



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

December 19, 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 City Manager – Administrative Services Frank Gilbert, Assistant City Manager - Public Services Don Cochran, Community Development Director Ed Williams, Finance Director Laura Zielonka, Fire Chief John Williamson, Police Chief George Brennan, Economic Development Director Tanja Gerhartz, Parks and Recreation Director Jay Conn, Network Specialist George Strobel, Building Official Skip Lukert, and Orlando Sentinel Reporter Stephen Hudak

1. **APPROVAL OF MINUTES**

Motion by Commissioner Buchanan to approve the regular meeting minutes of December 4, 2012 as submitted. Seconded by Commissioner Olszewski and carried unanimously 5-0.

At this time, Mayor Rees moved **Regular Business Item J.** to be acted upon at this time because students were present in support of this resolution.

Resolution 12-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA URGING TOBACCO RETAILERS TO STOP THE SALE AND MARKETING OF FLAVORED TOBACCO PRODUCTS TO UNDERAGED YOUTH IN THE CITY OF WINTER GARDEN, FLORIDA; PROVIDING FOR SEVERABILITY; MAKING FINDINGS; PROVIDING AN EFFECTIVE DATE

City Attorney Ardaman read Resolution 12-21 by title only. City Manager Bollhoefer stated that this resolution is on the agenda to let the stores in Winter Garden know that we are opposed to the sale of these types of products to our children.

Motion by Commissioner Olszewski to adopt Resolution 12-21. Seconded by Commissioner Makin and carried unanimously 5-0.

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

A. **Ordinance 12-54:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 2 OF ORDINANCE 05-24 GENERALLY KNOWN

AS THE WINTER GARDEN VILLAGE AT FOWLER GROVES PCD PERTAINING TO DEVELOPMENT AND PERMITTED USES WITHIN THE 54 +/- ACRE PORTION OF THE 174.8 +/- ACRE PROPERTY GENERALLY LOCATED NORTH OF THE WESTERN BELTWAY AND EAST OF COUNTY ROAD 535 IDENTIFIED ON EXHIBIT "B" OF ORDINANCE 05-24 AS THE RESIDENTIAL TRACT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

- B. **Ordinance 12-55:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE DEVELOPMENT ORDER OF THE WINTER GARDEN VILLAGE AT FOWLER GROVES DEVELOPMENT OF REGIONAL IMPACT, CONSISTING OF 174.8 +/- ACRES OF LAND GENERALLY LOCATED NORTH OF THE WESTERN BELTWAY AND EAST OF COUNTY ROAD 535; PROVIDING FOR APPROVAL AND EXECUTION OF SECOND AMENDMENT TO CITY OF WINTER GARDEN DEVELOPMENT ORDER FOR WINTER GARDEN VILLAGE AT FOWLER GROVES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 12-54 and 12-55 by title only. Community Development Director Williams advised that staff has handed out an errata sheet (*see attached Exhibit A*) of minor typographical errors that staff is requesting be included in the final motion. He asked that the applicant make the first presentation, staff would give their presentation, and then open the matter for public comment.

Borron Owen, Esq. with Gray Robinson law firm, 301 E. Pine Street, Orlando, Florida, came forward and shared the process they have been through to get to this point. He stated they are supportive of the staff report and conditions therein. There are additional conditions that Mr. Williams will be presenting and they are supportive of those as well. He urged the City Commission to approve the ordinances so they might bring superior community based healthcare through a neighborhood facility that brings the full spectrum of Florida Hospital's significant medical expertise and experience.

Mr. Williams stated staff's review of a hospital is slightly different than most development proposals as it basically provides an essential public service. Staff's efforts have been to try and mitigate any adverse impacts that could occur from the development of a hospital on this site. Staff is asking for action on two ordinances; Ordinance 12-54 which amends the PCD (Planned Commercial Development) and Ordinance 12-55 which is the development order, and a transportation improvement agreement. Mr. Williams summarized what will occur and shared that the initial hospital construction will be an emergency room of 25,000 to 30,000 square feet, and 50,000 to 75,000 square feet of medical office. The second phase would be the 200 bed hospital and the additional medical office facility. The development order ties a large portion of the medical office building to the bed construction. If they did not receive the certificate of need for the hospital beds, they just could not go out and build 400,000 square feet of medical office; the two are tied together.

Mr. Williams shared how the development evolved and become what it is today. Since the last Commission meeting, staff has met with residents and height issues have come up. Therefore, staff is proposing some additional conditions to Ordinance 12-54 specifically in Section 4 subsections (15) (a) and (16) (b) and (h) (*see attached Exhibit B*).

Mayor Rees opened the public hearing for Ordinances 12-54 and 12-55.

Those speaking in favor were:

Daryl M. Baer, 2125 Tall Oak Drive, Winter Garden, Florida

Stuart J. Beebe, 1635 Lookout Landing Circle, Winter Park, Florida representing Sonata Health Care that will be opening in Winter Garden in a couple of weeks.

At this time, **City Attorney Ardaman** advised the City Commission to disclose any ex-parte communications they have had on this matter since the last public hearing.

Disclosures

Commissioner Olszewski stated he received e-mails from Courtney Stock, Jeff Jonasen, Debbie Clemens, Craig Swygert, Claudia Martinez, Doug Vaught and Roy Beatty. He has met with George Munson, Country Lakes Estates HOA President, Rob Fulbright, Borron Owen, and Susana Molina. He also had a conversation with Karen Flood. The conversation was about the hospital coming so close to Country Lakes Estates.

Mayor Rees disclosed he had several e-mails, most of which he thinks Commissioner Olszewski has mentioned, and he met with Mr. Munson.

Commissioner Buchanan announced he met with Mr. Munson and Jerry Chicone.

Commissioner Makin disclosed that he had the same e-mails. He has had conversations with Mary Zahl, Mark Macial, George Munson, and Gerald Jowers, and attended a HOA meeting in Trailer City to give them an update.

Mr. Williams disclosed that a number of e-mails were received by staff and submitted those for the record.

Commissioner Sharman clarified that he did receive e-mails but did not attend any meetings. Mayor Rees asked if his e-mails were the same as the rest of the City Commissioners received. Commissioner Sharman responded yes.

End of Disclosures

Continuation of those speaking in favor.

Nancy Wilson-Mosley, 530 Hearthglen Boulevard, Winter Garden, Florida

Dona Gussow, 13537 Glynshel Drive, Winter Garden, Florida, stated she favors the proposal with the added limitations to the noise and lighting.

Jeff Jonasen, 794 Avalon Road, Winter Garden, (*Unincorporated Orange County*) Florida

Craig Swygert, 2365 Hammock View Drive, Winter Garden, Florida

Curt Majors, 7236 Londale Boulevard, Windermere, (*Unincorporated Orange County*) Florida

Jim Gustino, 13914 Eylewood Drive, Winter Garden, Florida

Martin King, 415 Cobblestone Pointe Drive, Winter Garden, Florida

Rupert Peters, 771 Rainfall Drive, Winter Garden, Florida

Alexandra Crosby, 14105 Hampshire Bay Circle, Winter Garden, Florida

Rafael Olivo, 776 Rainfall Drive, Winter Garden, Florida

Andy Bruns, 3 Palm Drive, Winter Garden, Florida

Those speaking in favor with concerns were:

George Munson, 14028 Lake Tilden Boulevard, Winter Garden, (*Unincorporated Orange County*) Florida, stated his concern with the wording regarding the wetlands protection being put in the City's hands. He was hoping it would be more concrete and be left alone. Most of his concerns have been met. Overall the height is still a concern, but he supports the hospital. **City Manager Bollhoefer** responded to the wetland concern by offering further research on how to protect the wetlands. **City Attorney Ardaman** stated that ultimately the land would come back to the City even with an absolute prohibition; it still could come back to the City Commission who could change it. **Mr. Bollhoefer** stated that it could be memorialized for future City Commissions. **Mr. Ardaman** affirmed that is an option.

Tom Reedy, 14217 Country Estate Drive, Winter Garden, (*Unincorporated Orange County*) Florida stated he appreciates staff's efforts. He is in favor of the hospital but he believes the seven story height limit is too much; make it five stories.

Speaking neither in favor nor against:

Jennifer Carr, 14052 Lake Tilden Boulevard, Winter Garden, (*Unincorporated Orange County*) Florida, noted she has firsthand knowledge of how emergency rooms can have a negative impact on a community. She can't say she is for it or against it. Everyone needs to work together to make it a great place to live.

Those speaking against were:

Mike Maddux, 2216 Rickover Place, Winter Garden, Florida, noted he is against the placement of the hospital. He believes his tree view will be compromised; there will be noise, traffic, and eventually crime.

Susan Gill, 14126 Lake Tilden Boulevard, Winter Garden, (*Unincorporated Orange County*) Florida, stated it has never been a question about the good care Florida Hospital gives and she appreciates the additional changes. She opposes a seven story concrete mass of a hospital but she believes it is a done deal and asked that it only be five stories. Keep in mind beyond the top story there will be elevator shafts and antennas.

City Attorney Ardaman advised that these meeting minutes should include the ex-parte communication disclosures from the December 4, 2012 public hearing and are herewith included.

Commissioner Sharman disclosed attending an initial meeting this past summer with Florida Hospital representatives and discussed helicopter, ambulance, and building height. **Mr. Ardaman** added there were open community meetings and focus groups attended by City Commissioners with multiple discussions and multiple issues that don't need to be detailed here. **Commissioner Sharman** stated that he attended a follow-up meeting after the initial meeting and discussed the same items. There was a community meeting at City Hall with some of the homeowner association presidents, quasi community leaders and a few people who live close by; community meeting with Stoneybrook West with Commissioners Buchanan and Olszewski being present; a focus group met to discuss the building height; a public community meeting was held at City Hall; and he attended two helicopter tests. He added that he attended the balloon test, a meeting with Stonecrest residents, and he met the landscape architect to discuss buffering and the exit. Commissioner Sharman added that he has spoken with some of the residents of Country Lake Estates, Black Lake Park, Bay Isle, Stonecrest, and Stoneybrook.

Commissioner Olszewski stated he had two meetings with Florida Hospital staff in City Hall; attended Stoneybrook West community meeting; attended the noticed City Commission meeting. He stated he has had conversations with Borron Owen with Gray Robinson, Rob Fulbright, Karen Flood, and Susan Molina who are Florida Hospital staff. He received three e-mails on this issue, as did the other Commissioners, and attended the balloon test.

Commissioner Buchanan stated he attended the same meetings as Commissioner Olszewski and received the same three referenced e-mails. He also attended the Planning and Zoning Board meeting when they approved this project. In addition, he spoke with Dean Engstrom in Kelso/Windermere who gave him some information.

Commissioner Makin stated he attended the initial meeting at City Hall, received the e-mails referenced by Commissioner Olszewski, and attended the site balloon test.

Mayor Rees stated he has had a couple of meetings with the City Manager and the Florida Hospital group. He has spoken with residents whose names he doesn't remember except Cliff Hiatt. He also attended a portion of the Planning and Zoning Board meeting, and received e-mails.

End of the December 4, 2012 public hearing disclosures.

Mr. Owen came forward and explained they are a not-for-profit organization and their net income is reinvested in the community. The height is driven by what happens within it. Current state regulations require every bed be in a private room and every room has to have a window. Their current thinking is that seven stories will provide the most efficient opportunity to provide superior health care to the Winter Garden area.

Hearing no other comments, Mayor Rees closed the public hearings and opened it up to Commission discussion.

Mayor Rees asked what a six story compromise would do. **Mr. Owen** responded that hospital floors are designed around the number of beds per floor. In a community hospital such as this, the beds are 24 to 40 per floor. At 40 beds per floor, they anticipate they need five floors with two floors for support services, which they believe is what Winter Garden needs.

Commissioner Buchanan asked Mr. Owen to address the West Orange Times concerned citizen about building this hospital without a Certificate of Need. **Mr. Owen** responded that they cannot operate a hospital unless it is licensed by the State of Florida. The Agency for Health Care Administration (AHCA) determines who gets the Certificate of Need. The emergency department and medical office space does not need a Certificate of Need; beds do need the certificate prior to operating. They will not build a hospital without a Certificate of Need because they could not operate it.

Commissioner Olszewski asked if seven stories was definite or was it the ability to build to up to seven stories. How soon would they come? **Mr. Owen** responded that they anticipate coming to the City next year with a proposal for an emergency department and medical office space; the first phase being a three story building. It takes more than a year to get a Certificate of Need; it could be four to seven years before there is a hospital. The design will go through a process with seven floors being the limit.

Commissioner Buchanan asked about there being other roof top items making it higher than the seven stories. **Mr. Owen** responded that the limit is seven stories but what pops up on top, that are set back from the perimeter of the building, is an elevator shaft and access for roof repairs. They have agreed that nothing can go on top beyond a certain height.

Mr. Williams added that the development order states that if the developer doesn't get approval for the 200 beds or less, they can't keep building. They would have to come back to do something different.

Commissioner Makin asked what the maximum height is. **Mr. Williams** noted that what goes on the roof will be screened. **Mr. Ardaman** clarified the maximum height is 136 feet.

Commissioner Sharman stated there have been a lot of concessions and requests made; what it comes down to for him is five or seven stories. He wants to hold them to what it looks like architecturally so it will be a gorgeous building. Overall, he thinks it will be good for the community.

Commissioner Olszewski shared how impressed he is with how accommodating Florida Hospital has been. They have expressed how they want to partner with Winter Garden

and how much they care. Everything has been addressed and he looks forward to supporting the project.

Mayor Rees stated that he probably would have preferred a different location and five stories if he were living next to it. He thinks that providing health care to our citizens is one of their tasks. He hopes that in the future people will say the Commission had the foresight and did the right thing.

Motion by Commissioner Olszewski to adopt Ordinances 12-54 and 12-55 with the staff recommended corrections, additional conditions, including the Transportation Agreement (see attached Exhibits A and B). Seconded by Commissioner Sharman and carried unanimously 5-0.

- C. **Ordinance 12-63:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY RURAL/AGRICULTURAL TO CITY CONSERVATION FOR PROPERTY GENERALLY DESCRIBED AS 209 ± ACRES LOCATED AT 100 AVALON ROAD ON THE WEST SIDE OF AVALON ROAD AND SOUTH OF THE FLORIDA TURNPIKE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Tucker Ranch)

City Attorney Ardaman read Ordinance 12-63 by title only. Community Development Director Williams stated this ordinance is to establish the future land use designation to allow for future development of the recreation and park area. Staff recommends approval.

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

Motion by Commissioner Makin to adopt Ordinance 12-63. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- D. **Ordinance 12-64:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.408 ± ACRES LOCATED AT 13675 WEST COLONIAL DRIVE ON THE NORTH SIDE OF WEST COLONIAL DRIVE, EAST OF WINTER GARDEN VINELAND ROAD AND WEST OF 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
- E. **Ordinance 12-65:** 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 0.408 ± ACRES LOCATED AT 13675 WEST COLONIAL DRIVE ON THE NORTH SIDE OF WEST COLONIAL DRIVE, EAST OF WINTER GARDEN VINELAND ROAD AND WEST OF SOUTH DILLARD STREET FROM ORANGE COUNTY COMMERCIAL TO CITY COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

- F. **Ordinance 12-66:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.408 ± ACRES OF REAL PROPERTY GENERALLY LOCATED AT 13675 WEST COLONIAL DRIVE, EAST OF WINTER GARDEN VINELAND ROAD AND WEST OF SOUTH DILLARD STREET FROM ORANGE COUNTY C-2 COMMERCIAL DISTRICT TO CITY C-2 ARTERIAL COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 12-64, 12-65, and 12-66 by title only. Community Development Director Williams stated this is the Maryland Fried Chicken facility and staff recommends approval.

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

Motion by Commissioner Buchanan to adopt Ordinances 12-64, 12-65 and 12-66. Seconded by Commissioner Makin and carried unanimously 5-0.

- G. **Ordinance 12-67:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 6.3 ± ACRES LOCATED AT 12902 ROPER ROAD ON THE SOUTH SIDE OF ROPER ROAD, EAST OF DANIELS ROAD AND WEST OF BEULAH 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
- H. **Ordinance 12-68:** 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 6.3 ± ACRES LOCATED AT 12902 ROPER ROAD ON THE SOUTH SIDE OF ROPER ROAD, EAST OF DANIELS ROAD AND WEST OF BEULAH ROAD FROM ORANGE COUNTY RURAL AGRICULTURAL TO CITY LOW DENSITY RESIDENTIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
- I. **Ordinance 12-70:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 6.3 ± ACRES LOCATED AT 12902 ROPER ROAD ON THE SOUTH SIDE OF ROPER ROAD, EAST OF DANIELS ROAD AND WEST OF BEULAH ROAD FROM ORANGE COUNTY A-1

**CITRUS/AGRICULTURAL DISTRICT TO CITY R-1B RESIDENTIAL DISTRICT;
PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE**

City Attorney Ardaman read Ordinances 12-67, 12-68 and 12-70 by title only. Community Development Director Williams stated this is a voluntary annexation on the south side of Roper Road just west of Beulah. The applicant is trying to acquire two adjoining properties to make it one parcel. Staff recommends approval.

Mayor Rees noted in Ordinance 12-68 second paragraph states .57 instead of 6.3 acres. Mr. Williams responded it is a typo and will be corrected.

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

Motion by Commissioner Olszewski to adopt Ordinances 12-67, 12-68, and 12-70 with the acreage correction to Ordinance 12-68. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- J. **Ordinance 12-69:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 118-1064 IN DIVISION 4 OF ARTICLE V OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES TO REMOVE LANGUAGE CONCERNING URBAN VILLAGE PLANNED UNIT DEVELOPMENTS WHICH THE STATE OF FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY DETERMINED TO BE INCONSISTENT WITH THE CITY OF WINTER GARDEN COMPREHENSIVE PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-69 by title only. Community Development Director Williams stated staff is proposing two changes to the Urban Village PUD ordinance that resulted from issues raised by the State in conjunction with the lawsuit filed by the Lindsay's against the Waterside at Johns Lake project. Changing these two sentences does not affect the overall ordinance of what is trying to be accomplished. Staff recommends approval.

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

Motion by Commissioner Buchanan to adopt Ordinance 12-69. Seconded by Commissioner Sharman and carried unanimously 5-0.

3. **REGULAR BUSINESS**

At this time, Mayor Rees moved **Regular Business Item I.** to be heard at this time.

I. **Special event request by Winter Garden Wheel Works to close various streets downtown from 7 a.m. until 9 p.m. April 6, 2013 to accommodate a bike festival and waiver of fees**

Parks and Recreation Director Conn stated this request is from business owner Dennis Jones who would like to hold his second annual bikefest in the downtown area. He would like to basically close Plant Street April 6, 2013. The event benefits the non-profit organization Noah's Light Foundation. Staff recommends approval and Mr. Jones has agreed to the conditions.

Mr. Jones came forward and gave details of the event. **Mayor Rees** asked if a majority of the downtown merchants were in favor of the event. **City Manager Bollhoefer** responded that the downtown merchant's board voted in favor of the event. **Mr. Conn** added that Mr. Jones is asking that staff and event permit fees be waived for this event.

Mayor Rees asked how it is determined who will have their event and staff fees waived. **Mr. Conn** responded it is ultimately the City Commission's decision and in this case, staff is supportive of this event. This event does meet one of the target markets we try to reach in relationship to health and wellness. He hopes this event will grow in the future and become a staple event downtown. **City Manager Bollhoefer** added that waivers are somewhat subjective with no standard but what staff tries to look at is what the event does for downtown, the businesses, and the city as a whole. This event brings in entirely different demographics to downtown and it does have an international aspect, which is a great way to market Winter Garden.

Mr. Bollhoefer shared that staff is in the process of creating a presentation for the next meeting with a new form to be used in the future. The requestor will have to show the City Commission the vendor layout, if they propose selling alcohol where and how. The information will be provided upfront and it should make it easier going forward.

Commissioner Buchanan stated that the biggest concern he heard during the last bike race was with so many streets being closed that people had difficulty trying to get to work. **Mr. Bollhoefer** responded that lessons were learned from the first event and there will be a better system; we will get better with these ongoing events.

Commissioner Makin added that he thinks the events are great but this last 5k he had resident complaints about not being able to get in or out of their driveways. **Mr. Bollhoefer** noted that the runs tend to be much more successful in the mornings.

Motion by Commissioner Sharman to approve the request as submitted. Seconded by Commissioner Makin and carried unanimously 5-0.

A. **Recommendation to approve site plan for 519 S. Woodland Street (Ace Hardware)**

Community Development Director Williams stated this item is for the expansion of Ace Hardware by adding a 3,680 square foot building to house primarily lumber. They will have a loading area, parking, and retention. Staff recommends approval.

Mayor Rees asked what truck traffic will be added to Woodland. **Mr. Williams** responded that the design restricts access out to Woodland as a one-way; not in from Woodland. **City Manager Bollhoefer** added that the truck traffic will remain the same as it is now; no increase.

Commissioner Makin asked if delivery times will be restricted. **Mr. Bollhoefer** replied there is a hearing scheduled in January to determine the delivery days and noise issues.

Motion by Commissioner Buchanan to approve the site plan as requested for 519 S. Woodland Street. Seconded by Commissioner Sharman and carried unanimously 5-0.

B. **Recommendation to approve site plan for 12100 W. Colonial Drive (Bella Room Reception Hall f/k/a Portuguese American Club)**

Community Development Director Williams stated that during the condemnation action for widening SR 50, the front parking was removed. This site plan restores parking to the rear, landscaping, and retention for the paved area. The site does not have sufficient parking so they have entered into agreements with the adjoining properties to use their parking areas for overflow with insurance and liability protection. Staff recommends approval.

Motion by Commissioner Makin to approve the request as submitted. Seconded by Commissioner Sharman and carried unanimously 5-0.

C. **Recommendation to approve site plan for 21 E. Plant Street (Winter Garden Heritage Foundation, Inc.)**

Community Development Director Williams stated this is a site plan to expand the existing facility by 5,182 square feet on the north side of Plant Street. Staff has reviewed the request and worked on parking and landscaping issues, and recommends approval.

Motion by Commissioner Makin to approve the request as submitted. Seconded by Commissioner Sharman and carried unanimously 5-0.

D. **Recommendation to authorize the City Manager to execute a contract to purchase property located at 63 N. Boyd Street from Embarq Florida, Inc. d/b/a CenturyLink for \$170,000.00 to accommodate additional downtown parking**

Community Development Director Williams noted the location is already a parking lot and if a parking garage is approved, this site could be utilized. **Commissioner Makin** asked if there was an appraisal done. **Mr. Williams** responded yes and it came in at \$169,900.00.

Mayor Rees asked about the agreement provision that reserves ten parking spaces for Embarq and asked what would happen to those spaces if a parking garage is built or if CenturyLink moved out. **Mr. Williams** responded there was no discussion on

CenturyLink leaving. If the garage is built, they would still have ten reserved spaces. **Mayor Rees** stated he meant during construction. **Mr. Williams** responded they are fine. **Mayor Rees** indicated that he would think the spaces would revert back to the City if CenturyLink vacated the building. **Mr. Williams** replied that would have to be negotiated because CenturyLink could let the purchaser know they have the ten spaces to meet the requirements of their building. **City Attorney Ardaman** added that under the agreement, it does bind the respective successors and they would be entitled to the same parking rights.

Motion by Commissioner Sharman to approve the purchase agreement as recommended. Seconded by Commissioner Olszewski and carried unanimously 5-0.

E. **Recommendation to approve purchasing a new Boom Truck under the Florida Sheriffs Association contract not to exceed \$90,614.00**

Public Services Director Cochran stated that this boom truck would be for sewer lift station repairs and gave the details as provided in the agenda packet.

Motion by Commissioner Sharman to approve the purchase as requested. Seconded by Commissioner Buchanan and carried unanimously 5-0.

F. **Recommendation to approve purchasing a new tractor under the Florida Sheriff's Association contract not to exceed \$100,886.00**

Public Services Director Cochran stated that this tractor replaces an existing unit and gave the details as provided in the agenda packet.

Motion by Commissioner Olszewski to approve the purchase as requested. Seconded by Commissioner Sharman and carried unanimously 5-0.

G. **Recommendation to approve purchasing a new fire engine for \$444,519.00**

Fire Chief Williamson noted that this item was originally budgeted for \$460,000.00. This unit will replace Engine 23 located at Fuller's Cross Fire Station that has been out for frequent service. Staff recommends approval.

Mayor Rees asked what will be done with the old fire engine. Fire Chief Williamson responded that the oldest engine, a 1988 Grumman, will be disposed of and Engine 23 will become a reserve truck.

Motion by Commissioner Makin to approve the purchase as requested. Seconded by Commissioner Olszewski and carried unanimously 5-0.

H. **Special event request by Tri & Run of West Orange to close Plant Street from 6:30 a.m. until 8:30 a.m. February 16, 2013 to accommodate a 10K Run/Walk fundraiser**

Parks and Recreation Director Conn stated this request is from the owner of Tri & Run Jerry Pegram. The merchants have pointed out that they are in support of morning races with little impact to downtown and minimal impact on city staff.

Motion by Commissioner Sharman to approve the request as submitted. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- I. **Special event request by Winter Garden Wheel Works to close various streets downtown from 7 a.m. until 9 p.m. April 6, 2013 to accommodate a bike festival and waiver of fees** (*This item was acted upon earlier in the meeting.*)

- J. **Resolution 12-21:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA URGING TOBACCO RETAILERS TO STOP THE SALE AND MARKETING OF FLAVORED TOBACCO PRODUCTS TO UNDERAGED YOUTH IN THE CITY OF WINTER GARDEN, FLORIDA; PROVIDING FOR SEVERABILITY; MAKING FINDINGS; PROVIDING AN EFFECTIVE DATE (*This item was acted upon earlier in the meeting.*)

- K. **Reappointment of Mark Griffith as a trustee on the General Employee Pension Board for a term of two years**

City Clerk Golden stated that Mr. Griffith's term expires the end of this year and in accordance with the City's Code, the General Employee Pension Board is recommending reappointment of Mr. Griffith.

Motion by Commissioner Buchanan to reappoint Mark Griffith to the General Employee Pension Board for a two-year term. Seconded by Commissioner Makin and carried unanimously 5-0.

- L. **Recommendation to approve renewal of the West Orange Narcotics Task Force Agreement**

Police Chief Brennan stated that this agreement expires the end of this year and he is requesting renewal for another four years.

Motion by Commissioner Sharman to approve renewal of the West Orange Narcotics Task Force Agreement as submitted. Seconded by Commissioner Makin and carried unanimously 5-0.

- M. **Recommendation on City and employees sharing the increase in health insurance premiums for 2013**

City Manager Bollhoefer shared that negotiations for employee health insurance premiums has been going on right up until the last minute. Insurance costs are driven by what is called "experience", i.e. how many get sick and what types of sicknesses there are. This past year was a bad year and staff was able to get the increase down to approximately 12.5 percent overall. The past four years there was a total of a 4 percent increase. We have been hit hard this year and the increase is approximately \$224,000. The recommended increase was split in half with the City paying half and the other half being paid by the employees. The analysis shows the different plans with the left side showing current costs and the right side showing the proposed costs.

Mayor Rees asked how was the different contribution amounts computed between employee/family and employee/children because there is quite a difference in the percentages. **Assistant City Manager–Administrative Services Gilbert** stated that along with the experience factor they also are rated for each category within their group experience and UnitedHealth Care gave us what each should pay. **Mayor Rees** clarified that the experience rating for employee/spouse was greater than the family rating. **Mr. Gilbert** responded yes.

Motion by Commissioner Buchanan to approve raising employee contribution to health insurance premiums as recommended. Seconded by Commissioner Sharman and carried unanimously 5-0.

4. **MATTERS FROM CITIZENS** – There were no items.
5. **MATTERS FROM CITY ATTORNEY** – There were no items.
6. **MATTERS FROM CITY MANAGER**

City Manager Bollhoefer advised that Orange County Mayor Jacobs has put officers in the elementary schools and there has been a lot of buzz about what other county and cities are going to do. Staff has been looking at this and is not yet sure what is best in the long term. Police Chief Brennan has already assigned police officers to the Winter Garden elementary schools for the rest of this week. He will come back to the City Commission with some ideas at the next meeting.

7. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Olszewski stated that at the last meeting he spoke to responsiveness to our citizens whom he believes are their bosses. He knows the City Manager takes pride in customer service for our City staff and the City Manager advised at a senior staff meeting about being responsive within 24-hours and he is excited about this direction.

Commissioner Olszewski announced that the City Manager will keep him updated about any process relating to any 7-Eleven at Windermere / Roberson Road activity and there is talk of a community meeting sometime in January. **Mr. Bollhoefer** stated that the community meeting is almost finished being scheduled for January 16, 2013.

Commissioner Olszewski asked City Attorney Ardaman about the Florida Sunshine Laws with regard to more than one Commissioner being in attendance at a meeting or function. As he understands it, they can attend as long as they don't have a conversation or meet. A Commissioner can voice their opinion at a public meeting as long as someone doesn't respond otherwise it would be a violation of the law and asked for clarification.

Mr. Ardaman stated that attending a meeting as an audience member and listening is not a violation but to be careful about having any discussion. If there are multiple City Commissioners at a meeting and a Commissioner speaks about a matter that foreseeably will

come before the City Commission and another City Commissioner speaks, it becomes questionable. He cautioned the Commissioners that while there is no problem with attending as a member of the audience and there are matters that are likely or foreseeable to come before the City Commission it is best not to speak.

Commissioner Olszewski gave an example of a West Orange Chamber committee meeting with two Commissioners present and if there was information that would be voted on by the City Commission, as long as no one makes a comment that would be alright. **Mr. Ardaman** responded that just attending a meeting and listening, with no discussion on matters that foreseeably will come before the City Commission, is not a problem. **Commissioner Olszewski** restated that as long as a Commissioner is quiet and just listens there is no violation of the Florida Sunshine law. **Mr. Ardaman** responded that is correct.

Commissioner Buchanan expressed that if he is the Commission's designated Commissioner to attend West Orange Chamber committee meetings, then he wants to be the only one there and he doesn't want to have worry about another Commissioner being in the same room. **Mr. Ardaman** responded that a non-advertised West Orange Chamber committee meeting, that is not open to the public, has no minutes being taken, with two Commissioners present, should not have any public business discussed. Since a committee may well consider something that will come before the City Commission that may not be known until you are in the meeting, he recommends not putting yourself in a situation where there are two Commissioners on the same committee. It can be done, but the problem is it gets so close to being a potential violation.

Commissioner Olszewski asked if the advice is to no longer allow more than one Commissioner to attend the Winter Garden Merchant's Association or Rotary functions, because something could foreseeably come up in a meeting. **Mr. Ardaman** responded that he has not looked at each of these situations. However, if they are public meetings and two or more Commissioners want to attend, the problem arises if the Commissioners begin to speak about a matter that foreseeably will come before the City Commission; that situation would be getting close to a violation. **Commissioner Olszewski** confirmed that as long as Commissioners remain silent, there is no Florida Sunshine violation. **Mr. Ardaman** responded that is correct.

Commissioner Makin thanked the Winter Garden Fire Department for the Santa Run he participated in last Thursday. It was nice to see all the families come out and enjoy it. He thanked Mr. Bruns for inviting him to attend the Trailer City HOA meeting and it was great. He also mentioned that Mr. Bruns put on a great car show this last month. He thanked all the staff and their hard work this holiday season.

Mayor Rees thanked the Police and Fire Departments for the Santa Run that our residents really enjoyed.

The meeting adjourned at 8:50 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC