



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

June 13, 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 (*Arrived at 6:40 p.m.*)

Also Present: City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, City Clerk Kathy Golden, Assistant to City Manager – Administrative Services Frank Gilbert, Community Development Director Ed Williams, Finance Director Laura Zielonka, Police Chief George Brennan, Building Official Skip Lukert, Economic Development Director Tanja Gerhartz, and West Orange Times Reporter Kelsey Tressler

1. **APPROVAL OF MINUTES**

Motion by Commissioner Buchanan to approve regular meeting minutes of May 23, 2013 as submitted. Seconded by Commissioner Makin and carried unanimously 4-0.

• **PRESENTATION**

Curtis Binney, representative of Sines, Blakeslee and Madyda, the City's external auditor, stated that he would be presenting the Comprehensive Annual Financial Report for the audit performed for Fiscal Year ending September 30, 2012. This report is the representation of City management. His firm is responsible for auditing the report and making sure that it is fairly stated in accordance with accounting principles accepted by the United States of America. He referred the City Commission to review Page 9 of the report which is an unqualified opinion given by his firm. Accounting procedures require the auditor look at the City's internal controls and express an opinion on whether there are any reportable conditions, significant deficiencies, or material weaknesses with the internal controls of the City's financial system. The audit found that there were none. Rule 10-55 of the State of Florida Auditor General requires that the audit firm make certain representations to the City on compliance with laws and regulations to the State of Florida. He noted that these requirements could be found on page 127 and there was nothing to be reported to the City. He shared that accounting principles require the auditor to report any items considered weaknesses or reportable issues outside of the financial realm; of which the firm also had nothing to add.

Mr. Binney expressed thoughts that City staff, as usual, is knowledgeable and diligent and nothing was found which needed to be reported to the City Commission.

Mayor Rees stated that the City Commission reserves their right to review this report and get back to him if they have any questions.

2. **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 stated that staff is requesting postponement until June 27, 2013 at 6:30 p.m. He stated that all the information and analysis is not complete at this time.

Motion by Commissioner Olszewski to postpone appeal hearing until June 27, 2013 at 6:30 p.m. Seconded by Commissioner Makin and carried unanimously 4-0.

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

A. **Ordinance 13-27:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING CHAPTER 118, ARTICLE IV, DIVISION 8, SECTIONS 118-532, 118-533 AND 118-534 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING PERMITTED USES AND STRUCTURES, PERMITTED ACCESSORY USES AND STRUCTURES AND SPECIAL EXCEPTIONS WITHIN THE C-1 (CENTRAL COMMERCIAL DISTRICT) ZONING DISTRICT; AMENDING CHAPTER 118, ARTICLE IV, DIVISIONS 9 & 10, SECTIONS 118-579 & 118-629 OF THE CODE OF ORDINANCES CONCERNING THE SPECIAL EXCEPTION USES IN THE C-2 (ARTERIAL COMMERCIAL DISTRICT) AND C-3 (PROFESSIONAL OFFICE DISTRICT) ZONING DISTRICTS; AMENDING CHAPTER 118, ARTICLE I, SECTION 118-7 OF THE CODE OF ORDINANCES REGARDING THE NOTICE REQUIREMENTS FOR AMENDING CHAPTER 118, APPEALS AND PUBLIC HEARINGS; PROVIDING FOR CODIFICATION, CONTROL IN EVENT OF CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 13-27 by title only. Community Development Director Williams stated that these are changes that have been proposed by staff and have been reviewed by the Planning and Zoning Board who recommend the approval of the changes. Mr. Williams highlighted some of those changes and explained that the City is trying to be more in compliance with the requirements of the state. Staff recommends approval and requests to schedule the second hearing for June 27, 2013.

Commissioner Olszewski inquired as to why it was necessary to make changes right now. Mr. Williams explained that the City is receiving inquiries for those wishing to build downtown residential as part of other projects. Although the City does not have any current requests for communication towers, there are existing ones. He noted past issues regarding a columbarium and those types of uses belong in regards to the churches. The staff's research indicates that these are accessory uses. He shared that staff is trying to

produce an ordinance that will include all necessary changes at one time as opposed to coming back with one or two changes at a time. He noted that in this particular case staff researched all the commercial ordinances and these are the changes that needed to be made.

Commissioner Olszewski asked if there was an application for someone who was looking to come and build downtown residential. Mr. Williams responded that there is not an actual application but there are numerous inquiries. In order to encourage that kind of residential use, it needs to be made a permitted use rather than make them go through another separate approval process.

Commissioner Sharman arrived at this time.

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

Motion by Commissioner Buchanan to approve Ordinance 13-27 with the second reading and public hearing being scheduled for June 27, 2013. Seconded by Commissioner Makin and carried unanimously 5-0.

- B. **Ordinance 13-28:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 5.826 ± ACRES LOCATED AT 17925 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

City Attorney Ardaman read Ordinance 13-28 by title only. Community Development Director Williams stated that this is a voluntary annexation by Benjamin and Judy Cannon to bring into the City their 5.826± acres on Marsh Road. This has been reviewed by the Planning and Zoning Board and staff and approval is recommended.

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

Motion by Commissioner Olszewski to approve Ordinance 13-28 with the second reading and public hearing being scheduled for June 27, 2013. Seconded by Commissioner Sharman and carried unanimously 5-0.

- C. **Ordinance 13-29:** 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 5.826 ±

ACRES LOCATED AT 17925 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 13-29 by title only. Community Development Director Williams stated that this is a part of the previous request for Benjamin and Judy Cannon to give the property a land use designation similar to what is out in this area. This has been reviewed by the Planning and Zoning Board and staff and approval is recommended.

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

Motion by Commissioner Olszewski to approve Ordinances 13-29 with the second reading and public hearing being scheduled for June 27, 2013. Seconded by Commissioner Sharman and carried unanimously 5-0.

- D. **Ordinance 13-30:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 5.9 ± ACRES LOCATED NORTH OF THE INTERSECTION OF NORTH FULLERS CROSS ROAD AND EAST FULLERS CROSS 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
- E. **Ordinance 13-31:** 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 5.9 ± ACRES LOCATED NORTH OF THE INTERSECTION OF NORTH FULLERS CROSS ROAD AND EAST FULLERS CROSS ROAD FROM ORANGE COUNTY RURAL/AGRICULTURAL TO CITY LOW DENSITY RESIDENTIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 13-30 and 13-31 by title only. Community Development Director Williams referred the City Commission to a map of the property in the agenda packet. He noted that this property is adjacent to the Roper property. The Roper property is under contract to be purchased and is going through the planned development process. As part of that process, the property to the north had no access. The majority of their property is wetlands but there is a small section that had some development potential. The Roper property was trying to place the retention pond next to the developable part of the neighboring property, which would cause problems for that property owner. To solve that problem, the purchaser of the Roper property has a contract to also purchase this property as well as the 30+ acres of wetland to the north.

They are including it in order to have that property catch up to the process and also bring it in as a low density designation as is the Roper property to the south. The annexation of the wetlands will come in at a later date. The applicants are looking at the possibly making an elevated walkway through those wetlands as to have a promenade along the lakefront for enjoyment of the views. The Planning and Zoning Board and staff have reviewed it and recommend approval of the annexation and a zoning designation of low density residential development. There was discussion and it was stressed that this property would be for single family use and any other use would have to be brought back for a series of approvals.

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

Motion by Commissioner Makin to approve Ordinances 13-30 and 13-31 with the second reading and public hearing being scheduled for June 27, 2013. Seconded by Commissioner Buchanan and carried unanimously 5-0.

4. **REGULAR BUSINESS**

A. **Recommendation to approve SunRidge Boulevard Fair Share Agreement with Hanover Black Lake, LLC**

Community Development Director Williams stated that when the elementary and middle school developers were not able to meet their obligations to extend the road and utilities to the school, the City stepped in and funded those improvements. The first two lanes plus the utilities have been reimbursed by the Hickory Hammock development. The additional two lanes that are to be built in the future will be needed because of all the development that occurs on the vacant properties in this area. All of the future developments in this area coming in for approval are required to enter this fair share agreement to pay their fair share of the extra two lanes and utilities. This particular property is being purchased by Hanover Black Lake on the south side of the road, north of the lake. Staff recommends approval.

City Attorney Ardaman noted a typographical error on page 1 in part A of the recital and recommended the correction state “west of Siplin Road and east of CR 545.”

Motion by Commissioner Buchanan to approve SunRidge Boulevard Fair Share Agreement with Hanover Black Lake, LLC with the noted correction by the City Attorney. Seconded by Commissioner Sharman and carried unanimously 5-0.

B. **Recommendation to award continuing engineering services contract to Kirby Engineering, LLC**

Assistant Public Services Director Mike Kelly stated that Mr. Kirby’s contract is set to expire on June 26, 2013 and he is currently working on several projects for the City. The contract is based on an hourly fee schedule and may be terminated by either party with a 30 day written notice. Due to the ongoing assignments, staff recommends approving a new contract with Kirby Engineering.

Motion by Commissioner Sharman to approve awarding continuing engineering services contract to Kirby Engineering, LLC. Seconded by Commissioner Makin and carried unanimously 5-0.

C. Recommendation to approve distribution of \$11,553.00 of awarded Edward Byrne Memorial Justice Assistance Grant (JAG) to purchase special response team equipment for the Police Department and allow public comment

Police Chief Brennan requested permission to utilize \$11,553.00 of Edward Byrne Memorial Justice Assistance fund that have been earmarked for the City of Winter Garden. He noted that the purchases would be for high caliber bulletproof vest which can take a higher caliber bullet than what is normally worn by the officers, three tactical headsets and three Colt semi-automatic rifles.

Commissioner Makin inquired about the number of semi-automatic rifles that the City currently owns. Police Chief Brennan responded that the City has three. He stated that the City has the AR-15s but have joined in a cooperative special response team agreement with the City of Apopka. There are now three City of Winter Garden officers that are a part of that swat team and in October there will be an additional three, which is why they will need additional equipment.

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

Motion by Commissioner Makin to approve distribution of \$11,553.00 of awarded Edward Byrne Memorial Justice Assistance Grant (JAG) to purchase special response team equipment for the Police Department. Seconded by Commissioner Olszewski and carried unanimously 5-0.

D. Appointments to the Code Enforcement Board for expiring terms of Mr. Petch and Mr. Buckles; new appointments would be for a three year term ending June 30, 2016

City Clerk Golden stated two seats are scheduled to expire at the end of June for which both members expressed a desire to be reappointed. Ms. Golden noted that the agenda packets contains other interest applications and one additional application received today, which was distributed to the City Commission for review.

Motion by Commissioner Makin to reappoint David Buckles to the Code Enforcement Board for a three-year term ending June 30, 2016. Seconded by Commissioner Olszewski and carried unanimously 5-0.

Motion by Commissioner Sharman to reappoint Harold Petch to the Code Enforcement Board for a three-year term ending June 30, 2016. Seconded by Commissioner Olszewski and carried unanimously 5-0.

