



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

June 28, 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 in at 6:32 p.m.

Also Present: City Manager Mike Bollhoefer, Assistant City Attorney Dan Langley, 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, Deputy Police Chief Bill Sullivan, Economic Development Director Tanja Gerhartz, Fire Chief John Williamson, Finance Director Michael Givens and West Orange Times Reporter Michael Laval

1. **APPROVAL OF MINUTES**

Regular meeting minutes of June 14, 2012 were postponed until July 12, 2012.

2. **PRESENTATION**

A. **Advocacy by Florida League of Cities**

Kathy Till, Advocacy Consultant for Florida League of Cities, shared the importance of advocacy relationships and building on them. The Florida League of Cities (FLC) is working on such programs and there are quick tips available on their website. The league's conference in August in Hollywood, Florida will include an hour workshop on advocacy, which is new this year. They are also working on a guide they believe will be beneficial to cities. Ms. Till shared that the FLC will be hosting a candidate forum on September 13, 2012 at the City of Maitland's new city hall and is open to everyone.

Ms. Till shared that during the last legislative session they tried to repeal occupational taxing; even though it was not a complete repeal, it did give some exemptions. Others will be asking for the same exemption in the future. She encouraged everyone to address what those funds are used for with state elected officials. She shared what the FLC believes the legislature will be looking at in the coming year and handed out an Advocacy Planner and encouraged everyone to actively seek support for local issues.

3. **FIRST READING OF PROPOSED ORDINANCE**

A. **Ordinance 12-43:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE CITY OF WINTER GARDEN FISCAL YEAR 2011-2012 BUDGET; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

Assistant City Attorney Langley read Ordinance 12-43 by title only. City Manager Bollhoefer explained that because of our growth, the police department communications back-up system is in peril. They need to go from individual back-ups to one unit. The funding would be from impact fees for police.

Motion by Commissioner Buchanan to approve Ordinance 12-43 with the second reading and public hearing on July 26, 2012. Seconded by Commissioner Olszewski and carried unanimously 5-0.

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

Mayor Rees announced that the next three ordinances would be opened simultaneously as they relate to the same parcel.

- A. **Ordinance 12-11:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.22 ± ACRES LOCATED AT 710 SOUTH PARK AVENUE ON THE WEST SIDE OF SOUTH PARK AVENUE, NORTH OF JACKSON STREET AND SOUTH OF WEST STORY ROAD 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
- B. **Ordinance 12-12:** 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 0.22 ± ACRES OF LAND LOCATED AT 710 SOUTH PARK AVENUE ON THE WEST SIDE OF SOUTH PARK AVENUE, NORTH OF JACKSON STREET AND SOUTH OF WEST STORY ROAD FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
- C. **Ordinance 12-13:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.22 ± ACRES OF REAL PROPERTY GENERALLY LOCATED AT 710 SOUTH PARK AVENUE ON THE WEST SIDE OF SOUTH PARK AVENUE, NORTH OF JACKSON STREET AND SOUTH OF WEST STORY ROAD FROM ORANGE COUNTY R-2 RESIDENTIAL DISTRICT TO CITY R-2 RESIDENTIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

Assistant City Attorney Langley read Ordinances 12-11, 12-12 and 12-13 by title only. Community Development Director Williams stated the lot is vacant that is being purchased by Homes in Partnership to develop a single family residency. Staff recommends approval of all three ordinances with conditions provided in the agenda packet.

Commissioner Makin announced he would be abstaining from the vote because he has a financial interest in the action.

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

Motion by Commissioner Olszewski to adopt Ordinances 12-11, 12-12, and 12-13. Seconded by Commissioner Sharman and carried 4-0-1; Commissioner Makin abstained.

- D. **Ordinance 12-25:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 5.44 ± ACRES LOCATED AT 12201 WEST COLONIAL DRIVE ON THE NORTH SIDE OF WEST COLONIAL DRIVE, EAST OF CARTER ROAD AND WEST OF STATE ROAD 429 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
- E. **Ordinance 12-26:** 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 APPROXIMATELY 5.44 ± ACRES LOCATED AT 12201 WEST COLONIAL DRIVE ON THE NORTH SIDE OF WEST COLONIAL DRIVE, EAST OF CARTER ROAD AND WEST OF STATE ROAD 429 FROM ORANGE COUNTY COMMERCIAL TO CITY COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
- F. **Ordinance 12-27:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 5.44 ± ACRES OF REAL PROPERTY GENERALLY LOCATED AT 12201 WEST COLONIAL DRIVE ON THE NORTH SIDE OF WEST COLONIAL DRIVE, EAST OF CARTER ROAD AND WEST OF STATE ROAD 429 FROM ORANGE COUNTY C-3 COMMERCIAL DISTRICT TO CITY C-2 ARTERIAL COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

Community Development Director Williams stated staff is requesting postponement of these three ordinances until July 12, 2012.

Motion by Commissioner Sharman to postpone Ordinances 12-25, 12-26, and 12-27 until July 12, 2012. Seconded by Commissioner Makin and carried unanimously 5-0.

- G. **Ordinance 12-29:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REPEALING ORDINANCE 11-35 AND REPLACING IT WITH THE REZONING AND URBAN VILLAGE PLANNED UNIT DEVELOPMENT (UVPUD)

REQUIREMENTS CONTAINED WITHIN THIS ORDINANCE; PROVIDING FOR 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 NO ZONING (NZ) TO URBAN VILLAGE PLANNED UNIT DEVELOPMENT (UVPUD); PROVIDING FOR CERTAIN UVPUD REQUIREMENTS AND DESCRIBING THE DEVELOPMENT AS THE WATERSIDE ON JOHN'S LAKE URBAN VILLAGE PUD; PROVIDING FOR NON-SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Waterside at John's Lake)

Assistant City Attorney Langley read Ordinance 12-29 by title only. Community Development Director Williams stated that the applicant would present their project first and then staff will come back with its recommendations as well as recommendations from the Planning and Zoning Board and public hearing.

Assistant City Attorney Langley swore in everyone who anticipated submitting testimonies in the proceedings related to Ordinance 12-29, which included those claiming to be experts, City staff members, applicants, and opponents.

Tom Sullivan, of the Lowdness law firm, 215 N. Lake Eola Drive, Orlando, Florida, on behalf of the applicant Centerline Homes for the Waterside Planned Unit Development (PUD) stated that he was present and with him was the project team which includes the planning expert Mike Holbrook, civil engineer Scott Stearns, and traffic expert Tony Gluten.

Mr. Sullivan stated that they are in complete agreement with staff's report and professional analysis recommending approval of this PUD. This project is compatible with the surrounding area and is consistent with the City's comprehensive plan. He noted the support of the property owners to the east and west of the project. He then submitted the expert's resumes into the record.

Michael Holbrook, Director of Planning for Bowyer, Singleton and Associates, 520 South Magnolia Avenue, Orlando, Florida, explained his qualifications as an expert for testimony on this issue. He noted that they have worked closely with staff and the main issue is to have Marsh Road as a two-lane road. He noted that a roundabout at the main entrance will be provided as well as a secondary emergency access to the east. The plan will slow the through traffic but allow for the continuous movement of traffic on Marsh Road. There will be no need for a stop light or four-way stop at the main entrance because of the roundabout. Mr. Holbrook stated that it is his professional opinion that this project is compatible with the surrounding areas and is consistent with the applicable goals, objectives and policies of the City's Comprehensive Plan.

Scott Stearns, Bowyer, Singleton, and Associates Vice President of Land Development, 520 South Magnolia Avenue, Orlando, Florida, gave a history of his expertise. He then stated that the environmental and stormwater regulations of the water management

district, City, and State requirements will be met and exceeded for this project. Some of the measures that will be included in the plan are stormwater plans, open space and setbacks from karst features, protection of wetlands, trees along John's Lake, buffers, and conservation easements.

Tony Luke of Luke Transportation Engineering Consultants, Inc., 29 E. Pine Street, Orlando, Florida, gave a history of his expertise. He noted that his firm conducted a traffic impact study to address the City's adopted concurrency management system requirements. He noted that their firm is in agreement with City staff regarding the identification of the impacts and mitigation strategies to address the impacts. He concurred with City staff that a recent Marsh Road traffic count resulted in a significant reduction from 2011 to the year 2012.

Ed Williams, Community Development Director for City of Winter Garden stated that the Development Review Committee (DRC) not only accepted reports but did their own review. In addition to the information the DRC submitted, staff conducted their own independent analysis of the property, environment, wetland and tree issues. The project was reviewed against the Comprehensive Plan and was consistent with the plans, policies and goals within the Comprehensive Plan. The proposal was reviewed against the future land use map and the project was determined to be consistent with urban village designation on the land use map. The proposal was reviewed against the Joint Planning Area (JPA) agreement that is currently active with Orange County and the project that is proposed is consistent with the JPA Six agreement. He stated that they looked at protection of the karst feature, interconnectivity within the project, pedestrian, and traffic connections. They reviewed the zoning criteria, concurrency requirements, police, fire and schools. The Planning and Zoning Board found this project to be consistent with the Comprehensive Plan, the urban village PUD and recommend an approval of the project. Mr. Williams submitted his vitae into the record.

Mr. Williams added that if this property were to be developed as a typical R-1 subdivision versus the planned development (PD), staff has determined it would be between eight to ten more lots on the property. However, a standard subdivision would not have the added protection of the trees, lakeshore, the larger setbacks and more open space. Staff feels that the protection and benefits of the PD more than offsets the change in lot sizes to support the request.

Mayor Rees opened the public hearing.

Doug Ackerman, Esq. stated that he represents Ivan and Mila Lindsey who are the adjacent property owners to the proposed development. He submitted a packet of documents for the record. He noted that he previously objected to a virtually identical development some months ago. The City's response is to basically concede that what staff had done before was not in compliance with the Comp Plan or code. The last four months have basically been an attempt to redo and run it through the system to be upheld.

He stated that they feel the Comprehensive Plan and Code are being violated and asked that the City Commission reject the application.

Assistant City Attorney Langley stated that he disagrees with Mr. Ackerman. The City has not in any way acknowledged that any previous development order related to the property was inconsistent with the Comprehensive Plan and he believes that was not a correct statement.

Mr. Ackerman responded that the City would never concede this, but what has happened since that challenge is an obvious, concerted effort to both readopt an entirely new ordinance and resubmit it through the process to try and make it work.

Tom Pelham, attorney and certified planner, stated that he is appearing this evening as an expert witness on behalf of Ivan and Mila Lindsey. Mr. Pelham gave history of his experience and noted his resume has been provided. He stated that the reason he is present is to give expert testimony about proposed Ordinance 12-29 and whether it complies with the City's Code of Ordinances as amended by Ordinance 12-24. He noted that he previously testified on the prior application to this project on February 9, 2012. Since then, the ordinances have changed but the plan itself has not changed at all. This is the reason in his opinion Ordinance 12-29 and the PUD and the preliminary development plan within it does violate the City's Code of Ordinances as amended by Ordinance 12-24. He noted that it is important to note that a record is being built here and it is important that he gets the specifics into the record.

The plan does not create a series of walkable residential neighborhoods as required by Section 118-1063 (b) (1). The proposed UV PUD is a conventional single use residential subdivision that has no convenient, non-residential uses within easy or convenient walking distances of the residences within that plan. There is no school within easy or convenient walking distance. The proposed minimalist park of .92 acre is located to the far west of the project and is not convenient to many of the residents. No provision for sidewalks on both sides of the internal streets. He noted that the City staff report fails to mention most of the points he has mentioned.

The plan does not develop an integrated park and trail system to facilitate pedestrian travel and recreation as required by Section 118-1063 (b) (2). The park is not within a quarter of a mile, as required in the code, of most of the residences.

The plan does not create or insure a mixed use character through the integration of a diversity of uses as required by Section 118-1063 (b) (5). The proposed development has only one use of single family residential and has no diversity of uses and no integration of the diversity of uses as required by the City's code.

The plan does not create a focus center within the urban village as required by Section 118-1063 (b) (6). The proposed UV PUD creates neither a focus center nor an urban village; it lacks the integrated mix of uses. Ordinance 12-29 does not ensure there will be

a focal or village center, or an integrated mixture of diverse uses on the remaining 657 acres designated UV PUD. The City staff report on Page 9 erroneously states that this requirement is not applicable to the UV PUD. He stated that the City staff relies entirely on speculation about possible future development of a village center somewhere else on this 657 acre tract. Mr. Pelham stated that the staff report on Page 9 indicating that the park is centrally located is not true and that it is located at the far western end.

The plan does not have adequate housing diversity as per Section 118-1063 (c). Page 10 of the staff report does acknowledge that there is a requirement of housing diversity and then points out that there is no diversity of housing in this plan.

The proposed UV PUD does not include, promote, or permit the plan diversification and integration of uses in structures as required by Section 118-1063 (g). It consists of 172 single family residential lots and has no commercial retail office or other non-residential uses. It does not ensure that such diversification will occur somewhere on the additional 657 acres.

Mr. Pelham stated that he believes these violations are the result in part in the highly irregular way that the zoning of the John's Lake PUD has been handled. He noted that there were three different ordinances in an effort to rezone a project that does not fit. He stated that it is a piecemeal approach that is inconsistent with the notion of comprehensive plan. He urged the City to recognize that this is yet another failed effort and attempt to fix the situation after the fact by adopting still another ordinance with provisions that have been designed to possibly eliminate possible objections, which is not the way the City should go. He suggested stepping back and doing what the comprehensive plan requires and comprehensively plan the 657 acres as an urban village.

Patricia Tice, President of Creative Resources Enhancing Workable Sustainability gave her history of her experience. She stated that she would focus specifically on the code provisions within the City's ordinances that are inconsistent with the application.

In Section 110, under streets, the code requires that minor streets will be laid out so that their use by through traffic is discouraged. The primary through street shown on the plan is nearly straight and provides no impediment to through traffic in the east bound direction and only minor impediments in the west bound direction.

Section 110-204 (b) states block lengths are not to exceed 1400 feet or be less than 500 feet. The interior blocks fit this criteria, however, the entire length of the blocks surrounding the outside of the project are by far greater than 1400 feet. They show no pedestrian connections, provide no impediment to the through traffic, or even high speed traffic along these long uninterrupted stretches of roadway.

Ms. Tice stated that the application is inconsistent with the urban village PUD ordinance in multiple ways. She noted that Section 118-134 (b) (6) requires that the preliminary development plan include a pedestrian circulation system identified on the plan, which

she states is not in the plan. Section 118-34 (c) (4) indicates that the required review criteria for this project include the nature intent and compatibility of any common open space including the proposed method for the maintenance and conservation of that common open space. She stated that there is no evidence in this plan that documents how the open space is to be maintained, particularly Wekiva study area open space, on private lots, which are back yards that could be fenced.

Ms. Tice stated that the Section 118-1063 criteria listed are not met by this plan and that she would highlight the most egregious of them.

Section 118-1063 (b) (1); the project size precludes it from being walkable

Section 118-1063 (b) (2); one park does not create a system; sidewalks barely are for pedestrians and 24 foot wide roadways do not accommodate bicycles.

Section 118-1063 (b) (4); establishing connectivity to natural systems is not possible when they are contained within private lots and not public lots.

Section 118-1063 (b) (5); states it should create a mixed use character and the project has no mixed uses.

Section 118-1063 (b) (6); should create a focus center within the urban village. There is a central park that is not centered or focal.

Section 118-1063 (c); requires a park or central feature located within a quarter mile walking distance of the majority of residents. However, the map says 60 percent are not a quarter of a mile walk.

Section 118-1063 (d); ensures adequate housing diversity should contain a variety of housing types. One type of housing is not a mix.

Section 118-1063 (e); street network shall be designed to create a hierarchy of interconnected streets and traffic calming solutions. One type of street is not hierarchy. No calming solutions are proposed or contemplated.

Section 118-1067 (b); states privately owned common open space shall continue to conform to its intended purpose with appropriate restrictions to ensure that the common open space is permanently preserved. There is no methodology provided in the application to ensure the homeowners can or will manage the conservation resource to the Wekiva Protection Act.

Section 118-1082 (a) (2); specifies none of the Wekiva open spaces can be chemically treated except to establish sensitive habitat. This is a specialized task that requires professional expertise beyond that of a normal landscaping professional.

Ms. Tice stated that this is a half-hearted attempt. The City's laws are not being followed in the application being submitted. This project design does not support public health and is unsafe. She noted a failing level of service on Marsh Road. She feels this will only be a benefit to the developer and will not benefit the City.

Commissioner Sharman asked for clarification on Ms. Tice's description of the park not providing everyone sufficient access to the natural resources, being the lake, and that every lot should touch the lake. **Ms. Tice** responded no, she explained that if this project had been planned appropriately the roadway in front of the lots would run alongside the lake so that every lot would have access to the lake within a reasonable walking distance.

That land would be buffered from any private residences but would instead be common space.

Commissioner Sharman asked if she was saying that this park would not allow anyone access to the lake. **Ms. Tice** responded that the park is not within walkable distance of 60 to 70 percent of the lots in this project, which means only maybe 30 percent of the lots will have access.

City Manager Bollhoefer asked for clarification on Ms. Tice's issue with Marsh Road. **Ms. Tice** responded that she would like to see Marsh Road widened to meet the traffic requirements. She noted that a multiuse trail cannot be unbuffered near a roadway that at the moment is posted at 45 mph. **City Manager Bollhoefer** noted that increasing lanes attracts more traffic. Staff is trying to turn Marsh Road into a local type road so it will accommodate pedestrians and bicycles. **Ms. Tice** ultimately expressed that Marsh Road should be a four-lane road.

Tom Sullivan, stated Mr. Pelham's point of it not being a mixed use within the PUD is clearer now that there is no requirement for single use. Mr. Sullivan noted that Ms. Tice spoke of this project as not being consistent with the comprehensive plan as originally envisioned for this area. Mr. Sullivan noted that he has been involved with the development for at least three to four years during which time he has never seen Ms. Tice or Mr. Pelham participate in the early discussions. The property owner and developer have the right to reasonably develop the property as per the City's code. There has been residential density established for this area of the City at a density not to exceed four dwelling units per acre for years. The residential density is at 2.6 dwelling units per acre which is in keeping with the vision for this area, which has been in existence for many years. He thanked the City Commission for their consideration of this application.

Mr. Williams stated that one of the main issues is that in the advertising requirement for the urban village PUD zoning ordinance the staff did not meet the ten days spacing requirement for the hearings. Rather than go to court on this issue, staff chose to fix the problem. That is not admitting any wrong doing but rather that put everyone to the expense and aggravation, we chose to fix it. Mr. Williams voiced his disappointment in Mr. Pelham's, whose career has been so tied in comprehensive plans for the state, comment that the comprehensive plan for this City that was approved by the DCA, means nothing.

Mr. Williams explained the comments about there being no mixture of uses, no diversity of housing types, no rental units, means you can't be an urban village. The ordinance says that every property in the village will not have every type of use, residential or commercial. He noted that the statement regarding there being no guarantee in the future; there is no guarantee the village will happen or that the commercial center will happen. The comprehensive plan and future land use map say there will be a center here. The comprehensive plan as written is a guarantee that if the development happens, this plan shows how it will happen.

Mr. Williams expressed it was difficult to follow Ms. Tice's argument when the West Orange Bike trail is an integral part of this City to say the quarter mile is the criteria for walking. While it may be for walking, it is not for biking.

Another problem with Ms. Tice's testimony is that she did not offer a traffic study, traffic analysis, traffic counts or reviews of their report. He felt she was arguing both sides of the issue.

Mr. Williams stated that these issues that were raised tonight were not presented to the Planning and Zoning Board and were brought only to the City Commission. He explained that the Planning and Zoning Board was an integral part in the development of the comprehensive plan and its adoption. The City's current comprehensive plan was approved by the DCA, including the urban village component.

Mr. Williams stated that the Planning and Zoning Board recommended that the City Commission find this consistent with the comprehensive plan and all other provisions of the ordinance. The arguments on the development are premature as this part of the project is only related to the future land use. The development of the property is the next step in this plan. The City Commission will see the next piece of the project when it is submitted for review. They will then see that many of these issues have been addressed.

Mr. Williams addressed the fertilizer argument given by Ms. Tice by explaining that the City of Winter Garden has some relief from some of the requirements of the Wekiva Act due to the different conditions in Winter Garden. He noted that 80 to 90 percent of the City is not a prime recharge area; this particular area is prime recharge and does meet that criteria. Staff recommends approval.

Commissioner Olszewski asked Assistant City Attorney Langley if the project as it stands is defensible. **Mr. Langley** responded that should the City Commission choose to approve this ordinance; legal counsel will stand behind its decision. Mr. Langley also noted that enough painstaking efforts and comprehensive research by staff would lead him to believe that it is defensible.

Commissioner Olszewski asked about the accusation of the City changing the ordinance. **Mr. Williams** replied that the ordinance was not changed but reissued to meet the advertising requirements. He clarified that there was a change to the name of the application from Waterside Residential Planned Unit Development to Waterside Urban Village Planned United Development to match the criteria in the new ordinance.

Motion by Commissioner Buchanan to adopt Ordinance 12-29 approving the Waterside on John's Lake Urban Village PUD and its associated preliminary development plan based on the Planning and Zoning Board recommendation for approval and competent, substantial evidence in the record indicating that Ordinance 12-29 is consistent with the Comprehensive Plan and meets the criteria

set forth in the Comprehensive Plan JPA 6, the Future Land Use Map, land development regulations including Sections 118-827, 118-828 and 118-834, Code of Ordinances for rezoning the property to UVPUD and this motion incorporates the City staff's report findings and testimony as a basis for adoption. Seconded by Commissioner Makin and carried unanimously 5-0.

- H. **Ordinance 12-31:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA VACATING UTILITY, DRAINAGE AND LANDSCAPING EASEMENTS OVER THE SOUTHERN TEN FEET OF LOT 15, DANIELS CROSSING, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 37, PAGES 23 AND 24 OF THE PUBLIC RECORDS OF ORANGE COUNTY (LOCATED AT 256 DANIELS POINTE DRIVE, WINTER GARDEN, FLORIDA) OWNED BY DUANE BRUCE WOLFE, JR. AND DANIEL JAMES DUNHAM; PROVIDING FOR AN EFFECTIVE DATE AND RECORDING

Assistant City Attorney Langley read Ordinance 12-31 by title only. Community Development Director Williams stated this item is to vacate a draining easement to accommodate a pool. The applicant has obtained letters from all the utility companies stating they would and will not use the easement. 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 12-31. Seconded by Commissioner Sharman and carried unanimously 5-0.

- I. **Ordinance 12-32:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA PARTIALLY VACATING THE NORTH THREE FEET OF WALL, LANDSCAPE AND UTILITY EASEMENTS OVER THE SOUTHERN TEN FEET OF LOT 32, BELLE MEADE, PHASE 1 ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 62, PAGES 21 THROUGH 23 OF THE PUBLIC RECORDS OF ORANGE COUNTY (LOCATED AT 15508 FIRELIGHT DRIVE, WINTER GARDEN, FLORIDA) OWNED BY BRIAN BERNATE AND DANIELLE L. BURNARD; PROVIDING FOR AN EFFECTIVE DATE AND RECORDING

Assistant City Attorney Langley read Ordinance 12-32 by title only. Community Development Director Williams stated this ordinance is for a partial vacation of three feet of the ten foot easement to accommodate a future pool. They have obtained the necessary letters from the utilities and staff is recommending approval.

Motion by Commissioner Olszewski to adopt Ordinance 12-32. Seconded by Commissioner Sharman and carried unanimously 5-0.

- J. **Ordinance 12-33:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE IV OF CHAPTER 38 OF THE WINTER GARDEN CITY CODE; PROVIDING FOR EXTENDED HOURS FOR CONSTRUCTION OPERATIONS; PROVIDING FOR ADDITIONAL ABATEMENT OF NOISE IN RESIDENTIAL AND OTHER AREAS; PROVIDING FOR ENFORCEMENT OF NOISE ORDINANCE VIA AN ALTERNATIVE OBJECTIVE STANDARD OF REASONABLENESS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

Assistant City Attorney Langley read Ordinance 12-33 by title only. City Manager Bollhoefer stated the current code is not sufficient to control noise problems. Staff's goal is not to go looking for violators but answer complaints. The City Attorney has made changes as requested at the first reading.

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

Motion by Commissioner Sharman to adopt Ordinance 12-33. Seconded by Commissioner Buchanan and carried unanimously 5-0.

5. **REGULAR BUSINESS**

- A. **Resolution 12-11:** A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA SUPPORTING THE WAYFINDING SIGN SYSTEM PLAN TO EFFICIENTLY AND SAFELY GUIDE MOTORISTS AND PEDESTRIANS TO KEY PUBLIC FACILITIES SUCH AS CIVIC, CULTURAL, VISITOR, AND RECREATIONAL DESTINATIONS WITHIN THE CITY OF WINTER GARDEN

City Manager Bollhoefer requested postponement of this item with no objections noted.

- B. **Recommendation to approve the revised Final Plat C 90 two-unit fee simple townhomes for the Villas at Tucker Oaks**

Community Development Director Williams stated staff has reviewed the plat and it is correct in all regards and recommend approval.

Motion by Commissioner Olszewski to approve revised Final Plat C 90 for Villas at Tucker Oaks. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- C. **Recommendation to approve the distribution of the \$10,947.00 awarded Justice Assistance Grant (JAG) to fund the Police Department's purchase of riot response equipment**

Deputy Police Chief Sullivan stated that this request is to purchase riot equipment that the City currently does not have.

Motion by Commissioner Buchanan to approve the purchase of riot response equipment from JAG grant funds as requested. Seconded by Commissioner Sharman and carried unanimously 5-0.

D. Recommendation to close Plant Street between 7:00 - 8:30 a.m. on November 10, 2012 to accommodate the “Winter Garden” 5K road race

Parks and Recreation Director Conn stated that the owner of Tri & Run has requested that Plant Street be closed to accommodate a 5K race. There is really no effect to the downtown area at this time of morning. The Winter Garden Merchant’s Association has already given their approval.

Motion by Commissioner Makin to approve closing Plant Street between 7:00 a.m. and 8:30 a.m. on November 10, 2012 as requested. Seconded by Commissioner Olszewski and carried unanimously 5-0.

6. **MATTERS FROM CITIZENS** – There were no items

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

8. **MATTERS FROM CITY MANAGER**

Community Development Director Williams asked the City Commission to consider approving the purchase agreement for 6,000 square feet for \$30,000, as provided, which is for right-of-way on East Plant Street from Cemex Construction Materials, LLC. The agreement does take out the first row of parking. In addition, the City will take the drainage off their parking lot into our system, landscape the front of the property. He asked that the City Commission authorize the City Manager to sign the agreement.

Motion by Commissioner Olszewski to approve the acquisition of right-of-way for Plant Street from Cemex Construction Materials, LLC as submitted and authorize the City Manager to sign the agreement. Seconded by Commissioner Sharman and carried unanimously 5-0.

Mr. Bollhoefer stated that the Winter Garden Merchant’s Association met this week and has requested to hold their art show, which has been significantly improved. He invited Wendy Byrd to address the City Commission.

Wendy Byrd stated that they are requesting to hold the art show November 24th and 25th this year. Mr. Bollhoefer added that they are requesting to close the downtown streets and a separate area for wine.

Motion by Commissioner Makin to approve changing the Merchant’s Association dates for their art festival to November 24th and 25th, 2012, closing downtown streets and having a wine venue. Seconded by Commissioner Buchanan and carried unanimously 5-0.

Mr. Bollhoefer gave high praise and thanked all the City staff who worked so hard on getting ready for the visit by the America in Bloom judges and to all the crews clearing all the debris after the recent storms.

Mr. Bollhoefer introduced the new Finance Director, Michael Givens, who is a CPA and has worked with the City of Jacksonville. He is very qualified, very knowledgeable, and he is happy to have him on board.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Sharman shared that Florida Hospital has presented their proposal and all the feedback he has had is somewhat positive. There are major concerns with the height; if it happens at all. He does think it is important for the City Commission to think about it and give the height some thought.

Mayor Rees indicated that a lot will depend on the number of beds they will need to be profitable and look at the acreage.

Commissioner Olszewski asked Commissioner Sharman what he thought the height range would be.

Commissioner Sharman stated a balloon test will be done to show the neighbors just how high the stories would look from their back yards. He is reserving his judgment until he sees the test results.

Commissioner Makin stated he has heard comments about a helicopter pad and flight patterns.

Mr. Bollhoefer stated that further research has revealed that it averages one helicopter per week. Staff is going out to sites with helicopters to see what sound impact it has on the communities. He will invite the HOA boards to witness the real sound. The size of the land does limit them and the height range would be from five to eight stories.

Commissioner Makin wants to make sure that what is being said and what is being proposed is going to be consistent with everything because he is getting so much different information.

Mr. Bollhoefer indicated it would all be clarified at community meetings. What matters is what is put into the documentation. It will be a long process with numerous meetings. The answers will come during the process.

Commissioner Sharman stated that he wants the Commissioners to think over such items as the building height and the helicopter. He asked the City Manager if there was anything else.

Mr. Bollhoefer stated there were three items; the sirens, the helicopter, and height.

Commissioner Olszewski thanked Mayor Rees for appointing him to the Metro Plan Orlando Municipal Advisory Board; he attended his first meeting. He also thanked Orange County Mayor Jacobs and County Commissioners for appointing him to the Orange County Community Action Board to which has attended his first meeting.

Commissioner Olszewski echoed the City Manager's comments regarding staff's response to the storm.

Commissioner Olszewski addressed the Windermere Road at Windermere Crossing Subdivision site plan submittal that he has been made aware of and wanted citizens to know he hears their concerns loud and clear. Staff will be working with the developers to make sure the esthetics and neighborhood standards will be met. He is fully up to date and will be proactive on this matter as it moves forward.

Commissioner Buchanan stated that he walked by house that a tree limb had fallen on at 1:00 a.m. and by 3 a.m. it had been cut up and put on the side of the road by staff doing a great job. Even during the flash flood, there was no water going up resident's driveways across the street from him.

Commissioner Buchanan stated that he personally believes Joy Robertson and her crew should be recognized for what they did in making the City shine as it did when the America in Bloom judges came through.

Commissioner Makin echoed the comments made by the Commission and State Road 50 is looking good. The planting of the oak trees really look good. He thanked the City Manager for getting the recyclable hobos out.

Mr. Bollhoefer stated that staff is working with FDOT and Clear Channel to enable us to get more trees on State Road 50.

Mayor Rees stated City staff did a superb job getting ready for America in Bloom. He really appreciates what staff does and it makes it a great place to live and a lot easier to be on the Commission. Thank you everyone.

The meeting adjourned at 8:50 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC