



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

May 24, 2012

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 Bob Buchanan, Kent Makin, Robert Olszewski and Colin Sharman

Also Present: City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, City Clerk Kathy Golden, Assistant to the City Manager - Administrative Services Frank Gilbert, Assistant to the City Manager - Public Services Don Cochran, Community Development Director Ed Williams, Recreation Director Jay Conn, Information Technology Director Bob Reilly, Police Lieutenant Ralston, Fire Chief John Williamson and West Orange Times Reporter Michael Laval

1. **APPROVAL OF MINUTES**

Motion by Commissioner Olszewski to approve the regular meeting minutes of May 10, 2012, as submitted. Seconded by Commissioner Sharman and carried unanimously 5-0.

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

A. **Ordinance 12-23:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA CREATING A NEW CHAPTER 27 OF THE CODE OF ORDINANCES REGARDING PARKS, RECREATION AND COMMUNITY FACILITIES; PROVIDING FOR RULES AND REGULATIONS CONCERNING CITY PARKS, RECREATIONAL FACILITIES AND COMMUNITY FACILITIES; PROVIDING FOR USE PERMITS AND SPECIAL EVENTS PERMITS AND ASSOCIATED STANDARDS, CONDITIONS AND FEES; AMENDING SECTION 50-151 OF THE CODE OF ORDINANCES TO DELETE APPLICABILITY OF PROHIBITED ACTIVITIES IN PARKS AND RECREATIONAL FACILITIES TO AVOID CONFLICTS WITH NEW CHAPTER 27 OF THE CODE OF ORDINANCES; AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES TO DELETE ARTICLE III. MUSICAL OR ENTERTAINMENT FESTIVALS, SECTIONS 10-241, 10-242, 10-243, 10-244 AND 10-245 TO AVOID CONFLICTS WITH NEW CHAPTER 27 OF THE CODE OF ORDINANCES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-23 by title only. Parks and Recreation Director Conn stated that this is the second reading of the ordinance and staff recommends approval.

Mayor Rees opened the public hearing.

Taniya Lall Jimenez stated that she spoke on behalf of True Ministries Church at the first reading of this ordinance. There are some concerns with this ordinance and they are in opposition. She stated that this ordinance singles out their church group and no other organization. She explained that their ministry has been meeting at Veterans Memorial Park for several years and there have been no issues. Her church meets for services/fellowship and they use the park for various activities. She explained that Liberty Counsel has offered to help the City draft an ordinance that is constitutional because they feel this ordinance currently being considered is unconstitutional.

City Manager Bollhoefer stated that Ms. Jimenez's church is not mentioned in this ordinance, nor is any church; they have as much right to use the park as much as any other group. The City's attorney has reviewed this ordinance in great detail, even with their constitutional experts and he is very confident that it meets the constitutional requirements. Staff actually contacted the church and invited them to a meet to discuss the proposed ordinance and they did not agree to a meeting.

Commissioner Sharman asked what the requirements would be for this to meet in the park. Mayor Rees state that if there are more than 100 attending, they would have to obtain a permit. Bollhoefer added if there are less than 100 attendees, no permit is necessary.

City Attorney Ardaman noted that this ordinance is not limited to any particular group or people, nor does it categorize anyone. It is for all groups and is not for just one park but for park regulations generally. He noted that he was confused by the comments and stated that he had not heard any argument or heard anything that would show this was unconstitutional in any respect. The City has gone to great pains to make sure that folks are treated fairly, equitably, and at the same time protect the health, safety and welfare of the citizens and those that would like to use the park.

Mayor Rees closed the public hearing.

Motion by Commissioner Sharman to adopt Ordinance 12-23. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- B. **Ordinance 12-24:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REPEALING ORDINANCE 12-02 AND REPLACING IT WITH THE AMENDMENTS TO ARTICLE V OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES CONTAINED WITHIN THIS ORDINANCE; PROVIDING FOR THE AMENDMENT OF 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 REVISIONS TO PLANNED UNIT DEVELOPMENT REVIEW PROCESS AND APPROVAL CRITERIA; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-24 by title only. Community Development Director Williams stated that this is the second hearing of the ordinance which is being readopted. The City Commission adopted an ordinance several months ago but there was a question as to whether it met the proper timeframes for adoption. To be perfectly clear in going forward, staff has brought this back to the City Commission to be readopted, ensuring that it meets all the applicable dates for advertising. Staff recommends approval.

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

Motion by Commissioner Olszewski to adopt Ordinance 12-24. Seconded by Commissioner Makin and carried unanimously 5-0.

3. **REGULAR BUSINESS**

A. **Recommendation to approve the Carriage Pointe Reserve developer agreement**

Community Development Director Williams shared that because of the recent legislation passed that addresses infrastructure problems, staff has met with this developer who has agreed to bond the public improvements from the issuance of the Certificate of Completion (C of C). During construction of the project, the developer will be responsible for operation and maintenance of the other private infrastructure that will go to the homeowners association. When this project is turned over to the homeowners association, the developer will then issue the City a two-year bond, which is another year beyond the City's current requirement of one year from C of C. It will now be two years from turnover to the homeowners association. It will give residents and the City a five to six year potential window of protection. This is first time this type of agreement has been negotiated.

City Manager Bollhoefer noted that staff will look into codifying this requirement going forward. He explained that the state legislature and our governor passed a law that is infamously called the substandard infrastructure protection act. This gives us a way to help protect our residents and the City.

Commissioner Olszewski asked if this action is making it more difficult for economic development in the City if we require two years.

Mr. Williams replied that it does cost the developer more, but they are willing to pay to ensure everything goes smoothly for both the homeowners and the City.

Motion by Commissioner Buchanan to approve the Carriage Pointe Reserve developer agreement as presented. Seconded by Commissioner Makin and carried unanimously 5-0.

B. Recommendation to approve the rankings and negotiation of a contract with Tetra Tech Engineering for Hydrogeological and Water Resource Planning Services

Community Services Director Cochran stated that the City has received submittals on the RFQ 12-01 for hydrogeological and water resource planning services. The scope of work has to do with our Consumptive Use Permit (CUP) with St. Johns River Water Management District (SJRWMD). Through this procurement process Tetra Tech Engineering was ranked the highest qualified consultant. Staff requests authorization to go into contract negotiations with Tetra Tech Engineering.

Mayor Rees asked if the City is currently using Tetra Tech Engineering.

Mr. Cochran responded no; in the past three years we have used SMW Consultants. Mr. Cochran explained the contract was scheduled to expire and staff had to go out for the RFQ. He explained that he has written that the contract must be renewed each year and up to five years. It is a good practice to have the consultant available during the next CUP process.

City Manager Bollhoefer clarified that the City has used Tetra Tech off and on for at least the last ten years. We recently used them within the past two years, so staff is quite familiar with Tetra Tech.

Commissioner Sharman asked if this would be an “at will” contract. Mr. Cochran advised that as the City needs assistance with any issues with SJRWMD, staff will contact them and ask for a proposal to include a maximum amount and time. Staff will authorize the work or negotiate the proposal as they come forward.

For Commissioner Olszewski’s benefit Mr. Cochran explained the ranking process.

Motion by Commissioner Olszewski to approve the rankings and the negotiation of a contract with Tetra Tech Engineering for Hydrogeological and Water Resource Planning Services. Seconded by Commissioner Sharman and carried unanimously 5-0.

C. Request by East Winter Garden Community Development Corporation, Inc. (non-profit) to waive rental fees for the use of Tanner Hall for their annual fundraiser on October 6, 2012

City Manager Bollhoefer stated the representative for this organization was unable to attend this meeting but has made this same request for the past two or three years. This is

their annual event and they are again requesting the waiver of fees to use the hall again this year.

Motion by Commissioner Olszewski to approve request by East Winter Garden Community Development Corporation, Inc. to waive rental fees for the use of Tanner Hall for their annual fundraiser on October 6, 2012. Seconded by Commissioner Sharman and carried unanimously 5-0.

D. **Resolution 12-09:** A RESOLUTION OF THE CITY OF WINTER GARDEN IN SUPPORT OF A COMMUNITYWIDE INITIATIVE TO REDUCE PEDESTRIAN INJURIES AND FATALITIES IN CENTRAL FLORIDA THROUGH EDUCATION, ENGINEERING, AND ENFORCEMENT

City Attorney Ardaman read Resolution 12-09 by title only. City Manager Bollhoefer stated that this is a resolution for us to join with the other cities and agencies around Central Florida to work towards making Central Florida a more pedestrian friendly community. He noted that a representative was available for any questions. Mr. Bollhoefer added that we have done a lot within our community to make it pedestrian friendly.

Commissioner Buchanan asked what prompted the request for this resolution.

Brad Kuhn, Director of Bike Walk Central Florida, stated that their organization was created by the Winter Park Health Foundation in 2010 to promote biking and walking for fun, fitness, and transportation. He noted that they were contacted by an organization called Transportation for America which produces a periodic report on pedestrian injuries and fatalities around the country. This organization determined that the Orlando/Kissimmee/MSA was the deadliest market for pedestrians in the nation for 2009 and the entire preceding decade. Mr. Kuhn shared some of the things his organization is doing such as education of drivers, pedestrians, as well as train officers. He stated he would like to come back to Winter Garden and share details of what they are doing. Their goal is to reduce death and injuries by fifty percent over the next five years. He thanked the City Commissioner for considering adoption of this resolution.

Motion by Commissioner Buchanan to adopt Resolution 12-09. Seconded by Commissioner Makin and carried unanimously 5-0.

4. **MATTERS FROM CITIZENS**

Theo Graham, 213 West Tilden Street, Winter Garden, Florida, invited everyone to attend the Memorial Day service this Monday at Veterans Park at 8:30 a.m.

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

6. **MATTERS FROM CITY MANAGER**

A. **Discussion on proposed revisions to the noise ordinance**

City Manager Bollhoefer stated that the noise ordinance has been distributed and will be brought back to the City Commission the first meeting in June. Over the years the City has made an effort to draft a noise ordinance that would address the noise issue and give the City some help with enforcement.

City Attorney Ardaman noted that the primary change to the City's noise ordinance is to give officer enforcement rather than using a decibel machine because of the potential challenges. He noted that there will be minor changes to this ordinance which will be made before the first reading. He noted that all cities have this problem and it will not be a cure all, but it certainly should give the City a lot more authority to bring some peace and quiet when needed.

Mr. Bollhoefer noted that this is not meant for the City to go out and start looking for noises but will be used as a reactive response so that when we get calls of this nature, the City will have laws on the books that will help get the noise turned down.

B. **Discussion on proposed resolution opposing the expansion of the West Orange Airport**

City Manager Bollhoefer stated that at the last meeting staff he was asked to bring back a resolution regarding the expansion of the airport north of Lake Apopka. It is the exact resolution passed by the Town of Oakland, except it is for Winter Garden. Mr. Bollhoefer stated that he had also distributed another option, which is a letter that is a little less official than the resolution. In addition he distributed a map that showed land owned by Long Scott that the airport wants to exchange for land owned by SJRWMD. He is not sure what is driving this land exchange but it may be developers and landowners who are trying to get more valuable land to be developed later. The proposed letter states the City has concerns and until the concerns are answered, not to transfer the land. In addition, it asks West Orange Airport Authority (WOAA) demonstrate there is an economic benefit to the City of Winter Garden which has been asked since 2007 with no response.

Commissioner Olszewski clarified that what the City Manager is asking is that the City, by letter, ask the SJRWMD not to swap any land until WOAA addresses some of the questions being asked regarding the airport expansion.

Mayor Rees stated that the City Commission is being asked if they support this request and if so will it be by resolution or letter.

Mr. Bollhoefer explained that either way they both carry the same weight. A resolution is not law but is a statement by the City Commission we resolve to do something, which may have a little more weight than a letter. City Attorney Ardaman added that a resolution states the City Commission's position.

Commissioner Olszewski stated his support of a letter going out.

Commissioner Buchanan expressed his agreement that a letter is what is needed before the City goes to a resolution. He noted that the cities of Ocoee and Apopka have not taken a position by a resolution. Our efforts here hold a lot of weight and he believes we need to let SJWMD know that the City of Winter Garden does not support the land swap. He stated that by letter the City conveys that without taking an official position in the form of a resolution.

Commissioner Olszewski stated that he toured the north shore with a member of the SJWMD staff. He feels that the City needs to do everything it can to preserve and protect the lake. He expressed his concern about the City of Winter Garden's involvement on an area not within our jurisdiction and agreed with sending a letter. He added that the land is located in Lake County, who has not yet taken a position, and he is confused as to how Winter Garden is interjecting into another County for which we have no authority. In addition, the adopted resolutions are by the towns of Montverde and Oakland which are not represented on the WOOA but the City of Winter Garden does. Therefore, he agrees with a letter.

Mayor Rees allowed interested attendees to speak on this subject.

Jim Thomas, President of Friends of Lake Apopka (FOLA), stated that the letter or the resolution would serve its purpose, but he personally prefers the resolution as they already have several resolutions and they will be sent as a package in opposition. He clarified that the land swap was designed to allow the expansion of the runway to 6,000 feet. He noted that Lake County is currently withholding their approval. Mr. Thomas further explained that the turbine engines would trigger FAA regulations. This could then cause the SJWMD to stop restoring the marshes and possibly drain them; thus resulting in wildlife suppression which is the real issue. He hopes the City Commission agrees eco-tourism is the only way we can recoup any taxpayer dollars. He clarified for the City Commission that FOLA could support a West Orange Airport that does not interfere with fowl wildlife flight patterns.

Commissioner Buchanan asked if FOLA could cause an injunction to stop the expansion procedure. Mr. Thomas responded they can if they have to but it would be expensive. He does not think that they can get an environmental study that would approve that airport. He noted that FOLA is in opposition on environmental grounds. This land has already been donated to them and they are putting up a sign that is a WOOA airport.

Commissioner Makin stated he was in favor of a resolution.

Richard Smith resident of Altamonte Springs, Florida, voiced that a resolution is stronger and carries more weight with the general public. This is not just an expansion of the runway. A small industrial park is being proposed within the complex.

James Folley, resident of Stoneybrook West, stated that he favors the resolution because he thinks the letter only goes part way.

Commissioner Buchanan voiced that he thinks a letter rather than a resolution because it is not geared as being from the public rather to the SJRWMD because they are the ones that will swap property or not.

Mayor Rees stated that he prefers issuing the resolution.

Motion by Commissioner Sharman to adopt Resolution 12-10. Seconded by Commissioner Makin.

Commissioner Olszewski stated that he thinks the letter is more appropriate but in order for the City to stand together, he will support the resolution.

Mayor Rees called for a second. **Motion was seconded by Commissioner Makin and carried 4-1; Commissioner Buchanan opposed.**

- **Orange County trend over the past two years**

City Manager Bollhoefer shared what he calls a new county trend in which the county is not working with the cities and gave some examples. He specifically noted a recent agreement for connecting to their conservation water pipes that the City originally agreed upon whereby the County just today added \$800,000 to the cost that was not a part of the agreement. Staff will still negotiate with the County and try to hold them to the original contract.

- **Legislature effect on City Budget**

City Manager Bollhoefer stated that the legislature has changed the communication services tax and those revenues will be less this year.

Mr. Bollhoefer noted that he anticipates a 2 or 3 percent reduction in property taxes, which will have an effect on the City's budget. He noted that the City has been able to have its revenues reduced and increase its services but at some point the City will no longer be able to do this. The City may be reaching that point to determine which services will have to be reduced in order to go forward. This will be a tough budget year.

Mr. Bollhoefer noted that on the ballot this year is Amendment 10, which is for small businesses that reduces their personal property tangible tax and if it passes it may reduce the City's revenue of approximately \$170,000.00 for next year.

7. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Sharman stated that it has been smooth in the City of Winter Garden and he hasn't had any complaints this week.

Commissioner Olszewski thanked the Lakeview Middle and High School Reunion Committee for a great job and event this weekend. There also was a good event at Newton Park by Rural Metro for Safety Saturday.

Commissioner Olszewski shared that he thinks the City of Winter Garden should do everything we can to preserve Lake Apopka and he considers himself a friend of Lake Apopka. He noted that we have a tri-city agreement with Ocoee and Apopka to develop the 429 and by having an airport in the West Orange County area he thinks both will serve as a direct economic impact to Winter Garden if placed in the correct area. He encourages all economic activity that benefits all our citizens. It sounds like to him that an airport could be a good catalyst to a lot of good things as long as we preserve our natural resources and treasurers. He emphasized that he needs to be provided with all the relative information to make the best decision possible.

Commissioner Buchanan stated that he had the pleasure of representing the City at the Lakeview Middle School Art Festival and enjoyed it.

Commissioner Buchanan noted that the Memorial Day will be a great event and commended Mr. Graham for his efforts on arranging the event and invited everyone to come out.

Commissioner Makin thanked Assistant City Manager to Public Services Don Cochran and Assistant Public Services Director Mike Kelly for his field trip to the sanitation treatment plant facility located near Lake Apopka. He commended staff for their hard work and all their efforts at the plant.

Commissioner Makin thanked the Winter Garden Heritage Foundation for the Monday night presentation that they put on at Meadow Marsh.

Mayor Rees invited everyone to attend the Monday morning Memorial Day event at Veterans Park.

The meeting adjourned at 7:35 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC