



# CITY OF WINTER GARDEN

---

## CITY COMMISSION REGULAR MEETING MINUTES

May 9, 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, Economic Development Director Tanja Gerhartz, Parks and Recreation Director Jay Conn, Orlando Sentinel Reporter Stephen Hudak and West Orange Times Reporter Kelsey Tressler

### 1. **APPROVAL OF MINUTES**

**Motion by Commissioner Olszewski to approve regular meeting minutes of April 25, 2013 as submitted. Seconded by Commissioner Makin and carried unanimously 5-0.**

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

A. **Ordinance 13-04:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 40.29 +/- ACRES OF REAL PROPERTY GENERALLY LOCATED ON THE SOUTH SIDE OF ROPER ROAD EAST OF DANIELS ROAD AND WEST OF BEULAH ROAD FROM CITY R-1 TO CITY R-1B SINGLE-FAMILY RESIDENTIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 13-04 by title only. Community Development Director Williams stated that adjoining this property is a mixture of zoning categories. This applicant has requested the R1-B zoning, which are 75 foot lots. He noted that directly to the west of this property is a planned development with a series of 50 foot lots. Mr. Williams stated that staff is supporting the R1-B with the 75 foot lots and felt that they were in the area with other projects that is appropriate. Mr. Williams noted that the majority of the property is jurisdictional wetlands so only a portion of the property is subject to development. Mr. Williams shared that community meetings were held and there were no objections to the lot size from the surrounding property owners. 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 Buchanan to approve Ordinance 13-04 with the second reading and public hearing being scheduled for May 23, 2013. Seconded by Commissioner Olszewski and carried unanimously 5-0.**

- B. **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 shared that staff, Economic Development Director Gerhartz and Senior Planners Steve Pash and Laura Smith, have worked very hard on this ordinance under the direction of the City Manager. Mr. Williams stated that Ms. Smith would be giving the presentation on this item. He noted that every time he has been involved in a hearing on a sign ordinance the room has been packed with people in opposition. He noted that by taking the model ordinance and addressing it to the City's needs we do not have opposition.

City Manager Bollhoefer began a PowerPoint presentation that shared the primary reason for changing the sign code is because during hard economic times and road construction, staff gave businesses a lot of leeway with their signage. He indicated we have reached a point where we need to enforce the sign code but the current code is very restrictive. He

gave an overview of the proposed sign code that is much more liberal and more business friendly. He talked about adding a grandfather clause to the ordinance before the next reading. Implementation would be to select target areas and work with businesses to get into compliance. Grandfathering would be for legal non-conforming signs going forward, not illegal non-conforming signs without permits or permission. This ordinance does not address political signs or billboards. These will be coming back separately. The City Attorney will be drafting the political sign ordinance, which is in a different section of the code. He noted that there will be corrections to the signage ordinance as we go along.

Senior Planner Laura Smith continued the PowerPoint presentation on the proposed sign code utilizing current business signs as examples. Ms. Smith stated that effective signage is going to be visible to those driving by and will still function for pedestrians. She noted that the technical side of the new sign code is not very difficult and is probably why it is so widely accepted by businesses. This proposed sign code consolidates all chapters of the code containing signage and places them into one location.

There was discussion on the poll signs and uniform requirements for signs throughout the City. Staff is proposing change to exposed pole signs to clad pole signs. Mayor Rees indicated his concern with spending a lot of money making improvements on Dillard Street and ending up with several pole signs.

Commissioner Buchanan asked if there is a separate sign ordinance for the Historic District. Mr. Bollhoefer responded no and that was on purpose. This proposed ordinance is based on the speed limits and distance from the road. Therefore, you really do have a difference for the downtown area.

Ms. Smith addressed window signs and the proposed code allowing 20 percent coverage with flexibility. Commissioner Olszewski, as representative for most of Highway 50, stated he did attend the West Orange Chamber of Commerce sign workshop at city hall. He addressed fast food restaurants that as part of their national marketing are to have window signs and asked Ms. Smith to speak to this concern. Ms. Smith indicated a lot of the national chains don't require them to put up all the windows signs but they have chosen to do so. This ordinance allows them to have 20 percent of all their windows covered, not each.

Ms. Smith shared that banner signs (temporary signs) would be allowed up to three times a year for 30 days at a time. Snipe signs will continue to be prohibited. Mr. Bollhoefer shared that to help resolve the temporary sign issue we currently have message boards, like the one at Plant and Dillard, that could be strategically placed banner stations in key areas for non-profit advertising their events.

Commissioner Sharman addressed pole signs and the height of them. Ms. Smith responded that the height is also based on the speed limit of the road the pole is located on. For example, on a 35 to 50 mph road a pole sign could be up to 20 feet high and a 45

plus mph speed limit road would be allowed 23 feet high. Commissioner Sharman stated he may be concerned because he would like the signs as low as they can be, but keep them above landscaping so they can be seen without making it too tall. He will discuss this with the City Manager.

Mayor Rees opened the public hearing.

David Kassander, 15155 Ovation Drive, Winter Garden, Florida, stated that this sounds like it will be a great ordinance and will be a real boon to the City. He asked what constitutes windows for the computation for window signs. City Manager Bollhoefer responded that it would be the actual exterior windows in the front or side of the building. Mr. Kassander asked if the definition includes the rear of a building. Mr. Bollhoefer confirmed it includes rear windows.

Mayor Rees closed the public hearing.

**Motion by Commissioner Buchanan to approve Ordinance 13-19 with the second reading and public hearing being scheduled for May 23, 2013. Seconded by Commissioner Sharman. Motion carried unanimously 5-0.**

- C. **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 this ordinance incorporates procedures that the City is currently following in regards to sidewalk cafes and outdoor displays. There are three main components that are different in the historic downtown versus the outlying areas and shopping malls. The downtown area will not allow outside bars that serve alcohol outside, it requires fencing of the area and serving of alcohol behind the fences in front of the particular business where that license is issued, and requires sufficient seating for the area.

Mr. Williams stated that the ordinance in the other areas of the City does allow for more outside bars and restaurants. He noted that the differences between downtown and other areas will be made clearer by the second reading of this ordinance. He noted that special events in outdoor areas will require special review by the City Commission.

Commissioner Olszewski asked City Attorney Ardaman if the City could differentiate the downtown area from other areas. Mr. Ardaman responded absolutely. Commissioner Olszewski asked if this ordinance only applies to the historic downtown district. Mr.

Williams responded that the three key provisions he has mentioned only apply to the historic downtown area. The rest of the ordinance applies throughout the City.

Mayor Rees opened the public hearing.

Theo Graham, 213 W. Tilden Street, Winter Garden, Florida, stated he did some research and in South Florida they require that a customer in a sidewalk café must order food to be able to order and drink alcohol at the restaurant. He also noted that gross receipts should show proof of 51 percent of sales being for food versus alcohol in order to be a restaurant; he understands there have been no complaints or anyone checking on it. Mr. Graham addressed the requirement that the establishment must be at least 1200 feet from a church. He would like it clearly stated they have to order food in order to drink alcohol and if they only want to drink alcohol, they have to go inside.

Pat Primrose, 117 Steinbeck Street, Winter Garden, Florida, shared that sometimes people eat first and then have a drink after.

Mayor Rees closed the public hearing.

**Motion by Commissioner Buchanan to approve Ordinance 13-20 with the second reading and public hearing being scheduled for May 23, 2013. Seconded by Commissioner Makin and carried unanimously 5-0.**

- D. **Ordinance 13-21:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.37 ± ACRES LOCATED AT 920 VINELAND ROAD ON THE WEST SIDE OF VINELAND ROAD NORTH OF WEST MORGAN STREET AND SOUTH OF BROAD 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 13-22:** 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 0.37 ± ACRES LOCATED AT 920 VINELAND ROAD ON THE WEST SIDE OF VINELAND ROAD NORTH OF WEST MORGAN STREET AND SOUTH OF BROAD STREET FROM ORANGE COUNTY LOW MEDIUM DENSITY TO CITY RESIDENTIAL NEIGHBORHOOD COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
- F. **Ordinance 13-23:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.37 ± ACRES LOCATED AT 920 VINELAND ROAD ON THE WEST SIDE OF VINELAND ROAD NORTH OF WEST MORGAN STREET AND SOUTH OF BROAD STREET FROM ORANGE COUNTY R-2 RESIDENTIAL DISTRICT TO CITY R-NC RESIDENTIAL NEIGHBORHOOD

COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 13-21, 13-22, and 13-23 by title only. Community Development Director Williams stated that this is a voluntary annexation, a request for comprehensive plan designation, and rezoning. This has been reviewed by staff and the Planning and Zoning Board and approval is recommended by both.

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

**Motion by Commissioner Olszewski to approve Ordinances 13-21, 13-22, and 13-23 with the second readings and public hearings being scheduled for May 23, 2013. Seconded by Commissioner Sharman and carried unanimously 5-0.**

- G. **Ordinance 13-24:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 3.689 ± ACRES LOCATED AT 17929 MARSH ROAD ON THE NORTH SIDE OF MARSH ROAD, WEST OF WILLIAMS ROAD AT THE WEST BOUNDARY OF ORANGE COUNTY 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 13-25:** 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 3.689 ± ACRES LOCATED AT 17929 MARSH ROAD ON THE NORTH SIDE OF MARSH ROAD, WEST OF WILLIAMS ROAD AT THE WEST BOUNDARY OF ORANGE COUNTY FROM ORANGE COUNTY VILLAGE TO CITY URBAN VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 13-24 and 13-25 by title only. Community Development Director Williams stated that this is a voluntary request by the owner to be annexed into the City and obtain a future land use designation. This area is designated for urban village and will have to come back to the City Commission for PUD zoning at a later date. The Planning and Zoning Board and staff have reviewed this and recommend approval.

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

**Motion by Commissioner Makin to approve Ordinances 13-24 and 13-25 with the second readings and public hearings being scheduled for May 23, 2013. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

I. **Ordinance 13-26:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE CITY OF WINTER GARDEN FISCAL YEAR 2012-2013 BUDGET; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 13-26 by title and the following excerpt from Ordinance 13-26 as follows:

<b><u>REVENUES</u></b>	
General Fund	\$730,172
Downtown Parking District Fund	5,305
Law Enforcement Trust Fund	77,650
Local Option Gas Tax Fund	185,140
Transportation Impact Fee-CR545	
Special Benefit Area Fund	(136,641)
Transportation Impact Fee-General Fund	1,680,298
Utility Operating Fund	1,278,738
Utility Impact Fee Fund	1,528,409
Utility Renewal and Replacement Fund	366,420
Stormwater Fund	257,736
Trailer City Fund	<u>20,575</u>
	\$5,993,801

Mr. Ardaman noted that the expenditures being itemized identically to those of revenues in the same amount.

Finance Director Zielonka stated that this is for the budget mid-year adjustments used to account for the changes since the original budget.

City Manager Bollhoefer noted that fund balance will be used. It will be a small amount of the fund balance especially considering some of the items that have been added to the general fund. One item is \$55,000 that will be used for replacing bleachers at one of the City's fields (Walker) as they have become unsafe. Another item is \$180,000 for expanding the City Hall parking lot, which may be taken out at a later date. He shared that the nearby apartment complex has been sold and Economic Development Director Gerhartz has been working with the new owner in hopes of turning the apartments into business units in order to clean up the eyesore. If there is an upgrade, the funds would be used for adding 55 parking spaces for the business units. In addition, the spaces would add more parking for the Farmer's Market.

Commissioner Makin asked if there were any plans to go across the street towards the maintenance building. Mr. Bollhoefer replied that staff is in the process of preparing a master plan of the entire downtown area for the City Commission. Commissioner Sharman agreed that we need to be looking to the next 20 to 30 years. Mayor Rees stated his agreement that we need to have a long-term plan.

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

**Motion by Commissioner Makin to approve Ordinance 13-26 with the second reading and public hearing being scheduled for May 23, 2013. Seconded by Commissioner Sharman and carried unanimously 5-0.**

3. **REGULAR BUSINESS**

A. **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 that staff has completed the request for qualifications process for engineering services. He stated that it has been approximately five years since the City has been through this process. Staff is recommending Pegasus Engineering, Tetra Tech Engineering, and BFA Engineering. These engineering services will include utility services, roadway, stormwater, traffic control, etc. and staff recommends approval of the rankings and contracts with these engineers.

Commissioner Sharman asked if any of these top recommended businesses are located in the City of Winter Garden. City Manager Bollhoefer responded that he has been working on this issue and there is one business in the City between the two agenda items (3.A & 3.B). Staff will be bringing back one company currently doing work for the City that is located in the City.

**Motion by Commissioner Olszewski to approve qualification rankings and contracts for continuing professional engineering services with Pegasus Engineering, Tetra Tech Engineering, and BFA Engineering. Seconded by Commissioner Sharman and carried unanimously 5-0.**

B. **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.**

Public Services Director Cochran stated that staff is recommending four firms for professional surveying services; Southeastern Surveying, Atlantic Surveying, CPH Engineering and Surveying, and Allen & Company, Inc. Mr. Cochran noted that at least two of these firms are located in the City of Winter Garden. These firms will be mostly utility, roadway, and survey services for the engineering groups. Mr. Cochran explained the rotation process of who will be called for the services based on who can get to us the quickest.

**Motion by Commissioner Sharman to approve qualification rankings and contracts for continuing professional surveying services with Southeastern Surveying, Atlantic Surveying, CPH Engineering and Surveying, and Allen & Company, Inc. Seconded by Commissioner Makin and carried unanimously 5-0.**



4. **MATTERS FROM CITIZENS** - There were no items.

5. **MATTERS FROM CITY ATTORNEY**

City Attorney Ardaman stated that he has two cases he is bringing to the City Commission for approval consideration of a settlement agreement and general release; Case No. 2012-CA-006478-O Prince Contracting LLC, a public records lawsuit and Case No. 2012-CA-012372-O Prince Contracting LLC vs. City of Winter Garden. Settlement of these cases is being recommended in order to conserve tax payer dollars. He stated that they think at the end of the game it will be a substantial savings to the City. He recommends that if the City Commission approves the settlement agreement and general release, they also authorize the Mayor to execute it on behalf of the City making the settlement and delivery of the settlement agreement conditioned upon PRM (Public Risk Management) paying \$50,000.00 towards the settlement.

**Motion by Commissioner Olszewski to authorize Mayor John Rees to execute the settlement agreement with the condition that PRM contribute \$50,000 to the settlement. Seconded by Commissioner Sharman and carried unanimously 5-0.**

6. **MATTERS FROM CITY MANAGER**

**City Manager Bollhoefer** stated that he was at a meeting recently with other government officials who ribbed him about the City Commission's decision to write a letter to Orange County to see what could be done to save the dog Rufus. He was questioned whether it was City business to get involved with saving the dog. He shared about a recent rescue of a local 15-year-old pug that was half blind and deaf who escaped and got stuck in the mud in Lake Apopka. In a combined effort by staff, they rescued the dog and returned the dog to his home. He gave several examples of how staff has gone above and beyond when it comes to rescuing animals.

Mr. Bollhoefer stated he was asked why the City of Winter Garden is getting involved in Orange County Animal Services business. He has concluded that we are all residents and taxpayers of Orange County and are customers of that service. We are really owners of that organization and not only have a right, but an obligation to comment on what they do when it comes to taking care of animals. When people ask what separates the City of Winter Garden from other cities is not mortar and bricks, fountains, theatres, and brick roads, but we are a community of people who care about other people.

7. **MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Sharman** was curious to know if Rufus has a home yet. Mr. Bollhoefer shared that Rufus was back home. Commissioner Sharman hopes that out of all this, people are more aware of adopting pets from the animal shelters and saving pets that aren't in the news. Thousands are put down each year that could be saved by being rescued.

**Commissioner Olszewski** complimented Orlando Sentinel Reporter Stephen Hudak for his being one of three national finalists for the Pulitzer Prize in the local reporting category.

Commissioner Olszewski announced and invited everyone to attend a Mother's Day event at the Maxey Center tomorrow at 1:00 p.m.

Commissioner Olszewski gave a special thank you to Pastor Bill Barnes of the St. Luke's United Methodist Church and Dr. Phillips, along with their Executive Director of Ministry Lynette Fields. He stated that an east Winter Garden community was selected to be their first community transformation project.

Commissioner Olszewski stated that it was an honor to be with Police Chief Brennan and Winter Garden Police Officers last week at the Orange County Law Enforcement Memorial. He acknowledged two of the City of Winter Garden fallen officers represented on the memorial, William Benton in 1942 and Dalton Fleming in 1959 in the protection and service to Winter Garden.

Commissioner Olszewski thanked the City Commission and Mike Bollhoefer for their leadership and Mike Bollhoefer for his kind words.

**Commissioner Buchanan** recognized City Manager Bollhoefer and staff for their hard work on the new sign code. He commended Mr. Bollhoefer on his efforts in meeting the communities need for information on issues so that there is not the crowd of complaints when decisions come to the City Commission for review.

**Mayor Rees** stated that the City Manager said it all when he said the people make this town and our staff is service oriented and do a great job.

The meeting adjourned at 7:53 p.m.

APPROVED:

\_\_\_\_\_/S/\_\_\_\_\_  
Mayor John Rees

ATTEST:

\_\_\_\_\_/S/\_\_\_\_\_  
City Clerk Kathy Golden, CMC