



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

November 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 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, Economic Development Director Tanja Gerhartz, Recreation Director Jay Conn, and West Orange Times Reporter Peter M. Gordon

1. **APPROVAL OF MINUTES**

Motion by Commissioner Olszewski to approve regular meeting minutes of October 24, 2013 as submitted. Seconded by Commissioner Buchanan and carried unanimously 5-0.

2. **PUBLIC HEARING MATTER**

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 stated that this project has had a lot of issues to be addressed and requested that a full site plan be submitted. Staff has been concerned with this site from the beginning with it being too small, the wrong configuration, and at the wrong location to accommodate what they are trying to do. He shared that the applicant has not been willing to change their prototype building or make certain changes to try and make the site fit. He addressed the most serious issues which includes access by delivery vehicles and turning lanes. He described the proposed changes on Walker Street (shown on page 5 of the attached **Exhibit A**) that both parties have reached agreement. He also addressed the issue of delivery trucks turning off of State Road 50 to access the site. He noted that there would be damage to the medians made by certain trucks, which would be the City's responsibility to repair as the owner. If the changes are approved, staff would ask that there be some type of an agreement that they (AutoZone) would reimburse the City for any damage to the medians made by their delivery vehicles; enforcement would not be possible.

Mr. Williams stated that at this point, staff is seeking direction from the City Commission as to whether they would like to live with the proposed modifications to the medians, for which the City would be responsible, or agree to restrict access to only one direction, or that this site plan will not work for delivery vehicles. He noted another option discussed that the applicant was not willing to do is to reduce the size of the delivery vehicles.

Commissioner Makin asked if the modification of the medians would require going back to the Florida Department of Transportation (FDOT) for approval. **Mr. Williams** responded yes, they would have to go back to FDOT, but since the City is maintaining the medians, that should not be too difficult to get it approved.

Josh Lockhart with CPH Engineering stated that he is the engineer of record for this project and was here to address both the variance and modifications to State Road 50. He gave a PowerPoint presentation (attached **Exhibit B**) noting that the site currently contains two single family residences and one commercial building. The parcel was annexed into the City in May of 2012 and is zoned C-2 with retail auto parts being an appropriate use. He noted that the variance request is for a 6.86 foot building setback and landscape buffer were the City requires 10 feet. Mr. Lockhart also spoke of the landscape plan and its design which will incorporate several existing trees, other trees, and scrubs to enhance the property. The access is a full in movement and a left out only movement. **City Manager Bollhoefer** asked if the proposed median changes would remove the landscaping. **Mr. Lockhart** responded that it would take out a good portion of it. **Mr. Bollhoefer** shared that the additional landscaping plans with FDOT include crape myrtles along the current stretch of median being discussed. **Mr. Lockhart** addressed his proposed modifications for State Road 50 and sought the City Commission's direction on the proposed modifications.

Mayor Rees noted that it seems like the City Commission is being put in a position whether AutoZone is unable or unwilling to reduce the size of the store so it takes care of the variance and also reduce the size of the delivery trucks. He noted that from his standpoint, the landscaping and the variance would be easier to solve. He shared that he would probably be opposed to reducing the size of the median after all of the time and beautification efforts done in this area.

Commissioner Makin expressed that he likes the site and did not have problem with an AutoZone being there, but it has always been the flow of traffic coming in. The dumping of all the traffic in and out on Walker Street has always been his concern. He noted with the options as stated, a truck with no option to go will stack traffic onto State Road 50 or they will go into that residential neighborhood and coming out there. He noted that the City Commission has never received documentation from the applicant from FDOT that they support the modifications. **Mr. Lockhart** noted that he made the initial contact with FDOT and there is no warrant to allow for a separate driveway. Unfortunately, with FDOT if there is a change of use, FDOT will make you start from scratch.

Commissioner Buchanan stated that he does not want to modify the medians because the City has already spent several million dollars on upgrading lights, plants, and irrigation. He

noted that when a truck driver has a delivery he doesn't care how he gets in. He noted that the Planning and Zoning Board has already denied this site plan. He stated that Winter Garden has shown that we are pro-business and we are not trying to run business out. He shared that we would love to have an AutoZone here but he personally does not think that this site is a good fit.

City Manager Bollhoefer asked if anyone has checked to see if our fire tower would be able to get in and out of this location. **Mr. Lockhart** responded that they did not run a fire truck through it but as wide as Walker Street will be, at 28 feet, it should be more than accommodating.

Commissioner Olszewski asked the City Attorney if approved by the City Commission, will it set precedence for other business wanting to do the same in the future. **City Attorney Ardaman** replied no, each parcel is different in so many ways.

Commissioner Olszewski asked Mr. Williams if there were any concessions made by the owner/AutoZone to make this feasible for the City of Winter Garden. **Mr. Williams** responded he does not think they have made any concessions, unless you want to consider the improvements to Walker Street a concession, but he considers it access improvements; there is also additional landscaping.

Victor Chapman, as representative of the property owners, stated they are trying to accommodate the City's requests and asked what else they can do. All their proposals have been shot down. AutoZone has two building models and have been standardized as part of their business plan. There was discussion on what the options are. **Mr. Williams** added that they could control the times of their deliveries and the size of the delivery trucks; reducing the size would resolve a lot of the access issues. **Mr. Lockhart** stated he cannot speak for AutoZone, who were not present, on these options. **Mr. Bollhoefer** added that they can look at possibly moving the building further east; increasing the variance request.

Motion by Commissioner Sharman to postpone the appeal by AutoZone to the Planning and Zoning Board site plan denial. Seconded by Commissioner Olszewski and carried 4-1; Commissioner Buchanan opposed.

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

A. **Ordinance 13-34**: 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 32.884 ± ACRES LOCATED NORTH OF THE INTERSECTION OF NORTH FULLERS CROSS ROAD AND EAST FULLERS CROSS ROAD FROM ORANGE COUNTY RURAL/AGRICULTURAL TO CITY CONSERVATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 13-34 by title only. Community Development Director Williams stated this property is proposed to be included in the planned development of the property to the south which is known as the Roper Property. The property owner is acquiring this piece to solve some problems that they caused when they had only the other two properties. He noted that this parcel is all wetlands and will remain so. He noted that the original planned development was approved at a low density residential use and the PUD zoning gained three additional lots as compared to the standard zoning. In exchange for that, it gained additional right of way, sewer line extensions, and better landscaping. Staff and the Planning and Zoning Board recommend approval subject to the conditions.

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

Motion by Commissioner Makin to approve Ordinance 13-34 with staff's recommended conditions and the second reading and public hearing being scheduled for December 12, 2013. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- B. **Ordinance 13-48**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 11.1 ± ACRES LOCATED AT 1205 EAST FULLERS CROSS ROAD ON THE NORTH SIDE OF EAST FULLERS CROSS ROAD, EAST OF NORTH WEST CROWN POINT ROAD AND WEST OF EAST CROWN POINT 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 13-49**: 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 11.1 ± ACRES LOCATED AT 1205 EAST FULLERS CROSS ROAD ON THE NORTH SIDE OF EAST FULLERS CROSS ROAD, EAST OF NORTH WEST CROWN POINT ROAD AND WEST OF EAST CROWN POINT ROAD FROM ORANGE COUNTY PLANNED DEVELOPMENT – LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
- D. **Ordinance 13-50**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 11.1 ± ACRES LOCATED AT 1205 EAST FULLERS CROSS ROAD ON THE NORTH SIDE OF EAST FULLERS CROSS ROAD, EAST OF NORTH WEST CROWN POINT ROAD AND WEST OF EAST CROWN POINT ROAD FROM ORANGE COUNTY A-2 FARMLAND RURAL DISTRICT TO CITY R-1B RESIDENTIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 13-48, 13-49, and 13-50 by title only. Community Development Director Williams stated this property is located on the north side of Fullers Cross Road. The property while in the county was approved for a plan development land use that would have allowed up to 44 units on the property. The applicant is proposing to annex into the City, amend our future land use map, and rezone the property to R-1B, which would allow 26 lots. Staff feels it is appropriate with the additional open space and amenities that they will be providing. He noted that each lot will be over 10,000 square feet in size. Staff and the Planning and Zoning Board are recommending approval of the annexation, future land use designation, and rezoning.

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

Motion by Commissioner Olszewski to approve Ordinances 13-48, 13-49, and 13-50 with second reading and public hearing being scheduled for December 12, 2013. Seconded by Commissioner Makin and carried unanimously 5-0.

- E. **Ordinance 13-66:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.83 ± ACRES LOCATED AT 1150 AND 1170 ELBOC WAY ON THE WEST SIDE OF ELBOC WAY SOUTH OF WEST COLONIAL DRIVE FROM CITY I-2 GENERAL INDUSTRIAL DISTRICT TO CITY C-2 ARTERIAL COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
- F. **Ordinance 13-67:** 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 0.83 ± ACRES LOCATED AT 1150 AND 1170 ELBOC WAY ON THE WEST SIDE OF ELBOC WAY SOUTH OF WEST COLONIAL DRIVE FROM INDUSTRIAL TO COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 13-66 and 13-67 by title only. Community Development Director Williams stated that he is very happy to bring this request which shows a very interesting trend in the City along State Road 50. Due to the road widening on State Road 50 and improvements in the area, the industrial properties are converting to commercial uses. The Planning and Zoning Board and staff recommend approval.

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

Motion by Commissioner Olszewski to approve Ordinance 13-66 and 13-67 with the second reading and public hearing being scheduled for December 12, 2013. Seconded by Commissioner Sharman and carried unanimously 5-0.

- G. **Ordinance 13-68:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 35.176 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED AT 14288, 14350, AND 14362 SIPLIN ROAD AT THE SOUTHWEST CORNER OF SUNRIDGE BOULEVARD AND SIPLIN ROAD, FROM NO ZONING (NZ) TO PLANNED UNIT DEVELOPMENT (PUD); PROVIDING FOR CERTAIN PUD REQUIREMENTS AND DESCRIBING THE DEVELOPMENT AS THE BLACK LAKE PRESERVE PUD; PROVIDING FOR NON-SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 13-68 by title only. Community Development Director Williams stated that this is another project that is occurring in close proximity to the two schools recently built on the south side of Sunridge Boulevard and west of Siplin Road. The project is a mixture of 70 and 75 foot lots that would total approximately 91 lots. He noted that there are a number of conditions and developer agreements called for in this rezoning. They address the widening of Sunridge, improvements to Siplin, and improving the entire road network in that area. Staff and the Planning and Zoning Board have reviewed this project and recommend approval.

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

Motion by Commissioner Buchanan to approve Ordinance 13-68 with the second reading and public hearing being scheduled for December 12, 2013. Seconded by Commissioner Makin and carried unanimously 5-0.

4. **FIRST AND FINAL READING WITH PUBLIC HEARING FOR PROPOSED RESOLUTION**

- A. **Resolution 13-03:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA NOTICING ITS INTENT TO USE THE UNIFORM METHOD FOR COLLECTION OF A NON-AD VALOREM SPECIAL ASSESSMENT TO IMPROVE THE STORMWATER AND DRAINAGE MANAGEMENT INFRASTRUCTURE AND SYSTEMS LOCATED ON, ABOUT, OR WITHIN PHASE I OF THE LAKE COVE POINTE SUBDIVISION; STATING THE NEED FOR THE LEVY OF SUCH NON-AD VALOREM ASSESSMENT; PROVIDING A DESCRIPTION OF THE REAL PROPERTY SUBJECT TO THE LEVY, NOTICE TO THE STATE AND COUNTY AS REQUIRED BY LAW, AND AN EFFECTIVE DATE

City Attorney Ardaman read Resolution 13-03 by title only. City Manager Bollhoefer stated that some time back the City Commission agreed to work with the community of Lake Cove Pointe to address their drainage issues. At that time, the agreement was that the developer of Phase II would contribute one-third of the cost, the residents would pay one-third, and the City would pay one-third. The one-third that the residents were to pay was to be done by special assessment so the residents would not have to pay it all up front. He noted that it was either to be by a 10 or 20-year resolution, which has not been

finalized. This resolution is to start the process that will allow the City to place it on the tax roll. He noted that approval does not lock the City into doing this going forward as there are still a few issues staff is still trying to work through with the developer. He noted that the City needs to approve this resolution in order to put it on the next property tax bill. He noted that almost every single resident was in favor; except for one couple. Mr. Bollhoefer explained that originally the City wanted the HOA board members to meet and officially vote in support of this issue before moving forward. He noted that the subdivision has not yet been turned over to the residents so staff is trying to get the developer to have the meeting and make that vote to support this action.

There was discussion on trying to get this meeting to happen and the uncertainty of who is actually in charge of the board. Mr. Bollhoefer spoke of the City's leverage in putting a hold on all future home permits in Phase II until this is settled. There is no need to punish the residents because of a failure on the part of the developer.

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

Motion by Commissioner Buchanan to approve Resolution 13-03. Seconded by Commissioner Makin and carried unanimously 4-1; with Commissioner Olszewski opposed.

5. **REGULAR BUSINESS**

A. **Recommendation to approve purchasing two 2013 side-loading refuse trucks for \$470,230.00**

Public Services Director Cochran stated that staff is recommending the purchase of two 2013 side-loading refuse trucks. He noted that it is a Load All Mag20 automated side loader, a one armed truck that is operated by a single driver. The purchase price for each truck is \$235,115 for a total price for both trucks is \$470,230. Staff recommends piggy-backing the bid obtained by the City of Venice. He described the replacement of two trucks and that one older truck would be kept as a back-up.

There was a question on the efficiency of these trucks and shared that the Solid Waste Manager has timed the routes. He described the process of a two man truck versus a one man truck with the one man truck completing the route in two hours less than the truck with two men. Mr. Cochran noted that not all trucks will be converted to these trucks as all neighborhoods are not compatible due to certain obstacles in the way. He noted that they are very efficient and the citizens have adapted well.

Motion by Commissioner Olszewski to approve purchasing two 2013 side-loading refuse trucks for \$470,230. Seconded by Commissioner Sharman and carried unanimously 5-0.

B. **Request to waive Tanner Hall rental fees by East Winter Garden Development Corporation, Inc. (Non-profit) for their annual fundraiser**

City Manager Bollhoefer stated that the City Commission has waived these fees in the past whenever they have had their fundraiser and staff's recommendation is to waive these fees but will review these types of events going forward.

Motion by Commissioner Olszewski to approve waiving Tanner Hall rental fees for East Winter Garden Development Corporation, Inc. (Non-profit) to hold their annual fundraiser. Seconded by Commissioner Sharman and carried unanimously 5-0.

C. **Recommendation to approve Hickory Hammock Phase 1A Final Plat**

Community Development Director Williams stated that Hickory Hammock was stalled during the economic downturn. The new owners are moving rapidly and with the approval of this plat, new houses will be coming out of the ground. He noted that it is going to be a good project with a great location. It has been reviewed for compliance with all conditions and the code; approval is recommended.

Motion by Commissioner Sharman to approve Hickory Hammock Phase 1A Final Plat. Seconded by Commissioner Buchanan and carried unanimously 5-0.

D. **Recommendation to approve the 2014 Winter Garden Bike Fest on March 8, 2014**

Parks and Recreation Director Conn stated that the City has received a request from Dennis Jones to hold his Bike Fest of 2014. He noted that this is a series of timed races throughout the downtown area with the bikes travelling through several residential streets as well as Plant Street. He shared that Mr. Jones has complied with several requests that staff has required; one being the compacting of the hours of the race. He noted that Plant Street should be ready for re-opening by 3:30 or 4:00 p.m. Mr. Jones has also agreed to pay for some of the city services for this event and has received the approval of the downtown merchants. Staff recommends approval.

Commissioner Olszewski stated that last year the City Commission was contacted by a particular merchant who was unhappy with the event and wondered if that merchant was happy with what would be going on with this event. Mr. Conn responded that the support of the event was made through the Downtown Merchants Association and he is not certain if the particular merchant mentioned was contacted. Mr. Bollhoefer responded that it is his understanding that the merchant is still not happy and major changes were made to accommodate him. Mr. Bollhoefer noted that last year there were two complaints and the second person is now happy with this event.

Motion by Commissioner Makin to approve the 2014 Winter Garden Bike Fest on March 8, 2014. Seconded by Commissioner Sharman and carried unanimously 5-0.

6. **MATTERS FROM PUBLIC** - There were no items.

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

8. **MATTERS FROM CITY MANAGER**

A. **Discussion on allowing the West Orange High School to hold a chili cook-off in downtown Winter Garden**

City Manager Bollhoefer stated that the Future Farmers Association (FFA) of West Orange High School is looking to raise funds and a place to have a chili cook-off in the downtown area of Winter Garden. He described that it would be various groups in the high school competing against each other and would possibly hold this event in the old Planning and Zoning Department parking lot. He noted that staff has realized we are having far too many events and do not want to add any more events going forward. He suggested that this be a one-time event.

Motion by Commissioner Makin to approve allowing the West Orange High School to hold a chili cook-off in downtown Winter Garden. Seconded by Commissioner Sharman and carried unanimously 5-0.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Buchanan stated that he had two great experiences this past week. One was going to Health Central Park and talking with the veterans for a Veterans Day service. He noted that they wanted to refurbish their area and inquired if there was any way the City could help.

Commissioner Buchanan stated that this past week was the Corn Festival event that resulted in sales of over \$800 worth of corn at \$2 each. It was a lot of fun.

Commissioner Olszewski thanked city employee Sebrenia Brown who held a cancer benefit at the Jessie Brock Center to raise funds for Winter Garden families affected by the cancer.

Commissioner Olszewski thanked former City Commissioner Charlie Mae Wilder who hosted a Veterans Event at Bethlehem Baptist Church.

Commissioner Olszewski thanked the City Commission for their support of the East Winter Garden Community Development Corporation annual gala who will be having their fundraising event tomorrow. He will be in attendance with Florida State Representative Randy Bracey and his wife.

Commissioner Sharman stated that he has received an e-mail and a few phone calls from Sharon Lambert, who is in attendance tonight, regarding other cities passing an ordinance that addresses people leaving flyers in driveways. This is a concern for those who are on vacation or away with papers piling up, making them a target for burglaries. He shared that the City of Altamonte [Springs] has an ordinance that the City of Winter Garden should review for enforceability and the pros and cons. City Manager Bollhoefer noted that some items in the Altamonte [Springs] ordinance are illegal and some are probably unconstitutional, but this will be reviewed by the attorney at the City next DRC meeting.

The meeting adjourned at 7:48 p.m.

APPROVED:

____/S/_____
Mayor John Rees

ATTEST:

____/S/_____
City Clerk Kathy Golden, CMC