



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

January 12, 2012

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:32 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, City Clerk Kathy Golden, Public Services Director Don Cochran, Finance Director Robin Hayes, Community Development Director Ed Williams, 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, West Orange Times Reporter Michael Laval, and Orlando Sentinel Reporter Stephen Hudak

1. **APPROVAL OF MINUTES**

Motion by Commissioner Boulter to approve the regular meeting minutes of December 8, 2011 and Executive Session and Special Meeting of December 14, 2011 as submitted. Seconded by Commissioner Buchanan and carried unanimously 5-0.

2. **PRESENTATION**

Request from Winter Garden Rotary to waive fees for using Tanner Hall and to allow beer and wine for the Evening at the Pops event

Larry Cappleman, on behalf of the Winter Garden Rotary Club, requested waiving of the rental fees for using Tanner Hall and Newton Park. He also requested permission to sell beer and wine with consumption only on the premises, use of the City's gas grill, and some assistance from City staff.

Motion by Commissioner Buchanan to approve waiving rental fees for the Winter Garden Rotary to use Tanner Hall for the annual Evening at the Pops event and to allow beer and wine to be sold. Seconded by Commissioner Makin and carried unanimously 5-0.

3. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 11-37:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 40.29 +/- ACRES OF REAL PROPERTY GENERALLY LOCATED ON ROPER ROAD EAST OF DANIELS ROAD AND WEST OF BEULAH ROAD FROM CITY NZ TO CITY R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT; PROVIDING FOR NON-SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-37 by title only. Community Development Director Williams stated that this property is located on the south side of Roper Road, between Daniels Road and Beulah Road. This property was purchased by a church and is being rezoned to accommodate their church. The property is constrained with 24.9 acres being wetlands and approximately 15.4 acres are uplands. The development of the property will be restricted to the uplands portion. The church has not submitted plans at this point for any development on the property. They have annexed into the City and are now rezoning it. Plans are expected later this year or next year for the church. Staff recommends approval subject to the staff report. This has been recommended for approval by the Planning and Zoning Board.

Mayor Rees asked if the plans to be submitted would include information on their anticipated membership.

Mr. Williams replied yes, they will include the size, capacity, and a certain amount of parking. He noted that the abutting single family residence and the applicant is aware of the extra buffering between.

Motion by Commissioner Boulter to approve Ordinance 11-37 with the second reading and public hearing being scheduled for January 26, 2012. Seconded by Commissioner Makin and carried unanimously 5-0.

- B. **Ordinance 12-03:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 2, ARTICLE V, ELECTIONS; SECTION 2-251(b), GENERAL AND RUNOFF ELECTIONS; TO DETERMINE WHO IS IN THE RUN-OFF ELECTION IF THERE IS A TIE BETWEEN SECOND AND THIRD PLACING CANDIDATES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-03 by title only. City Clerk Golden stated that upon review of the City's code regarding our elections, it was determined that in the event there was a tie between second and third, there would not be a way to know who would be included on the ballot. This clarifies amendment would allow for a drawing of lots to make that determination.

Commissioner Sharman asked about the definition of a lot. There was discussion that it is a drawing of straws.

Motion by Commissioner Sharman to approve Ordinance 12-03 with the second reading and public hearing being scheduled for January 26, 2012. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- C. **Ordinance 12-04:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.50 ± ACRES LOCATED AT THE NORTHWEST CORNER OF WEST COLONIAL DRIVE AND SOUTH DILLARD STREET INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-04 by title only. Community Development Director Williams stated that this item and the next items involve the same property. This is the newly renovated Sunoco gas station at the corner of State Road 50 and Dillard Street. Staff is working with the agent for the owners to clean up signage and other issues with the renovation done under County regulations. They have been very cooperative and have made major changes, which staff has seen huge improvements. Staff recommends annexation and is happy to have them come into the City.

Motion by Commissioner Sharman to approve Ordinance 12-04 with the second reading and public hearing being scheduled for January 26, 2012. Seconded by Commissioner Makin and carried unanimously 5-0.

- D. **Ordinance 12-05:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS 0.50 ± ACRES OF LAND LOCATED AT THE NORTHWEST CORNER OF WEST COLONIAL DRIVE AND SOUTH DILLARD STREET FROM ORANGE COUNTY COMMERCIAL TO CITY COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-05 by title only. Community Development Director Williams stated that this is the same property that changes the land use from County commercial to City commercial and staff recommends approval.

Motion by Commissioner Buchanan to approve Ordinance 12-05 with the second reading and public hearing being scheduled for January 26, 2012. Seconded by Commissioner Boulter and carried unanimously 5-0.

- E. **Ordinance 12-06:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.50 ± ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE NORTHWEST CORNER OF WEST COLONIAL DRIVE AND SOUTH DILLARD STREET FROM ORANGE COUNTY C-1 COMMERCIAL DISTRICT TO CITY C-2 ATERIAL COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-06 by title only. Community Development Director Williams indicated staff recommends approval.

Motion by Commissioner Sharman to approve Ordinance 12-06 with the second reading and public hearing being scheduled for January 26, 2012. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- F. **Ordinance 12-07:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 37.8 +/- ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF AVALON ROAD AND DAVENPORT ROAD AT 2911 AVALON ROAD, FROM CITY NZ TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (Carriage Pointe Reserve PUD)

City Attorney Ardaman read Ordinance 12-07 by title only. Community Development Director Williams stated that this property was formerly known as the Cantero property and has since changed hands. A revised report has been submitted reflecting the new ownership by Taylor Morrison. The Development Review Committee and the Planning and Zoning Board have reviewed this item and recommend approval. The plan is consistent with the comprehensive plan and zoning codes of the City. This development is for 90 lots; 47 are 65 by 120 feet, 43 are 75 by 120 feet. This property abuts the county rural settlement of Avalon; therefore, it requires a 100 foot buffer on their west boundary and on their south boundary. Staff had a community meeting with the residents in the area who had concerns that a buffer of pine trees would not be sufficient. The developer has agreed to put in more shrubs and other lower lying bushes to fill up the buffer. At the end of the meeting the residents were supportive of the request. Another feature will be turn lanes on CR 545 and there will be no access to the roads to the south except for emergency access. Staff recommends approval subject to the conditions in the report. The Planning and Zoning Board has reviewed and recommends approval.

Commissioner Makin asked if this included a multi-use trail within the buffer.

Mr. Williams responded yes. The Joint Planning Area agreement with the County provides for trails and interconnections throughout that area.

Motion by Commissioner Boulter to approve Ordinance 12-07 with the second reading and public hearing being scheduled for January 26, 2012. Seconded by Commissioner Makin and carried unanimously 5-0.

- G. **Ordinance 12-08:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION II AND SECTION IV OF ORDINANCE 05-26 OAKLAND PARK PUD; AMENDING THE LOT SIZE MIXTURE, PHASING AND AMENITY SCHEDULE AND ALLOWING FOR 35 ADDITIONAL DWELLING UNITS ON APPROXIMATELY 189.9 +/- ACRES OF CERTAIN REAL PROPERTY

GENERALLY LOCATED WEST OF TILDENVILLE SCHOOL ROAD, SOUTH OF LAKE AOPKA, AND EAST OF THE TOWN OF OAKLAND; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR NON SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (Oakland Park PUD)

City Attorney Ardaman read Ordinance 12-08 by title only. Community Development Director Williams stated that this project has been under review for quite some time. It proposes to amend the lot size mixture, the phasing, and the amenities schedule. It ends up with an infrastructure change; there is now additional land available for development. There is a net gain of approximately 35 units across the property. Staff has reviewed and prepared a series of conditions and restrictions in the report. It has been reviewed by the Planning and Zoning Board who recommends approval. Mr. Williams stated that the applicant is here and would like to make a brief presentation of their proposal.

John Rinehart, 15241 E. Oakland Avenue, Winter Garden, Florida, highlighted the material provided with the application to amend the PUD as submitted in the agenda packet. He noted that there is another layer of control or design that is in the plan now. He noted a new section regarding the architectural design. One of the housing types that they have requested was a house lot which is a 40 foot wide lot. He noted the pattern of architecture for how the houses would appear on the street so there would not be a repetition of the same style housing.

Commissioner Makin asked how many forty foot wide lots are included.

Mr. Rinehart referred him to page 57 and shared that T-3 zone is no more than thirteen percent, T-4 zone would be no more than twenty-two percent and overall no more than thirty-five percent and emphasized that the design is important to house sizes.

Commissioner Buchanan asked if the marina was being eliminated.

Mr. Rinehart stated that the original plan had boat storage and a ramp with a retail component. The boat ramp is still part of the union club area. They will build the boat ramp for the residents of Oakland Park subject to the ability to get all of the required permits that is outside their control.

Mayor Rees asked if the boat ramp would be completed around the same time as the other recreation area such as the pool and clubhouse.

Mr. Rinehart replied that there is a change in the amenity phasing. They had initially planned that the union club would start around the 150th home in the community. What is now being proposed is that they are starting the Meadowmarsh Park up front with the pool in conjunction with the two builders starting construction now. The construction of the union club would fall in line with its natural phase development. The amenities of a particular phase will be built before fifty percent of the Certificate of Occupancies (COs) are issued within a phase. The pool is designed to handle three to four hundred homes.

Commissioner Sharman asked about how parking will be handled for the forty foot lots.

Mr. Rinehart stated that they have spent a fare amount of time with staff going through a variety of issues and parking was one of concern to staff. They propose to submit a parking plan as part of each plat. Mr. Rinehart referred to the chart on page 58, which identifies the required parking.

Motion by Commissioner Buchanan to approve Ordinance 12-08 with the second reading and public hearing being scheduled for January 26, 2012. Seconded by Commissioner Sharman and carried unanimously 5-0.

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

- A. **Ordinance 11-35:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 75.94 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTH SIDE OF MARSH ROAD, EAST OF WILLIAMS ROAD AND WEST OF AVALON ROAD (CR 545) AT 16851 AND 17001 MARSH ROAD, FROM CITY NZ TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Waterside on John's Lake PUD)

City Attorney Ardaman read Ordinance 11-35 by title only. Community Development Director Williams requested that this item be postponed until February 9, 2012.

Motion by Commissioner Sharman to postpone Ordinance 11-35 until February 9, 2012 at 6:30 p.m. or as soon thereafter as possible. Seconded by Commissioner Buchanan and carried unanimously 5-0.

At this time, Mayor Rees recognized Jim Thomas, President of the Friends of Lake Apopka (FOLA) to present two issues that will have a major impact on the City of Winter Garden.

Mr. Thomas stated that one of the big issues proposed by Fish and Wildlife is to allow Hydrilla to proliferate in Lake Apopka. This is a preposterous plan. They plan to make their decision by counting stakeholders. There are a number of fisherman and fish managers who think Hydrilla would be an improvement to Lake Apopka with the idea that it can be controlled at some point down the line, which is not possible. He shared that Fish and Wildlife will conduct a public hearing in Winter Garden on January 24, 2012 at 6:00 p.m. at Tanner Hall and the purpose will be to hear from the stakeholders. He noted that FOLA has been circulating petitions and they have about 1,000 signatures opposing the plan, but he understands that a lot of people in Lake County are counting on making this happen in Lake Apopka. In addition, a questionnaire will be presented to those attending the hearing or who live on the lake; counting those who are in favor or are against. He noted that a lake full of Hydrilla would degrade property values in Winter Garden.

Mr. Thomas noted a recent challenge with competition for water level management. The scientific staff has recommended that Lake Apopka keep the dam closed through the winter until April to keep the water level high. The purpose of keeping the higher level is because it lowers the phosphorous breeding and we are better able to control phosphorous. St. Johns River Water Management Board, just last week, voted to open the dam to allow water into Lake Griffin so that they could get their boats out of the docks. He noted that this was a complete surprise and noted that it was a classic example of politics over science. We will see a major impact on the eelgrass that is growing around the edges. He asked the City Commission to take a stand along with FOLA to protest on exposing the eelgrass.

Mr. Thomas noted another issue that people object to is so much money is being spent on Lake Apopka and the people are not using the lake. He asked if the City could look at its own boat ramps and see what might be done to create more access to Lake Apopka. He noted that they (FOLA) will be working on getting Federal funds that might be available and he would like to work with the City on this possibility.

At this time, Mayor Rees resumed the regular meeting.

- B. 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 this request is, by staff, considered to be an improvement in the planned unit development. It is a downgrade from 150 townhomes to 66 single family residential units. The Planning and Zoning Board and the Development Review Committee recommend approval subject to conditions.

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

Motion by Commissioner Buchanan to adopt Ordinance 11-39. Seconded by Commissioner Makin and carried unanimously 5-0.

- C. 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 this amendment reduces the density and the types of units. The project will go from 390 triplexes to 345 units that are both triplex and duplex type units. Staff and the Planning and Zoning Board recommend approval subject to conditions.

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

Motion by Commissioner Boulter to adopt Ordinance 12-01. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- D. **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 advised that there would be no need to read this title as it is being re-advertised. Community Development Director Williams stated staff would like to postpone this item until January 26, 2012.

Motion by Commissioner Buchanan to postpone Ordinance 12-02 until January 26, 2012 at 6:30 p.m. or as soon thereafter as possible. Seconded by Commissioner Boulter and carried unanimously 5-0

5. **REGULAR BUSINESS**

A. **Recommendation to approve the final plat for Villas at Tucker Oaks**

Community Development Director Williams stated that this is the plat for the Villas at Tucker Oaks that has been reviewed by staff, who recommends approval and authorization for the Mayor to sign.

Motion by Commissioner Sharman to approve the final plat for Villas at Tucker Oaks. Seconded by Commissioner Buchanan and carried unanimously 5-0.

B. Recommendation to approve site plan, with conditions, for 1103 Crown Park Circle owned by Boyd Consulting, Inc. for an office/warehouse building by Precision Contracting Services

Community Development Director Williams stated that this site plan has been reviewed by the Development Review Committee (DRC), who recommends approval. It is for a fiber optic company that is locating into that industrial area. Staff has reviewed the site plan for consistency with regulations and recommends approval.

Motion by Commissioner Buchanan to approve site plan, with conditions, for 1103 Crown Park Circle owned by Boyd Consulting, Inc. for an office/warehouse building. Seconded by Commissioner Makin and carried unanimously 5-0.

C. Recommendation to approve site plan for 12801 W. Colonial Drive owned by Sigma Delta Investments, Inc. for a convenience store

Community Development Director Williams stated that this is one of the properties that is being renovated on State Road 50 since the road widening project occurred. It is the convenience store, Citgo gas station, and the cheese steak restaurant. Staff recommends approval.

Motion by Commissioner Sharman to approve the site plan for 12801 W. Colonial Drive. Seconded by Commissioner Boulder and carried unanimously 5-0.

D. Recommendation to authorize the City Manager to enter into and transmit an agreement with the Florida Communities Trust for the Tucker Ranch Heritage Park property to receive \$840,252.00 reimbursement from Florida Forever funding

Community Development Director Williams stated that the State approved the City for the money and now the City has to go through the process involved in actually collecting the funds for the park. Staff is asking for authorization and approval for the City Manager to execute the agreement and transfer it to the State so that the City can collect the funds. He stated that the City Attorney will also have to sign off on this agreement and there are also some issues that he would like to advise the City Commission on that are included in the grant.

City Attorney Ardaman stated that there are restrictions that will apply to the entire property. All buildings and structures have to be approved, in advance, by the State. The City will have to change the future land use zoning if it is not all conservation. There are a lot of requirements. One of the primary concerns he has as the City's attorney is that a Declaration of Restrictive Covenants must be recorded that require the City's compliance with certain requirements. In the event that the City does not comply with the requirements and the State gives the City notice, and the City does not adhere to those requirements, the City could be asked and required to deed the property to the State.

Mayor Rees asked if there is any room in this agreement that says if the City does not agree, we could refund the funds back to the State.

City Attorney Ardaman stated that the City could try and most of the agreement does allow for that.

City Manager Bollhoefer stated that on paper it looks worse than what it really is because with the State this has never happened; they try to work with everyone.

Mr. Ardaman stated that the City Manager is correct. He just wanted to be sure that the City Commission was aware of the possibility however unlikely it is.

Motion by Commissioner Sharman to approve authorizing the City Manager to enter into and transmit an agreement with the Florida Communities Trust for the Tucker Ranch Heritage Park property. Seconded by Commissioner Buchanan and carried unanimously 5-0.

E. **Recommendation to approve Resolution 12-01 and utility work agreement with the Florida Department of Transportation for relocating city owned utilities on State Road 50 west of Avalon Road**

Public Services Director Cochran stated that this is a utility work agreement with the Florida Department of Transportation (FDOT). The project is described as State Road 50 between Avalon Road and just east of the turnpike ramps, but the City's portion is just relocating the utilities that are within the City's limits.

City Manager Bollhoefer asked when the widening is to begin.

Mr. Cochran responded that he did not have the schedule, but staff has just received bids today for the City's portion of moving utilities, and he expects to begin in the next 30 to 45 days.

Motion by Commissioner Sharman to approve Resolution 12-01 and utility work agreement with the Florida Department of Transportation for relocating city owned utilities on State Road 50 west of Avalon Road. Seconded by Commissioner Makin and carried unanimously 5-0.

F. **Recommendation to approve entering into an agreement with St. Johns River Water Management District for the Water Conservation Cost Share Program**

Public Services Director Cochran stated that staff is requesting to enter into a water conservation cost share agreement with St. Johns River Water Management District (SJRWMD). This is to fund the upgrading of the City's automatic meter reading system to a technology called Flexnet Technology. This allows water meters to be read from a computer in City Hall as opposed to the automatic radio read system that are read by a technician who drives around the City via a computer. This program covers the first 3,500 meters. As the City replaces meters, the upgraded meters will be installed. He can foresee that, in the future, accounts could be shut-off at City Hall and someone could pay on line and be reconnected. The City's shared amount is \$200,000.00.

Mayor Rees asked if the contingency amount is shared or is it the city's amount.

Mr. Cochran replied that the contingency is the City's amount.

Commissioner Buchanan asked if commercial will also be upgraded.

Mr. Cochran responded yes.

Mayor Rees asked if there will ultimately be a significant savings to the City.

Mr. Cochran responded that eventually there will be the reduction in the driving being done and the staff of twelve required for shutting off meters and then going out and turning them back on.

Motion by Commissioner Sharman to approve entering into an agreement with St. Johns River Water Management District for the Water Conservation Cost Share Program. Seconded by Commissioner Buchanan and carried unanimously 5-0.

G. Recommendation to approve request for qualification rankings and material testing, and authorize staff to negotiate contracts for professional services agreements for geotechnical and materials testing with Ardaman and Associates, Universal Engineering Sciences, Tri-County Testing, PSI ,and Elipsis

Public Services Director Cochran stated that every two to three years the City goes out for bid on geotechnical services. We have received ten responses and staff recommends going under contract with the top five. He noted that the reason staff is picking the top five is there may be emergencies and you need to make sure you have someone on hand. He stated that staff wants to have a pool of contacts. He noted the chosen companies are Ardaman and Associates, Universal Engineering Sciences, Tri-County Testing, PSI, and Elipsis. He noted that Tri-County Testing and Elipsis are local companies. Mayor Rees asked if these were listed in the preferred order. Mr. Cochran replied that this is the order in which they were ranked.

Motion by Commissioner Sharman to approve request for qualification rankings and material testing, and authorize staff to negotiate contracts for professional services agreements for geotechnical and materials testing with Ardaman and Associates, Universal Engineering Sciences, Tri-County Testing, PSI, and Elipsis. Seconded by Commissioner Makin and carried unanimously 5-0.

H. Recommendation to extend the annual services agreement with Quality Vaults for opening and closing of cemetery spaces

Public Services Director Cochran stated that this is an annual renewal. In 2009 this item was sent out for bid and Quality Vaults was the only company that submitted a bid. Quality Vaults has agreed to hold their prices at the same amount for another year. Staff recommends approving the renewal of Quality Vaults contract.

Motion by Commissioner Sharman to approve extending the annual services agreement with Quality Vaults for opening and closing of cemetery spaces. Seconded by Commissioner Boulter and carried unanimously 5-0.

I. Recommendation to approve bids and award contract to Schuller Contractors, Inc. for the Southwest Reuse Expansion Project with a ten percent contingency for a total of \$2,094,250.40

Public Services Director Cochran stated that this has been a long time coming. The City entered into an agreement approximately five years ago with Orange County, City of Orlando, and Conserv II to receive two million gallons of reclaimed water from the Conserv II system. It has taken five years to get an agreement with Orange County to make the connection to that pipe. The City has received bids from the contractor who has the engineering designs for making those connections. The lowest bid was Schuller Contractors, Inc. at \$1,903,864.00 and staff recommends a ten percent contingency which brings the project total to \$2,094,250.40

Mr. Cochran stated that last Tuesday he attended the SJRWMD board meeting and they awarded Winter Garden a grant for this project, along with three other cities. The award was for forty percent of this contract. Of the \$2 million, SJRWMD has given the City \$800,000.00 of the cost.

Motion by Commissioner Boulter to approve bids and award contract to Schuller Contractors, Inc. for the Southwest Reuse Expansion Project with a ten percent contingency for a total of \$2,094,250.40. Seconded by Commissioner Makin and carried unanimously 5-0.

J. Appointment of the fifth trustee on the Police Officer and Firefighter Pension Board

City Clerk Golden stated that this for the appointment of the fifth trustee on the Police Officer and Firefighter Pension Board. The board met and is recommending the reappointment of the current fifth trustee, Phil Cross.

Motion by Commissioner Buchanan to reappoint Phil Cross as the fifth trustee on the Police Officer and Firefighter Pension Board. Seconded by Commissioner Boulter and carried unanimously 5-0.

K. Request approval to sell beer February 4, 2012, during the chili cook-off fundraiser to benefit the American Cancer Society

Community Relations Manager Vaughn requested permission to sell alcohol at the 4th Annual Uncle Don's Chili Cook off on February 4, 2012.

Mayor Rees asked if it was alcohol or just beer. Ms. Vaughn responded that only beer would be sold at \$4.00 per cup. She noted that last year's sales raised \$8,000.00 and the goal this year is to raise \$15,000.00. Ms. Vaughn noted that this fundraiser for the American Cancer Society is sponsored by the City of Winter Garden's Employee teams.

Motion by Commissioner Buchanan to approve the sell of beer on February 4, 2012 during the chili cook off fundraiser to benefit the American Cancer Society. Seconded by Commissioner Makin and carried unanimously 5-0.

6. **MATTERS FROM CITIZENS**

Ainsley Reid-Hart, an investor of a condo in Windtree asked why the City charges for sewer and garbage when the water has been turned off.

City Manager Bollhoefer explained that part of the cost pays for ongoing expenses and the other part is for capital expenses, which are the greater part of the cost. The City is still paying for the capital expenditures and those expenses do not go away. All houses have to pay a portion of that capital cost. For example, if 50 percent of the City had its water turned off, the City would still have to maintain the related costs such as the employee's salaries. and those costs do not go away. Therefore, everyone is responsible for paying their fair share.

Dr. Rosemarie Solomon, 2169 Wintermere Pointe Drive, Winter Garden, Florida, stated that she has two medical schools and that she would like to put one in Winter Garden to help our youth. She also wants to work with the performing arts center in order to assist young girls and those who may have suffered abuse.

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

8. **MATTERS FROM CITY MANAGER**

A. **Draft ordinance on park regulations**

City Manager Bollhoefer stated that this ordinance will be brought back to the City Commission in approximately 30 days. The regulations are fairly significant and asked that the Commission review it and bring any comments to his attention. He noted that staff would like to bring it to the first meeting in February.

At this point in the meeting Mayor Rees requested a spokesperson on this subject for several individuals who wanted to voice the same opinion on an issue.

Tonya Laul Jimenez stated that she was present on behalf of True Ministries Church which regularly uses Veterans Memorial Park and will be directly affected by this proposed ordinance. She stated that they feel that they are being forced out of the park and have been for several years, and she shared several reasons. Ms. Jimenez asked why their church has been singled out.

City Manager Bollhoefer responded that their church has not been singled out and it was not mentioned in the ordinance. He noted that this is an ordinance that has been prepared with the City Attorney who has reviewed other park regulations. This ordinance has not been delayed but has been given to the City Commission so that they have time to review and suggest any changes and/or recommendations.

Ms. Jimenez thanked Mr. Bollhoefer for his explanation and stated that the church feels that this ordinance is a violation of its first amendment rights. She stated that they have been in contact with the Liberty Counsel who has sent an e-mail to the City Commission and provided the Commission with a copy of the letter to review prior to voting on this ordinance. Ms. Jimenez stated that Richard Mast of the Liberty Counsel, the source of the letter, also agrees that the ordinance appears to be unconstitutional. She noted that the various reasons are outlined. On behalf of True Ministries Church and the Liberty Counsel they are asking that this proposed ordinance be opposed. Mr. Mast has offered to assist in drafting a constitutional version of the ordinance.

B. Draft ordinance modifying pain clinic regulations

City Manager Bollhoefer stated that the City adopted an ordinance to regulate pain clinics that were really just places for drug distribution. However, there are some legitimate pain clinics who are being penalized. This ordinance would modify it so that real pain clinics are not penalized. He stated that he has distributed the proposed ordinance for review and or comments to him or the City Attorney who he believes drafted it.

C. Discussion on ownership of Windtree Lane

City Manager Bollhoefer stated that Windtree Condominiums road in back of Kentucky Fried Chicken has been a problem road for many years. The City has been trying to work with the supposed road owners and he would like the City to take ownership of the road. He believes that it should have been a City road all along because it provides ingress and egress to businesses and private residences. If the City takes ownership, then we would be responsible for maintaining the road, and it would become a public road. The City Engineer has reviewed, the road and to bring it up to standards would be approximately \$15,000.00 to \$20,000.00 to repair. Staff recommends taking ownership of the road and repairing it.

Commissioner Buchanan asked if the City will ask that they do repairs before we take it over.

Mr. Bollhoefer stated that generally we would, but there were so many different owners and the ownership was so confusing. After review, it would have cost more to look into this and incur legal fees than to pay the \$15,000.00 to \$20,000.00 and take ownership.

Commissioner Buchanan asked if the road is from the Windtree entrance sign to State Road 50. Mr. Bollhoefer responded yes; not within Windtree itself.

Motion by Commissioner Boulter to approve recommendation as made by the City Manager. Seconded by Commissioner Buchanan and carried unanimously 5-0.

D. Review design for sun shelters at splash fountain

City Manager Bollhoefer stated that the splash fountain has been a great success but the one comment made was that there was not sufficient shade. The design should not clash

with the architecture, and whatever is chosen it needs to be aluminum that is fastened down for lower maintenance and longevity. A rendering was distributed and it was discussed. The approximate size is 14 feet long by 8½ each, with four total. The highest approximate price is \$39,000.00 and the lowest was \$35,000.00.

Mayor Rees stated that the City Commission would review the design and decide at the next meeting.

- **Micro Events at the Pavilion**

City Manager Bollhoefer stated that one of the City's plans is to use the pavilion for micro events. The recreation staff has come up with an event that they would like to have on March 3, 2012 called a Blues and Barbeque event from 4:00 p.m. to 10:00 p.m. at the pavilion. They are asking permission to have beer sales and consumption at the event within the confines of the pavilion.

There was discussion that this would not interfere with the Farmer's Market, and the barbeque would be provided by several local businesses.

Motion by Commissioner Buchanan to approve the Blues and Barbeque event on March 3, 2012 with permission to sell beer at the pavilion. Seconded by Commissioner Sharman and carried unanimously 5-0.

- **Farewell and thank you to Finance Director Hayes**

City Manager Bollhoefer announced that Robin Hayes, the City's Finance Director, has submitted her resignation and will be going to the City of Oviedo. He thanked her for the time she has served the City of Winter Garden.

Mayor Rees thanked Ms. Hayes for all she has done for the City and wished her the best.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Boulter wished everyone a Happy New Year.

Commissioner Sharman thanked City staff and City Manager Bollhoefer for being on top of the noise issues at the mall.

City Manager Bollhoefer stated that the Winter Garden Choir would like to use Tanner Hall the Sunday before Valentine's Day for a fundraiser and have asked that the City waive the fees for use of the hall.

Motion by Commissioner Boulter to approve waiving the rental fees for the Winter Garden Choir to conduct a fundraiser the Sunday before Valentine's Day 2012. Seconded by Commissioner Buchanan and carried unanimously 5-0.

The meeting adjourned at 8:05 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC