



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

December 12, 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, Fire Chief John Williamson, Police Chief George Brennan, Building Official Skip Lukert, Economic Development Director Tanja Gerhartz, Parks and Recreation Director Jay Conn, and West Orange Times Reporter Peter M. Gordon

1. **APPROVAL OF MINUTES**

Motion by Commissioner Buchanan to approve regular meeting minutes of November 14, 2013 as submitted. Seconded by Commissioner Makin 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 he has distributed a supplemental report this evening. The applicant heard the direction the City Commission was going in at the last meeting and have revised their site plan to push the building further east that requires a greater variance. This change allows better maneuvering for delivery vehicles on the site. In addition, the applicant heard the concerns expressed about trucks travelling through the median and have agreed to enter into a developer's agreement that will restrict all their deliveries from the west, with deliveries only being made from the east heading west. The agreement will include a provision for a \$500 fine anytime their delivery vehicles are caught using the (SR 50) median. If they do any damage to the (SR 50) median, they are willing to put up some type of financial guarantee in the amount of around \$25,000 to pay for any damage should it occur at the median if a driver violates the provisions.

Mr. Williams stated that staff feels that with these changes there is now a reasonable approach to proceed with the project and is recommending approval with the conditions

stated. He noted that the actual developer's agreement would not be done until the applicant submits a site plan for the actual development of the property. He asked the City Commission to use the development agreement as a condition if approving the variance.

Commissioner Sharman thanked Commissioner Makin and Community Development Director Williams for their efforts in working out this project's issues.

Commissioner Buchanan expressed that he still does not think that this particular project is good for that area. He does not think it fits even with the discussed variances; however, there has been some progress. One being the \$500 fine for any median damage and the \$25,000 deposit, which makes him feel a lot stronger that things will be addressed regarding the east access. Mr. Williams clarified that the applicant does control the delivery trucks and the employees; they do not contract with an outside company.

Mayor Rees opened the public hearing.

Lucille Verhoest, 175 Water Street, Winter Garden (Un-incorporated), Florida, stated that she lives right behind the proposed project and voiced her concerns about extra traffic on her street, safety concerns for the children that live there, trash issues, and lighting. She asserted that they already have concerns with the current nearby store and feels that this will only make matters worse and is opposed to another auto parts store.

Commissioner Olszewski asked Ms. Verhoest's if she has been contacted by City staff or anyone else regarding this project. Ms. Verhoest stated that she has been informed and has attended the meetings, and the only information she has received has been from the City Commission meetings.

City Manager Bollhoefer asked Greg Lee to address deliveries.

Greg Lee with the Baker and Hostetler Law Firm, 200 S. Orange Avenue, Orlando, Florida, on behalf of AutoZone, stated deliveries are during the day, once a week, and during non-peak hours. AutoZone owns all their locations, delivery trucks, and employ all their drivers and they will be able to control whatever is needed. Commissioner Sharman asked what the hours of operation are. Mr. Lee responded that their hours are 7 a.m. until 9 p.m., with no nighttime deliveries. He clarified that non-peak hours are not during early morning school drop-offs, not during lunch hour, and not during rush afternoon traffic.

City Attorney Ardaman asked Mr. Lee if the applicant agrees with staff's recommendations. Mr. Lee stated they do agree and have provided the City Clerk with a letter agreeing to come up with policies and enforce it on their employees to honor the terms. Included is a summary of what they will agree to in the development agreement. They completely concur.

Mayor Rees closed the public hearing.

Motion by Commissioner Makin to approve the appeal of the Planning and Zoning Board's denial with staff's recommendations (see attached Exhibit A). Seconded by Commissioner Sharman and carried unanimously 5-0.

3. FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCE

A. **Ordinance 14-03:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 13.46 ± ACRES LOCATED AT 1006 EAST CROWN POINT ROAD ON THE WEST SIDE OF EAST CROWN POINT ROAD, NORTH OF CROWN POINT CROSS ROAD AND SOUTH OF MISTFLOWER LANE FROM CITY NZ NO ZONING DISTRICT TO CITY R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 14-03 by title only. Community Development Director Williams stated that this church property was previously annexed, but did not proceed with the zoning at that point in time. There were issues at that time on the type of zoning and use they wanted for the property. They are now looking to expand the church so a zoning category is needed for the property. Staff is recommending the R-1 single family, which allows churches and those customary uses. This has been reviewed by both the Planning and Zoning Board and staff who both recommend approval.

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

Motion by Commissioner Buchanan to approve Ordinance 14-03 with the second reading and public hearing being scheduled for January 9, 2014. Seconded by Commissioner Makin and carried unanimously 5-0.

4. SECOND 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 that this property is a wetland conservation area. It was annexed into the City and is joining with the planned development to the south on the Roper property. It will not allow for any additional units, any development, any change in zoning. This is to establish a conservation future land use designation on the property. In the long term, the applicants are looking at some recreational use such as a possible boardwalk and wildlife observation areas. Staff recommends approval.

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

Motion by Commissioner Makin to adopt Ordinance 13-34. Seconded by Commissioner Sharman 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 that the applicant is requesting a postponement to January 9, 2014. The surveyor is having a problem getting the legal description to close and a postponement is needed so the error can be found and corrected.

Motion by Commissioner Sharman to approve postponing Ordinances 13-48, 13-49, and 13-50 until January 9, 2014 at 6:30 p.m. 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 this is the kind of change the City is looking to see along State Road 50. The City is trying to get rid of some of the industrial uses and convert them to commercial. Staff and the Planning and Zoning Board both recommend approval.

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

Motion by Commissioner Buchanan to adopt Ordinances 13-66 and 13-67. 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 property is on the south side of SunRidge across from the two new schools built. This past year the property was annexed and received a comprehensive plan designation from the City. This is the planned unit development for the zoning that the applicant has submitted. The Planning and Zoning Board and staff have both reviewed this item and recommend approval with a series of conditions.

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

Motion by Commissioner Sharman to adopt Ordinance 13-68. Seconded by Commissioner Buchanan and carried unanimously 5-0.

5. **REGULAR BUSINESS**

A. **Recommendation to approve entering into the Canopy Oaks Developer Agreement (Roper Road)**

Community Development Director Williams stated that this item is a developer agreement for Canopy Oaks, which is located on Roper Road. This was formerly approved as a church site that was never developed on the property. They are now in the process of getting a subdivision plan approved on the property. This developer's agreement memorializes conditions and requirements on this project, including their participation in the [traffic] signal that will be erected at Roper Road and Daniels Road. Staff recommends approval.

Mayor Rees noted that with this development there will finally be a much needed traffic signal as it has been a concern for many people. There was discussion on saving the trees.

Motion by Commissioner Buchanan to approve entering into the Canopy Oaks Developer Agreement presented. Seconded by Commissioner Makin and carried unanimously 5-0.

B. **Recommend approval to sell alcohol at two fundraising events benefiting the American Cancer Society; Uncle Don's Chili Cook-off on February 1, 2014 and Blues and BBQ on February 22, 2014, with consumption confined to the pavilion area**

Parks and Recreation Director Conn stated that staff is requesting permission to sell beer at two spring time events as has been done in the past. They are the Uncle Don's Chili Cook-off on February 1, 2014 and the Blues and BBQ event on February 22, 2014. These events are fundraisers for the City's Relay for Life team benefiting the American Cancer Society. He noted that there will also be a fenced alcohol consumption area.

Motion by Commissioner Sharman to approve the sale of alcohol at two fundraising events benefiting the American Cancer Society; Uncle Don's Chili Cook-off on February 1, 2014 and Blues and BBQ on February 22, 2014, with consumption confined to the pavilion area. Seconded by Commissioner Makin and carried unanimously 5-0.

C. **Recommendation to authorize the City Manager to execute agreements to acquire right-of-way and access, and drainage easement from Foundation Academy for County Road 545 and Tilden Road intersection improvements**

Community Development Director Williams stated that the City has retained a consultant to design improvements to CR 545. One of the priorities is the CR 545 and Tilden Road intersection with a grade elevation change. That project will start in the first quarter of

the year. He noted that in handling the stormwater the City had several options. None of them are good, especially with the price of land escalating in that area because of all the development. The City's design engineer, Pegasus Engineering, worked with Foundation Academy who is willing to sell two acres for the pond on their property. A mutually beneficial arrangement has been worked out. Pegasus Engineering estimates that even with the cost of the land, conservatively, the City will save \$150,000 to 200,000, by putting the ponds here rather than using massive pipes for draining to another pond several miles away. Staff recommends approval to authorize the City Manager to enter all the necessary agreements to get this two acre pond, drainage, and access easement as requested.

Mayor Rees inquired on the duration of the project since it will be starting in the first quarter. Mr. Williams replied that he is not sure, but imagines that it is a major project because of dropping the elevations to fit in with the other roads. He anticipates that it will be a six to nine month project. He noted that the project on Marsh Road will be quicker because the improvements are not as extensive and we do not have a huge grade change.

Motion by Commissioner Sharman to approve authorizing the City Manager to execute agreements to acquire right-of-way and access, and drainage easement from Foundation Academy for County Road 545 and Tilden Road intersection improvements. Seconded by Commissioner Buchanan and carried unanimously 5-0.

D. Recommendation to hire Cavanaugh Macdonald Consulting, LLC to perform actuarial services

City Manager Bollhoefer stated that every year the City is reimbursed funds from the State for insurance taxes. The City is allowed to use these funds to cover pension costs in lieu of using our taxes. The strange rule with this is that you can only use those funds to pay for benefits that were increased, he believes, after 1991. As we are structured now, each year the City has to give the State back a certain amount of the funds. He stated that he believes that by hiring an actuary, an analysis can be done and possibly change the way some the calculations are done. The City may be able to retain some of the funding and apply it to the pension fund each year. He recommended hiring an actuary to do the analysis and then come back with a recommendation to make those changes. He noted that at some point an analysis on all the benefits in the City's pension plans will be done. He shared that the Pension Board has an actuary that works for them, but has no fiduciary responsibility to the City.

Mayor Rees inquired about the cost. Mr. Bollhoefer replied that it will be approximately \$12,000.

Commissioner Makin asked what the prior actuarial fee was. Mr. Bollhoefer responded that it was approximately \$30,000 and noted it was a much more significant analysis and well worth the return on the investment.

Motion by Commissioner Sharman to approve hiring Cavanaugh MacDonald Consulting, LLC to perform actuarial services (Police Officers and Firefighters pension plan). Seconded by Commissioner Makin and carried unanimously 5-0.

6. **MATTERS FROM THE PUBLIC**

David Kassander, 15155 Ovation Drive, (Belle Meade Subdivision) Winter Garden, Florida, shared that Avalon Road and Tilden Road carry a fair amount of traffic and pedestrians crossing from Belle Meade and from Stone Creek. He requested the installation of a pedestrian, more specifically a school crosswalk with a light to stop traffic, signs with easy readability and suggested motion sensors for the lighting. Mayor Rees and City Manager Bollhoefer noted that they would look into these issues and contact him.

Commissioner Makin spoke of the City's Joint Planning Agreement (JPA) and asked if the City has full control of Tilden Road. Mr. Bollhoefer responded no, it is sort of the boundary; the County has not been steadfast against expansion of the JPA on that side. He noted that the majority of Tilden Road falls under the County's jurisdiction and the City has asked them to help in reducing the speed limit. They have not agreed to do so generally based on the old 85 percentile rule everyone tends to follow. The City has also worked with [*Orange County*] Commissioner Boyd and he thinks twice an analysis was done and still they refuse to reduce the speed limit.

Mr. Kassander asked that in the matter of a school zone, could the speed limit be addressed. Mr. Bollhoefer stated that he was not sure of how this issue applies to private schools, but he will definitely research it.

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

8. **MATTERS FROM CITY MANAGER**

• **Design of intersection improvements of CR 545 (Avalon) and State Road 50**

City Manager Bollhoefer stated that he does not have a cost but staff would like to move forward on an issue affecting Avalon Road and State Road 50 during school times. He described how people are heading north on Avalon Road to State Road 50, and the intersection gets blocked with drivers wanting to turn right and those behind them want to go straight. The intersection can get backed up all the way to SunRidge Elementary. Staff had the road engineer do a quick study, for not a lot of money. The intersection could be blown out heading north by adding a right turn lane. He expressed that a study should be done so that it can be fixed during the summertime.

Commissioner Sharman noted that it would be similar to what the City did at the 7-11 on CR 535. Mr. Bollhoefer agreed. He noted that the other issue as a second phase would be to look at people heading west on State Road 50 who want to turn left on Avalon Road and tends to get backed up at the signal. This is a much more difficult issue to fix. Mayor Rees noted that the traffic signal timing should also be reviewed. Mr. Bollhoefer stated that staff has looked at the time and FDOT has said that it has sufficient timing.

Staff will talk with FDOT about the simple issues. He suspects that they will not be as open to discussions; so staff may have to go to plan B and look at putting in an extra left turn lane, which will unfortunately require more work.

Motion by Commissioner Sharman to approve the City Manager looking at redesigning the intersection of CR 545 and State Road 50. Seconded by Commissioner Makin and carried unanimously 5-0.

A. Discussion on employee health benefits for 2014

City Manager Bollhoefer stated that staff has received the health insurance figures, which always come in after the budget is adopted. He noted that everyone in the United States has been hit with the effects of the Obama care, which has driven up the costs of insurance for everyone. Staff's initial estimated negotiated amount with United Healthcare was close to 40 percent. Staff was able to finally negotiate nine percent (increase) which comes to approximately \$120,000. In the agenda packet, staff initially wanted to split the cost by 50 percent to the employees and 50 percent to the City. Employees were given a two percent pay increase but the lower paid employee with the extra medical cost is significant. He suggested adjusting the extra cost to employees by starting with the City paying two-thirds (\$80,000) and employees paying one-third (\$40,000). He noted that it would hit the employees, but not as much. Mayor Rees noted that with the two percent raise and this increase in insurance, it would be taking the raise back.

Motion by Commissioner Buchanan to approve the City paying two-thirds of the health insurance rate increase with the employees paying one-third. Seconded by Commissioner Sharman and carried unanimously 5-0.

B. Discussion of draft ordinances

City Manager Bollhoefer stated that he will be sending out draft ordinances for the Commission to review prior to the first City Commission meeting in January.

9. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Makin expressed that Light-Up Winter Garden was great and he thinks that the Christmas Parade was the biggest ever.

Commissioner Buchanan thanked Jay Conn and the reverend for putting up with him before he went on stage. He noted that there was a significant attendance.

Commissioner Olszewski remarked that an amazing job was done with Light-Up Winter Garden and the Christmas Parade. He shared several upcoming events. He requested an audio recording of their meeting of December 19, 2012.

Commissioner Sharman stated the Christmas Parade was wonderful. He also thanked Police Chief Brennan for the random patrols.

Mayor Rees echoed the other comments about City staff and the events. He expressed his disappointment in the amount of trash left by people.

The meeting adjourned at 7:28 p.m.

APPROVED:

____/S/_____
Mayor John Rees

ATTEST:

____/S/_____
City Clerk Kathy Golden, CMC