF to buy the church's property or does the City want to preempt WGHF and say we want to buy the property for the \$99,000.00. If the City does not want to make the purchase, then the City should tell the WGHF and the church that we do not wish to exercise our right and let them go forward with their purchase.

Mr. Ardaman advised that the second question is if the City wants to allow them to go forward, does the City want the easement agreement and the continuing right of first refusal for future buyers to remain in place.

Mr. Ardaman stated that he has had some discussion with the WGHF representation, Mr. Ron Sikes, and the WGHF would prefer that the City release its right of first refusal and do away with the easement agreement, and future rights of first refusal. Mr. Ardaman noted that his thought is that the City Commission would want to retain its rights with respect to the easement agreement and future rights of first refusal because the City can always give up the right later. He noted that he understands the WGHF intends to build a building on the parcel they are buying from the church, and at that time the City could opt to give up the right and release it if they so chose.

City Manager Bollhoefer asked City Attorney Ardaman to clarify that the primary reason the City would maintain the easement and right of first refusal is just in case they were to sell to someone else to protect the City's property. **Mr. Ardaman** responded yes; if the City does not keep its right of first refusal in place and the WGHF wishes to sell to someone else, then the City has no right to step in and buy it.

Mayor Rees stated that he has no objection to giving up the City's right for the WGHF to sign a contract with the First Baptist Church (FBC). Mayor Rees stated that he would like to hear from Mr. Sikes as to why they think it is important for the City to give up their rights.

Ron Sikes, WGHF representative, stated that the issue is one that cuts both ways and it provides the same restriction on the City should the City wish to sell the Depo property in the future. However the City decides is fine with the WGHF provided there is a yes to the first question. The thought is that anytime there is a sale of real estate with restrictions on it, such as right of first refusal; it has a chilling effect upon the marketability of the property. He noted that the WGHF wanted a decision rather than not dealing with the issue.

City Manager Bollhoefer noted that the City is not allowed to sell the museum. When this property is no longer used as a museum, it reverts back to the Orange County Historical Society.

Commissioner Buchanan asked if there was any reason a decision had to be made tonight. **Mr. Sikes** responded, not on whether to continue to have the mutual right of first refusal or the mutual easement, other than while they are recording the documents they should either affirm that the agreement exists or do away with it. The waiver of the right of first refusal is

needed for this transaction to allow the WGHF to close on their purchase to the First Baptist Church.

Commissioner Buchanan expressed his concerns with not having sufficient time to review this issue which was only just presented tonight. **Mr. Sikes** explained that the title work was received after they had entered into the contract. As a part of reviewing the title work they realized that this was an issue and that prompted a call to the City Attorney.

Mr. Sikes explained the terms of the purchase and stated that the City has the right to step in and purchase the property at the same terms. He explained that they are scheduled to close on the purchase Thursday of next week. Their purpose for buying the property is so they can build the History Center to hold their archives, have offices, and to have a facility for field trips and other community meetings that would be more suitable than what they have right now behind the building where the Railroad Museum is on South Boyd.

Commissioner Buchanan asked if they build in that parking lot what will it do for the easement and the ability to drive through. He expressed his concern that there have been no plans for the City Commission to review and if there is something that has to be done he suggests that the City buy it and then decide. **City Manager Bollhoefer** explained that this was initially a transaction between two other parties that did not involve the City, which is why it wasn't brought to the City Commission.

Commissioner Makin asked about the kind of building the WGHF wanted to build. **Mr. Sikes** responded probably a two-story building because the footprint would have to be maintained in a way that would not impede parking ingress and egress from behind the building.

Commissioner Sharman noted that the site plan would have to come back before the City Commission for approval. **Commissioner Buchanan** stated that he thinks the City has 60 days after First Right of Refusal and in his mind nothing has to be decided tonight. He stated that he would like to have the Heritage Museum have the site, but he would like to see more information on what is going to happen to it before the City just automatically gives it away.

Mr. Sikes stated that he does not know if the WGHF can tell the City Commission tonight or even in 60 days exactly what is going to be done. The WGHF has just selected a building committee to start developing the program requirements for the building and the design. He noted that anything they build there will go through an extensive review process with the City.

Mayor Rees stated that the question tonight is; does the City have any intention or need to purchase the church's property. **Commissioner Buchanan** responded that the City Commission could make a decision in 60 days.

Mayor Rees noted that he has had an opportunity to think about this from the private side and felt that this is property that if the WGHF purchased, then the City would not have to make the purchase. He noted that the City has enough restrictions to get the type of structure we will all be happy with.

Commissioner Sharman expressed that he feels the City needs to keep their long term rights by keeping its first right of refusal. He suggested the City Commission approve the sale and let them work on the rest of it. The WGHF can then come back with a site plan and the City can then review it. What can happen is if the Commission doesn't approve it, the WGHF may want to sell it and the first right of refusal would come back to the City. **Commissioner Buchanan** agreed and voiced his concerns about making quick decisions on any item at the last minute.

Motion by Commissioner Sharman to approve the Release of the Right of First Refusal to the Winter Garden Heritage Foundation for the pending sale and keep the easement agreement and Right of First Refusal for future sales. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- **Rescheduling of the Executive Session**

City Attorney Ardaman apologized for the cancelled closed executive session this evening and stated that the documents needed had not been finalized with the plaintiff. He expects this to be done by next Thursday and asked if the City Commission would be available for a 5:30 p.m. closed executive session one week from today.

It was the **consensus** of the City Commission to meet for an executive closed session next week at 5:30 p.m. with the actual date to be determined.

10. **MATTERS FROM CITY MANAGER**

A. **Presentation on City survey** (*This item was discussed later in the meeting.*)

B. **Discussion on resolution regarding smoking in parks**

City Manager Bollhoefer stated that Dick Batchelor has been working on a campaign in Central Florida to get governmental agencies to support legislation that would give local government home rule authority to pass legislation that would prevent people from smoking in public parks. He distributed a sample ordinance for the City Commission to review.

A. **Presentation on City survey**

City Manager Bollhoefer presented a PowerPoint presentation that highlighted a recent City survey (*see attached Exhibit A*). He pointed out that under the custom questions our residents indicated that 59 percent are in favor of increasing traffic enforcement and 58 percent would be interested in one-day garbage pick-up if the savings were significant enough. Because the percentage is high enough, he will be bringing this matter back for

the City Commission to consider having a study done to find out what the savings would be for solid waste pick-up one day a week.

City Attorney Ardaman advised he would not be available for a Thursday executive session and asked the City Commission to tentatively set the Executive Closed Session for Wednesday at 5:30 p.m.

It was the **consensus** of the City Commission to meet for the executive closed session on Wednesday at 5:30 p.m.

11. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Makin commended City staff for all the hard work they did over the weekend for the Light Up Winter Garden event on Friday night and the Christmas Parade on the following Saturday. He noted there was a great turnout of approximately 5,000 plus.

Commissioner Buchanan stated that he had a wonderful time at the Christmas Parade and noted that he had the opportunity to see the difference in both parades and noted the wonderful food afterwards. He also commended staff on a wonderful employee appreciation luncheon he attended at the Jessie Brock Center.

Commissioner Boulter stated that he mirrored the comments given by the other Commissioners and wondered what the City is doing to prepare for these events which seem to be expanding. City Manager Bollhoefer reassured him that staff is mindful of the increasing crowds and are working on an expanding for the growth.

Commissioner Sharman noted that there is some parking issues for these events.

Mayor Rees commended staff on the excellent job they do at having an event and cleaning up so quickly afterwards.

The meeting adjourned at 7:43 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC