



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

February 14, 2013

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, 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 January 10, 2013 as submitted. Seconded by Commissioner Sharman and carried unanimously 5-0.

• **School Garden Project**

Mayor Rees recognized John Rinehart to give a PowerPoint presentation on a School Garden Project in Winter Garden. Mr. Rinehart shared that the project was put together by Orlando Health and will focus on nutrition and health issues of our children. He stated that since he last approached the City with this idea, they now have all six elementary schools (Tildenville, Whispering Oak, Lake Whitney, Dillard, SunRidge and Maxey) on board with the pilot program. The schools have identified school garden coordinators. He noted that a design firm is going to pro bono their services to design the gardens. He spoke of a coordinator who will be in charge of the project. Research is starting with tours and a conceptual design was shown for Dillard Elementary School. They are now looking to the City of Winter Garden for support and endorsement of this project.

City Manager Bollhoefer stated that they are asking for \$5,000.00 in seed money from the City to get the program started. He noted that once this program gets started, they are getting a commitment finalized with the West Orange Health Alliance to help pay to establish these gardens.

Commissioner Sharman inquired if money would be taken from other funds to make this happen. Mr. Bollhoefer responded that this would be an adjustment at interim budget.

Mayor Rees stated he thinks it is a good project and he is glad Mr. Rinehart got all the schools on board.

Commissioner Olszewski noted he can see the direct benefit in exposing Winter Garden children to this program.

Motion by Commissioner Buchanan to approve a \$5,000 donation to the pilot gardening project in Winter Garden elementary schools. Seconded by Commissioner Sharman and carried unanimously 5-0.

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

A. **Ordinance 13-07:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 4.82 ± ACRES LOCATED AT 1751 WILLIAMS ROAD AT THE NORTHEAST CORNER OF WILLIAMS ROAD AND AMBER SWEET LANE 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 13-08:** 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 4.82 ± ACRES LOCATED AT 1751 WILLIAMS ROAD AT THE NORTHEAST CORNER OF WILLIAMS ROAD AND AMBER SWEET LANE FROM ORANGE COUNTY VILLAGE TO CITY URBAN VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 13-07 and 13-08 by title only. Community Development Director Williams stated that this is a voluntary annexation and request for future land use map change. He noted that this property is in the Marsh Road area. Staff and the Planning and Zoning Board have reviewed and recommend approval.

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

Motion by Commissioner Olszewski to approve Ordinances 13-07 and 13-08 with the second readings and public hearings being scheduled for February 28, 2013. Seconded by Commissioner Buchanan and carried unanimously 5-0.

C. **Ordinance 13-09:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 4.6 ± ACRES LOCATED AT 17416 AMBER SWEET LANE ON THE SOUTH SIDE OF AMBER

SWEET LANE, EAST OF WILLIAMS 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

- D. **Ordinance 13-10:** 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 4.6 ± ACRES LOCATED AT 17416 AMBER SWEET LANE ON THE SOUTH SIDE OF AMBER SWEET LANE, EAST OF WILLIAMS ROAD FROM ORANGE COUNTY VILLAGE TO CITY URBAN VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 13-09 and 13-10 by title only. Community Development Director Williams stated that this is also a voluntary annexation and request for future land use map change. He noted that this is the same applicant as the previous hearing and this parcel is adjacent to the other parcel. Planning and Zoning Board and staff recommend approval.

Mayor Rees opened the public hearing.

Hugh McElvaney, 12050 Windermere Crossing Circle, Winter Garden, Florida, inquired of the ultimate goal when property such as this is annexed. Mr. Williams responded that there is an area around the City that is designated as a Joint Planning Area (JPA) between the County and the City. He noted that within that JPA, the City and County have agreed are appropriate for annexation because of the provisions and services the City provides. Mr. Williams noted some of the reasons for annexing are stormwater into an area, other development occurring, and lower taxes.

Mayor Rees closed the public hearing.

Motion by Commissioner Sharman to approve Ordinances 13-09 and 13-10 with the second readings and public hearings being scheduled for February 28, 2013. Seconded by Commissioner Olszewski and carried unanimously 5-0.

FIRST READING OF PROPOSED ORDINANCES

- E. **Ordinance 13-11:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 12-48, THE CITY OF WINTER GARDEN FISCAL YEAR 2012-2013 BUDGET TO CARRY FORWARD PRIOR YEAR APPROPRIATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 13-11 by title and the following excerpt from Section 1 as follows:

REVENUES

General Fund	\$ 850,978
Local Option Gas Tax Fund	1,582,456
General Impact Fee Fund	840,252
Transportation Impact Fee-South of Turnpike Fund	875,000
Transportation Impact Fee Fund	1,882,509
Utilities Operating Fund	3,143,080
Utilities Impact Fee Fund	3,687,150
Utilities Renewal & Replacement	3,055,700
Stormwater Fund	-
Trailer City Fund	<u>1,056</u>
	\$15,918,181

Mr. Ardaman noted that the expenditures for each of the items were the same amount.

Finance Director Zielonka stated this ordinance is a carry forward of last year's approved projects that have not been completed.

Mayor Rees asked about Main Street because he saw the utilities and stormwater but not the road (Tremaine down to Smith). Mr. Bollhoefer responded that the road has been budgeted for this year.

Motion by Commissioner Buchanan to approve Ordinance 13-11 with the second reading and public hearing being scheduled for February 28, 2013. Seconded by Commissioner Makin and carried unanimously 5-0.

- F. **Ordinance 13-12:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING ARTICLE III, DIVISION 4 AND 5 OF CHAPTER 110 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING FINAL PLAT PROCEDURES AND REQUIREMENTS, AND HOA AND COMMUNITY SUBDIVISION INFRASTRUCTURE; RESPONSIBILITY; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

Mayor Rees noted that at staff's request, Ordinance 13-12 would be **postponed** until February 28, 2013 at 6:30 p.m.

3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES

- A. **Ordinance 13-01:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 6 ± ACRES LOCATED AT 12900 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

- B. **Ordinance 13-02:** 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 ± ACRES LOCATED AT 12900 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
- C. **Ordinance 13-03:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 6 ± ACRES LOCATED AT 12900 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 13-01, 13-02, and 13-03 by title only. Community Development Director Williams stated that this is also a voluntary annexation and request for future land use map and zoning. He noted that the property is joined with several annexations seen at recent meetings on the south side of Roper Road and west of Beulah Road. It is consistent with the density and development that has occurred in that area. It is also consistent with the comprehensive plan and land development code. Planning and Zoning Board and staff have reviewed it and both recommend approval of all three items.

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

Commissioner Sharman asked if the property owners have come to the City with reference to lot sizes. Mr. Williams replied that they have a preliminary sketch of the lot sizes and they are the same size as the subdivision to the north. There are some wetlands associated with the properties. There will be a series of community meetings about any concerns.

Motion by Commissioner Makin to adopt Ordinances 13-01, 13-02, and 13-03. Seconded by Commissioner Sharman and carried unanimously 5-0.

- D. **Ordinance 13-05:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 35.176 ± ACRES LOCATED AT 14288, 14350, AND 14362 SIPLIN ROAD AT THE SOUTHWEST CORNER OF SIPLIN ROAD AND SUNRIDGE BOULEVARD INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE

THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 13-05 by title only. Community Development Director Williams stated that this is a voluntary annexation of land located across from two recently built schools. He noted that other vacant properties in the area have been interested in annexation since the road for the school was built. He noted that staff recommends approval. However, staff does not have the future land use and zoning at this time. Those items will come back before the City Commission at a later date after they sign a developer's agreement paying for their share of the road and utilities that have been extended to the school. Staff and the Planning and Zoning Board recommend approval.

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

Motion by Commissioner Olszewski to adopt Ordinance 13-05. Seconded by Commissioner Sharman and carried unanimously 5-0.

4. **REGULAR BUSINESS**

A. **Recommendation to approve Final Plat for Reserve at Carriage Pointe Phase 1**

Community Development Director Williams stated that this action is for the City Commission to accept the final plat. The plat has been reviewed by staff and the Planning and Zoning Board; both recommend approval.

Motion by Commissioner Buchanan to approve final plat for Reserve at Carriage Pointe Phase 1. Seconded by Commissioner Makin and carried unanimously 5-0.

B. **Recommendation to approve entering into a School Concurrency Mitigation Agreement WG-12-001 with Orange County School Board and J&WB, Inc. for the Bradford Creek project located at 420 and 421 Winter Garden Vineland Road**

Community Development Director Williams stated that this agreement was recently approved by the Orange County School Board for the mitigation of the Bradford Creek project that is located between CR 535 and Daniels Road. Staff recommends approval.

Mayor Rees asked if, of the 118 units 92 were okay and 26 did not have enough room in the schools, came out to \$400,000 or something. Mr. Williams stated that is correct.

Motion by Commissioner Olszewski to approve entering into a School Concurrency Mitigation Agreement WG-12-001 with Orange County School Board and J&WB, Inc. for the Bradford Creek project located at 420 and 421 Winter Garden Vineland Road. Seconded by Commissioner Sharman and carried unanimously 5-0.

C. **Resolution 13-01:** A RESOLUTION OF THE CITY OF WINTER GARDEN SUPPORTING POLICE OFFICER AND FIREFIGHTER PENSION PLAN AND

DISABILITY PRESUMPTION REFORMS TO MAKE THE PLANS SUSTAINABLE, SOUND AND SECURE FOR CURRENT AND FUTURE POLICE OFFICERS AND FIREFIGHTERS

City Manager Bollhoefer stated that the Florida League of Cities has sent this request to all the cities asking that each City approve this resolution so that the legislature addresses this issue.

Motion by Commissioner Buchanan to approve Resolution 13-01. Seconded by Commissioner Sharman and carried unanimously 5-0.

D. Resolution 13-02: A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA, OPPOSING UNFUNDED STATE MANDATES ON CITIES

City Manager Bollhoefer stated that once again the Florida League of Cities is asking the cities throughout the State of Florida to support these resolutions as the League of Cities is now lobbying our State legislators.

Commissioner Sharman emphasized the importance of this item because of how the State expects Cities to do certain things without the funding. Commissioner Olszewski shared that he serves on the Florida League of Cities Central Florida Advocacy Team basically lobbying our legislatures and will be going to Tallahassee in March to talk about a lot of these issues affecting cities and maintaining the home rule law. Mayor Rees wished him well in his endeavors.

Motion by Commissioner Sharman to approve Resolution 13-02. Seconded by Commissioner Makin and carried unanimously 5-0.

E. Appointment to the Code Enforcement Board to fill the unexpired term, until July 1, 2015, of resigning member Bradley Lomneck *This item was postponed until the next meeting.*

5. MATTERS FROM CITIZENS

Julie Cowan, 12181 Windermere Crossing Circle, Winter Garden, Florida, stated that she attended a January 16, 2013 meeting regarding the proposed 7-Eleven on the corner of Stoneybrook West Road and Windermere Road. The next day she contacted Commissioner Olszewski by e-mail and phone and stated that she wanted to stay informed of any developments on this subject. She said that she has not heard very much from the City Commissioner. She requested public knowledge be shared if the City is aware of anything happening with that proposed 7-Eleven.

Commissioner Olszewski stated he responded the very next day. At the January 16, 2013 meeting the City Attorney stressed that he cannot give his opinions because this is a quasi-judicial matter. What has been done is that the City Manager and City Attorney are working closely with 7-Eleven, attorneys representing 7-Eleven, and land owner to address the issues.

There is no update other than meetings are occurring. He asked the City Manager and/or City Attorney to add or amend his comments.

City Manager Bollhoefer stated staff has been in talks with an attorney about scheduling community meetings. There is one scheduled for tomorrow afternoon. The City Attorney has advised City Commissioners to be careful in how much they get involved because it is a quasi-judicial process and will be involved in the decision process. The site plan has not yet been approved by the City. He noted that records that have been submitted have been requested and provided to community representatives.

Jennifer Swanson, 1007 Spring Mill Drive, Winter Garden, Florida, stated she has a statement of fact regarding the 7-Eleven proposed for the corner of Stoneybrook West Road and Windermere Road. She is the Health and Safety Coordinator for Lake Whitney Elementary and wants the Commission to know this intersection is used every day by people biking and walking to school. She stated that this is a very pedestrian friendly community and would like for the City to keep this in mind when considering this project for final decision. Ms. Swanson referred to the earlier mention of the school garden and stated that they would like to keep the childhood obesity down also by helping the community keep healthy and stay active.

City Attorney Ardaman advised that comments regarding the pending application before the City would be appropriate at the hearing held by the City Commission.

City Manager Bollhoefer stated that he interprets Mr. Ardaman's comments to mean that what is being said tonight is appropriate, but in order for it to have any legal bearing, the comments need to be made at the actual hearing. Matters stated tonight will not be considered as evidence as a part of the quasi-judicial process.

Kelly Murphy, 149 Blue Stone Circle, Winter Garden, Florida, stated she was here to speak on behalf of herself, her family, and the collective thoughts of the coalition. She noted that they understand that there is a process underway on reviewing an application from 7-Eleven's representatives to put a gas station on the southwest corner of Stoneybrook West Parkway and Windermere Road. She stated that they have had a lot of questions along the way and commended City staff on their professionalism and courtesy. She noted that they wanted to reiterate some of the key concerns of the proposal as it stands today. The project is not safe, does not contribute to community health, and is not in support of the community's general welfare.

Hugh McElvaney, 12050 Windermere Crossing Circle, Winter Garden, Florida, inquired if there has been any consideration given to the 7-Eleven possibly moving down away from this particular lot. The footprint looks larger than the landscaping will allow. He noted that he is not against 7-Eleven, but he is against a 7-Eleven on this particular parcel. He has concerns with safety, health, and school issues.

City Manager Bollhoefer noted that this subject was brought up at the community meeting and for legal reasons he cannot address it. 7-Eleven is well aware that residents want them to build it elsewhere.

City Attorney Ardaman stated that what is before the City at this time is an application for a site plan. That is what the City will have to evaluate and vote upon based on what evidence is before them. To require they move to some other location would subject the City to strong litigation. **Mr. McElvaney** stated they could suggest it, not require it. **Mr. Ardaman** noted that the City could certainly make the suggestion, but when it comes down to a decision the City is legally obligated to review, respond, and act on just that application. Mr. Ardaman expressed that nothing is stopping residents or any property owner from communicating a suggestion to 7-Eleven. Nothing prevents City staff from speaking to 7-Eleven about the suggestion. He noted that his job, in part, is to make sure that whatever decision is made by the City Commission is protected.

City Manager Bollhoefer noted that by correctly handling the proceedings also protects the residents. **Mr. Ardaman** added that it protects 7-Eleven as well. **City Manager Bollhoefer** asked if he could meet with them after the City Commission Meeting.

Eric Smith, 1018 Spring Mill Drive, Winter Garden, Florida, stated that the perception is that they are being manipulated and have no control over what is literally happening in their backyard. He asked that the City continue to educate them on the procedures and shared that there is the perception that the City is hiding something which he finds demoralizing and disappointing.

Mayor Rees noted that the Commission listens to residents. He shared that he was born and raised in Winter Garden and he has raised his kids and grandkids here. He noted that he is not going anywhere. He shared that people come into the City to develop and then leave. Our residents are the ones the City Commission is responding to as best as they can.

City Attorney Ardaman addressed the perception on all sides. Why isn't everything being shared and posted to make it easily accessible? There is a public records law that anyone is able to request any document concerning this issue. The City saying, in this case, we would just send you everything would compromise the process. He noted that a public records request, in this instance, would have to be periodically filed in order to have the most current information available.

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

7. **MATTERS FROM CITY MANAGER**

A. **Distribution and brief discussion on upcoming ordinances**

In addition to bringing back Ordinance 13-12 postponed earlier in this meeting, Mr. Bollhoefer stated that he will also be bringing back the proposed noise ordinance for the City Commission's review at the next meeting. He explained that it will adjust the City's code. Clarification has been received from the Supreme Court and staff now feels

comfortable in being able to enforce the code regarding boom boxes in vehicles. He noted that there will be additional proposed legislation brought to the City Commission regarding sidewalk cafes and signs with possible workshops.

• **5th Annual Uncle Don's Chili Cook-Off**

Community Relations Manager Vaughn thanked the community for its support and announced that approximately \$18,000 was raised in this effort in a matter of only three hours.

• **Art in Public Places**

Ms. Vaughn announced that the Art of Mentorship exhibit will be going up Monday morning. The reception will be 5:30 to 7:00 p.m. before the next City Commission meeting. The next exhibit in late May will be in conjunction with the Bloom N' Grow Garden Society whereby artists will exhibit Winter Garden in Bloom in the spring.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Sharman thanked the community for their attendance tonight and expressed that he, as a City Commissioner, is definitely listening to their concerns.

Commissioner Olszewski announced a Financial Literacy Event to be held in East Winter Garden entitled "How You Can Drive a Mercedes" on February 21, 2013, at 6:30 p.m. at the Ninth Street Church of Christ. He noted that this event is being presented by the Orange County Community Action Board and the East Winter Garden Community Development Corporation.

Commissioner Olszewski thanked the City of Winter Garden staff for a great Chili Cook-Off event.

Commissioner Olszewski thanked City Clerk Kathy Golden for maintaining the City's records and handling records requests and referenced the hundreds if not thousands of e-mails and records that he copies to everyone. He is easily reachable and wants to be contacted if there is ever a question he can help them with. He is proud to represent District 3 as the City Commissioner. He thanked the citizens for their patience and for allowing the City to get to a solution.

Mayor Rees thanked Community Relations Manager Andrea Vaughn and all staff for their efforts in raising \$18,000 for cancer Relay for Life.

The meeting adjourned at 7:19 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC