



# CITY OF WINTER GARDEN

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## CITY COMMISSION EXECUTIVE SESSION AND SPECIAL MEETING MINUTES

December 14, 2011

Mayor Rees called to order the noticed **EXECUTIVE SESSION** at 5:47 p.m. in Commission Chambers, 300 W. Plant Street, Winter Garden, Florida.

### **Mayor and Commissioners Present:**

John Rees                      District 5 Mayor/Commissioner  
Bob Buchanan                District 2 Commissioner  
Harold L. Boulter            District 3 Commissioner  
Kent Makin                    District 1 Commissioner

### **Also Present:**

Mike Bollhoefer              City Manager  
A. Kurt Ardaman              City Attorney  
Patrick M. DeLong            Special City Counsel  
Kathy Golden                  City Clerk  
Amy Godoy                      Court Reporter

### **Absent:**

Colin Sharman                District 4 Commissioner

Mayor Rees advised that City Attorney, A. Kurt Ardaman, has requested advice from the City Commission concerning litigation and to discuss settlement negotiations and strategy related to litigation expenditures.

City Attorney Ardaman announced that an attorney-client closed session regarding **Case #2011-CA-007041: DeWitt Excavating, Inc. v. City of Winter Garden** and **Case #2011-CA-01080: City of Winter Garden v. DeWitt Excavating, Inc.**, is about to begin and anticipates it will last one hour.

Mr. Ardaman announced that those attending the Executive Session will include those City Commission members indicated as present, City Manager Mike Bollhoefer, City Attorneys A. Kurt Ardaman and Daniel W. Langley of the law firm Fishback, Dominick, Bennett, Stepter, Ardaman, Ahlers & Langley LLP, Special City Counsel Patrick M. DeLong of the law firm Wicker Smith O'Hara McCoy & Ford P.A., and Court Reporter Amy Godoy.

The public meeting was recessed with all other persons, not otherwise stated, leaving the meeting and the Executive Attorney-Client Session commenced at 5:49 p.m.

At 6:19 p.m. Mayor Rees reconvened the public portion of the meeting and **adjourned** to a Special City Commission meeting scheduled immediately following the closed session.

### **SPECIAL MEETING**

Mayor Rees called to order the **SPECIAL MEETING** to order at 6:22 p.m. in Commission Chambers, 300 West Plant Street, Winter Garden, Florida.

**Present:** Mayor John Rees, Commissioners Harold L. Boulter, Bob Buchanan, and Kent Makin

**Absent:** Colin Sharman

**Also Present:**

City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, and City Clerk Kathy Golden

1. **Discussion and potential action on proposed Settlement Agreement with DeWitt Excavating, Inc.**

City Attorney Ardaman stated that he has provided the City Commission with a copy of the proposed settlement agreement and mutual general release as executed by DeWitt Excavating, Inc. He stated that these documents contain two proposed stipulations for dismissal; one with a dismissal with prejudice which is the DeWitt Excavating, Inc. versus the City of Winter Garden Case #2011-CA-007041 and the other for dismissal is Case #2011-CA-01080: City of Winter Garden v. DeWitt Excavating, Inc.

Mr. Ardaman stated that the question for the City Commission is whether or not to approve the settlement agreement and mutual general release.

Mayor Rees opened this item for discussion. There being none, he called for the motion.

**Motion by Commissioner Buchanan to approve the proposed settlement agreement with DeWitt Excavating, Inc. contingent upon the City Manager first meeting with Prince Contracting. Seconded by Commissioner Makin and carried unanimously 4-0.**

• **Second Reading and Public Hearing Date Correction for Ordinance 12-02**

Mayor Rees stated that at the last City Commission regular meeting there was a motion made by Commissioner Sharman to schedule the public hearing for Ordinance 12-02, which creates the Urban Village designation. The date was mistakenly stated as July 12, 2012 when the correct date should have been January 12, 2012.

**Motion by Commissioner Buchanan to correct the public hearing date for Ordinance 12-02 from July 12, 2012 to January 12, 2012. Seconded by Commissioner Makin and carried unanimously 4-0.**

The meeting adjourned at 6:25 p.m.

APPROVED:

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

ATTEST:

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