



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

April 11, 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 to City Manager - Public Services Don Cochran, Assistant to City Manager – Administrative Services Frank Gilbert, Community Development Director Ed Williams, Finance Director Laura Zielonka, Fire Chief John Williamson, Police Chief George Brennan, Network Specialist George Strobel, Building Official Skip Lukert, Economic Development Director Tanja Gerhartz, Parks and Recreation Director Jay Conn, and West Orange Times Reporter Kelsey Tressler

1. **APPROVAL OF MINUTES**

Motion by Commissioner Olszewski to approve regular meeting minutes of March 28, 2013 as submitted. Seconded by Commissioner Makin and carried unanimously 5-0.

2. **OATHS OF OFFICE AND INTRODUCTION OF NEW POLICE OFFICERS**

Police Chief Brennan introduced new police officers Jason Roebke and Peter Keane and then administered the Oath of Office.

3. **PRESENTATION**

Mayor Rees read **Proclamation 13-06** declaring the Month of April as Water Conservation Month in the City of Winter Garden.

4. **PUBLIC HEARING MATTER**

A. Appeal of Planning and Zoning Board's denial of a variance request to reduce the 10-foot side yard setback to 6.86 feet and to reduce the minimum 10-foot wide landscaping around the building to no more than 50 percent landscaping around the building at 1089 Walker Street; Applicants George L. and Maria P. Bori (AutoZone parts store CPH Engineers, Inc.). Community Development Director Williams requested that this item be postponed until May 23, 2013. He noted that they have submitted a site plan that has been reviewed once by the Development Review Committee (DRC). DRC has given them their comments to consider on their redesign that has not yet been resubmitted.

Motion by Commissioner Olszewski to postpone this item until May 23, 2013 at 6:30 p.m. Seconded by Commissioner Sharman and carried unanimously 5-0.

5. FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCES

- A. Ordinance 13-06:** 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 SUBURBAN RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 35.176 ± ACRES LOCATED AT 14288, 14350, AND 14362 SIPLIN ROAD AT THE SOUTHWEST CORNER OF SUNRIDGE BOULEVARD AND SIPLIN ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 13-06 by title only. Community Development Director Williams stated that staff is recommending transmittal to the State Department of Economic Opportunity for their review of the Comprehensive Plan amendment. This will be a single family subdivision located south of the schools on Sunridge. This has been reviewed by staff and the Planning and Zoning Board whom both are recommending approval to transmit.

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

Motion by Commissioner Buchanan to approve transmitting Ordinance 13-06 to the State Department of Economic Opportunity. Seconded by Commissioner Makin and carried unanimously 5-0.

- B. Ordinance 13-13:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 10.475 ± ACRES GENERALLY LOCATED SOUTH OF SUNRIDGE BOULEVARD, NORTH OF BLACK LAKE, EAST OF AVALON ROAD, AND WEST OF SIPLIN 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
- C. Ordinance 13-15:** 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 SUBURBAN RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 10.475 ± ACRES GENERALLY LOCATED SOUTH OF SUNRIDGE BOULEVARD, NORTH OF BLACK LAKE, EAST OF AVALON ROAD, AND WEST OF SIPLIN ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 13-13 and 13-15 by title only. Community Development Director Williams stated this is a small tract that this property is located due south of the prior public hearing item. It is a land locked parcel that will have access from the subdivision to the north. This has been reviewed by both staff and the Planning and Zoning Board both of whom recommend approval.

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

Motion by Commission Makin to approve Ordinance 13-13 with the second reading and public hearing being scheduled for April 25, 2013 and transmittal of Ordinance 13-15 to the State Department of Economic Opportunity. Seconded by Commissioner Olszewski and carried unanimously 5-0.

- D. **Ordinance 13-14:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING POLICY 1-1.2.13 OF THE FUTURE LAND USE ELEMENT OF THE WINTER GARDEN COMPREHENSIVE PLAN TO INCLUDE PUD AND PCD AS ZONING CLASSIFICATIONS THAT ARE CONSISTENT WITH THE TRADITIONAL DOWNTOWN LAND USE DESIGNATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 13-14 by title only. Community Development Director Williams stated that during the adoption of the Comprehensive Plan, planned developments were somehow excluded from the downtown area. Staff believes that action was an oversight. This ordinance will allow PUD's as redevelopment comes in and staff recommends approval.

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

Motion by Commissioner Sharman to approve transmitting Ordinance 13-14 to the State Department of Economic Opportunity. Seconded by Commissioner Olszewski and carried unanimously 5-0.

- E. **Ordinance 13-16:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 127.42 ± ACRES LOCATED AT 16846, 17000, AND 17166 MARSH ROAD ON THE SOUTH SIDE OF MARSH ROAD, EAST OF WILLIAMS ROAD AND WEST OF AVALON 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
- F. **Ordinance 13-17:** 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 127.42 ± ACRES LOCATED AT 16846, 17000, AND 17166 MARSH ROAD ON THE SOUTH SIDE OF MARSH ROAD, EAST OF WILLIAMS ROAD AND WEST OF AVALON ROAD FROM ORANGE COUNTY VILLAGE TO CITY URBAN VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 13-16 and 13-17 by title only. Community Development Director Williams stated this is a voluntary annexation of a large tract of land on the south side of Marsh Road, across from the Centerline Waterside at John's Lake project. Staff recommends approval of both ordinances.

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

Motion by Commission Olszewski to approve Ordinance 13-16 with the second reading and public hearing being scheduled for April 25, 2013; and transmittal of Ordinance 13-17 to the State Department of Economic Opportunity. Seconded by Commissioner Sharman and carried unanimously 5-0.

- G. **Ordinance 13-19**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE AMENDMENT OF CHAPTER 102 OF THE WINTER GARDEN CODE OF ORDINANCES ENTITLED "SIGNS", AND SECTION 98-195 OF ARTICLE VII OF CHAPTER 98 OF THE WINTER GARDEN CODE OF ORDINANCES WITHIN THE CITY OF WINTER GARDEN HISTORIC DOWNTOWN DISTRICT OVERLAY WHICH SECTION IS ENTITLED "SIGN STANDARDS FOR COMMERCIAL PROJECTS", AND SECTION 22-154 OF ARTICLE VI OF CHAPTER 22 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES UNDER INTERANT AUTOMOTIVE SALES WHICH SECTION IS ENTITLED "GENERAL; LIMITATIONS", AND SECTION 62-230 OF ARTICLE VII OF CHAPTER 62 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES UNDER SIDEWALK CAFÉ AND MERCHANDISE DISPLAY WHICH SECTION IS ENTITLED "STANDARDS, CRITERIA AND CONDITIONS FOR SIDEWALK CAFÉ AREAS"; DELETING DIVISION 2 OF ARTICLE X OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES ENTITLED "SIGN REGULATIONS" AND DIVISION 3 OF ARTICLE IX OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES ENTITLED "SIGNAGE WITHIN THE COMMERCIAL CORRIDOR"; CREATING A COMPREHENSIVE SIGN CODE; PROVIDING DEFINITIONS, REGULATING SIGNAGE FOR THE CITY OF WINTER GARDEN HISTORIC DOWNTOWN DISTRICT OVERLAY AND RESIDENTIAL AND NON-RESIDENTIAL AND OTHER AREAS AND USES; REMOVING REDUNDANT AND INCONSISTENT LANGUAGE FOR SIGN STANDARDS AND REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Ardaman read Ordinance 13-19 by title only. Community Development Director Williams stated that staff is requesting postponement of the ordinance until May 9, 2013.

Motion by Commissioner Sharman to postpone Ordinance 13-19 until May 9, 2013 at 6:30 p.m. Seconded by Commissioner Makin and carried unanimously 5-0.

- H. **Ordinance 13-20:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE VII OF CHAPTER 62 OF THE WINTER GARDEN CITY CODE; PROVIDING FOR DEFINITIONS AND REVISED DEFINITIONS; PROVIDING FOR REVISED STANDARDS, REQUIREMENTS, CRITERIA AND CONDITIONS FOR SIDEWALK CAFES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Ardaman read Ordinance 13-20 by title only. Community Development Director Williams stated that staff is requesting postponement of this item until May 9, 2013.

Motion by Commissioner Sharman to postpone Ordinance 13-20 until May 9, 2013 at 6:30 p.m. Seconded by Commissioner Makin and carried unanimously 5-0.

6. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

- A. **Ordinance 13-18:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE IV OF CHAPTER 38 OF THE WINTER GARDEN CITY CODE; PROVIDING FOR CLARIFICATIONS AND OBJECTIVE GUIDELINES TO ENFORCE THE NOISE ORDINANCE VIA AN ALTERNATIVE OBJECTIVE STANDARD OF REASONABLENESS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 13-18 by title only. City Manager Bollhoefer stated that this ordinance clarifies how it is determined someone is in violation of the noise ordinance. Generally, enforcement will be passive; we won't go looking for it unless someone complains. The possible exception perhaps is for automobiles witnessed by an officer as exceeding the noise limits.

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

Motion by Commissioner Buchanan to adopt Ordinance 13-18. Seconded by Commissioner Sharman and carried unanimously 5-0.

7. **REGULAR BUSINESS**

A. **Recommendation to approve entering into a Right-of-Way Maintenance Agreement with Hanover Avalon Reserve, LLC and Avalon Reserve Homeowners Association, Inc. for Avalon Reserve - Village 1**

Community Development Director Williams stated this is a right-of-way maintenance agreement for a new subdivision off 545. The developer and homeowners are supplementing the landscaping and plantings. This agreement protects and clarifies the rights and obligations of all parties. Staff recommends approval because typically it enhances the development.

Motion by Commissioner Sharman to approve entering into a Right-of-Way Maintenance Agreement with Hanover Avalon Reserve, LLC and Avalon Reserve Homeowners Association, Inc. for Avalon Reserve - Village 1. Seconded by Commissioner Olszewski and carried unanimously 5-0.

B. **Recommendation to approve request for qualification rankings and contracts for continuing professional engineering services with Pegasus Engineering, Tetra Tech Engineering, and BFA Engineering**

Public Services Director Cochran stated this is an item brought to the Commission every two to three years. Staff ranks professional engineering firms to do continuing consulting contracts. This year staff is recommending Pegasus Engineering, Tetra Tech Engineering, and BFA Engineering. Services are mostly related to water, waste water, storm water, roadway, and traffic control projects. The work is performed on an as needed basis on an hourly fee schedule.

Commissioner Makin addressed the scoring method stating he has not had an answer back from the City Manager and he would like to postpone this item and the next item until he knows how the ratings are derived.

Mr. Cochran shared that staff is following the City's purchasing manual. The scoring is done by Mr. Cochran, Mike Kelly, and Art Miller. Postponing will not hold up any projects. He offered copies of what was submitted by the engineering firms.

City Manager Bollhoefer stated staff will put together a whole packet for the Commission's review.

Motion by Commissioner Makin to postpone both the professional engineering services and professional surveying services contracts until the next meeting of April 25, 2013. Seconded by Commissioner Sharman and carried unanimously 5-0.

C. **Recommendation to approve request for qualification rankings and contracts for continuing professional surveying services with Southeastern Surveying, Atlantic Surveying, CPH Engineering and Surveying, and Allen & Company, Inc.**

This item was acted upon under the previous matter by being postponed until April 25, 2013.

D. **Appointment to the Architectural Review and Historic Preservation Board to fill the unexpired term, until July 2, 2015, of resigning board member Chuck Simikian**

City Clerk Golden stated that the interest forms for the vacancy have been provided for the City Commission's consideration.

Motion by Commissioner Makin to appoint Phillip Baker to the Architectural Review and Historic Preservation Board to fill the unexpired term of Mr. Simikian, until July 2, 2015. Seconded by Commissioner Buchanan and carried unanimously 5-0.

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

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

10. **MATTERS FROM CITY MANAGER**

Reduction of Code Enforcement Fines – 13207 Foxglove Court

Mr. Bollhoefer shared that a house in Stoneybrook at 13207 Foxglove Court has had Code Enforcement fines, in case number 10-1292, accruing since 2010 for an unmaintained swimming pool. The fines have accumulated are \$233,500. The potential purchaser of the property does not want to pay the fines and the property has been brought into compliance. In the past, the City has reduced fines to only the actual costs. In this case, the actual cost comes to \$2,500 so they can close on the property.

There was discussion that the City is looking to find ways to have banks provide better care for their bank owned properties. **Commissioner Buchanan** asked what amount the City allows before the City Attorney should go after a property. **City Manager Bollhoefer** noted any amount is allowed but he questions whether it would be worth pursuing. **Commissioner Buchanan** voiced concerns about charging a fine and there being no consequences of actually having to pay them. **Mr. Bollhoefer** stated that this is why the City collects to recover its actual costs. **Commissioner Sharman** shared that it would be nice to keep the properties maintained.

Motion by Commissioner Sharman to approve the reduction of Code Enforcement fines at 13207 Foxglove Court to \$2,500. Seconded by Commissioner Makin and carried unanimously 5-0.

Winter Garden Bike Fest Event

City Manager Bollhoefer commended staff for their efforts in the Bike Fest event noting that this is one of the most difficult events.

Commissioner Makin inquired of any resident complaints. Mr. Bollhoefer noted that he heard of a couple complaints but overall it was a very positive event. **Commissioner Sharman** stated there will always be one or two complaints and this is only a once-a-year event. **Mr. Bollhoefer** shared that each event affects each business differently.

Mayor Rees acknowledged the sacrifice of staff and voiced his appreciation for their efforts.

11. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Sharman shared that he was looking forward to the upcoming Bloom 'N Grow event. He hoped former City Mayor Jack Quesinberry enjoyed the Evening at the Pops event to whom he donated his tickets while he was out of town visiting New York and the ground zero site with his son.

Commissioner Olszewski reiterated and echoed the City Manager's comments concerning the City's great staff. He has attended many events and talked with many Orange County residents and other city leaders who envy what we have here in the City.

Commissioner Buchanan commended staff and noted that the City was again getting geared up to have another great event. He is still hearing feedback on how nice the Pops Concert was and stated that some commented that the additional parking was great.

Commissioner Makin expressed that the City Commission gives thanks to the staff and it is not said just to say it. The City staff does a great job from planning, organizing, and seeing the event all the way through to the clean-up at the end. Our City always looks so clean and staff does a really good job. He is looking forward to the Bloom 'N Grow event this weekend and stated that Sue Crabtree always does a great job.

The meeting adjourned at 7:16 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC