



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

July 10, 2014

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 Kent Makin, Robert Olszewski and Colin Sharman

Absent: Commissioner Bob Buchanan

Also Present: City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, City Clerk Kathy Golden, Assistant City Manager - Public Services Don Cochran, Assistant City Manager - Administrative Services Frank Gilbert, Community Development Director Ed Williams, Finance Director Laura Zielonka, Fire Chief Matt McGrew, 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 June 26, 2014, as submitted. Seconded by Commissioner Sharman and carried unanimously 4-0.

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

A. **Ordinance 14-11:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS APPROXIMATELY 0.92± ACRES OF LAND LOCATED AT 426 WEST PLANT STREET, FROM R-NC (RESIDENTIAL-NEIGHBORHOOD COMMERCIAL DISTRICT) TO C-1 (CENTRAL COMMERCIAL DISTRICT); PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 14-11 by title only. Community Development Director Williams stated that this property is adjacent to City Hall, formerly the old yellow apartment buildings. The City is the applicant in this request and there has been a great deal of interest in seeing it rezoned. It has been reviewed by the Planning and Zoning Board and staff and both recommend approval.

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

Motion by Commissioner Makin to approve Ordinance 14-11 with the second reading and public hearing being scheduled for July 24, 2014. Seconded by Commissioner Olszewski and carried unanimously 4-0.

- B. **Ordinance 14-22:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 38.655 ± ACRES LOCATED AT 17806 MARSH ROAD ON THE SOUTH SIDE OF MARSH ROAD AT THE WESTERN 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
- C. **Ordinance 14-23:** 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 38.655 ± ACRES LOCATED AT 17806 MARSH ROAD ON THE SOUTH SIDE OF MARSH ROAD AT THE WESTERN BOUNDARY OF ORANGE COUNTY FROM ORANGE COUNTY VILLAGE TO CITY URBAN VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 14-22 and 14-23 by title only. Community Development Director Williams stated that this is an area covered by the Joint Planning Area Agreement with Orange County in the Marsh Road area. This is an applicant request for annexation and comprehensive plan designation for the property. The owners, Fischer and Spears are the requestors. This item has been reviewed by the Planning and Zoning Board and staff and both recommend approval.

Mayor Rees asked if there were property owners in the county that have not wanted to annex into the City. Mr. Williams answered that there are a few that have not yet annexed. Generally, they are willing to annex; but because of their current circumstances, they are not able to or in a position to at this time. Staff, especially Stephen Pash, has been successful in encouraging a lot of smaller lot owners to annex. This is one of the last larger lots out there. Eventually, the City will get all of those parcels. He shared that some are in foreclosure and some have other delays, but the City will get that entire area at some point because of the services available.

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

Motion by Commissioner Olszewski to approve Ordinances 14-22 and 14-23 with the second reading and public hearing being scheduled after review by the State. Seconded by Commissioner Sharman and carried unanimously 4-0.

- D. **Ordinance 14-24:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 9.527 ± ACRES

LOCATED ON THE SOUTH SIDE OF SEIDNER ROAD AT THE WESTERN 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

- E. **Ordinance 14-25:** 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 9.527 ± ACRES LOCATED ON THE SOUTH SIDE OF SEIDNER ROAD AT THE WESTERN BOUNDARY OF ORANGE COUNTY FROM ORANGE COUNTY VILLAGE TO CITY URBAN VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 14-24 and 14-25 by title only. Community Development Director Williams stated that this is a voluntary annexation and request for initial comprehensive plan designation. This item has been submitted by Maury Boyd with McKinnon Groves. The Planning and Zoning Board and staff have reviewed this item and both recommend approval.

Mayor Rees asked, as was in the previous item, the density is really no different than it is in R-1. Mr. Williams responded that this is correct.

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

Motion by Commissioner Sharman to approve Ordinances 14-24 and 14-25 with the second reading and public hearing being scheduled after the property to the north has been reviewed by the State. Seconded by Commissioner Makin and carried unanimously 4-0.

- F. **Ordinance 14-26:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 33.79 ± ACRES OF REAL PROPERTY GENERALLY LOCATED AT 562 BEARD ROAD LOCATED SOUTH OF THE FLORIDA TURNPIKE AND EAST OF DANIELS ROAD AT THE SOUTHWEST CORNER OF BEARD ROAD AND 9TH STREET FROM R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO PUD (PLANNED UNIT DEVELOPMENT DISTRICT); PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR NON-SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 14-26 by title only. Community Development Director Williams stated that the Planning and Zoning Board has not completed its review of this project and all the issues involved. Without their recommendation staff is asking that this item be postponed until the August 14, 2014.

Commissioner Olszewski asked if Beard Road was in the County. Several responded simultaneously that parts of it are in the County. Mr. Olszewski noted that with this being in the heart of District 3, he wanted to be sure that if there are plans for a housing development, that there is a review of the configuration of the road. The windy, long nature of the road is difficult now, making it especially difficult if there is to be additional traffic. He said he looks forward to the Planning and Zoning Board's review when it becomes available.

Mr. Williams noted that was one of their major concerns and part of the design of the project was to provide the main access through the adjoining development with their cooperation. There are several issues, but staff is working through them and working with the adjoining developments.

Motion by Commissioner Sharman to postpone Ordinance 14-26 until August 14, 2014, at 6:30 p.m. Seconded by Commissioner Olszewski and carried unanimously 4-0.

- G. **Ordinance 14-29:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTIONS 110-56, 110-152, 110-153, 110-154, 110-157 AND 110-162 OF ARTICLE III, DIVISION 1, 4 AND 5 OF CHAPTER 110 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING PLATTING REQUIREMENTS; PROVIDING FOR UTILITY EASEMENT DEDICATIONS; AMENDING DEFINITIONS; CLARIFYING THE DEFINITION OF COMMUNITY SUBDIVISION INFRASTRUCTURE AND MAKING OTHER RELATED REVISIONS; PROVIDING FOR ADDITIONAL REQUIRED AND PROHIBITED LANGUAGE FOR DECLARATIONS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTIONS 110-56, 110-152, 110-153, 110-154, 110-157 AND 110-162 OF ARTICLE III, DIVISION 1, 4 AND 5 OF CHAPTER 110 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING PLATTING REQUIREMENTS; PROVIDING FOR UTILITY EASEMENT DEDICATIONS; AMENDING DEFINITIONS; CLARIFYING THE DEFINITION OF COMMUNITY SUBDIVISION INFRASTRUCTURE AND MAKING OTHER RELATED REVISIONS; PROVIDING FOR ADDITIONAL REQUIRED AND PROHIBITED LANGUAGE FOR DECLARATIONS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 14-29 by title only. Community Development Director Williams stated this is a change to the Code of Ordinances that tightens up the requirements and restrictions dealing with how a developer turns over the home owner association (HOA) upon completion. The City is making it stricter, more of an ability to hit certain targets, require certain things, and prohibit other activities that are detrimental

to future home owners. The Planning and Zoning Board and staff have reviewed this item and both recommend approval.

City Manager Bollhoefer added that some of the City's past issues have been with the infrastructure in subdivisions after the bond has expired. Or, when the City no longer has leverage in making the builders or developers fix the issues. Staff has seen this time and time again and these changes will help to eliminate this problem.

Commissioner Olszewski asked if this ordinance passes, does it go into effect immediately and affect currently in progress developments. Mr. Williams explained the concept called pending ordinance doctrine. Staff has been enforcing these new regulations, although not formally adopted, through negotiation with developers on their current projects. Commissioner Olszewski asked if anyone will be surprised by this ordinance. Mr. Williams noted they may not like it but they will not be surprised.

City Manager Bollhoefer noted that most of the developers agreed without much problem. One developer, who was not happy, agreed and understood. Commissioner Sharman noted that people who are doing the right thing will not have much issue with this anyways. He mentioned the drainage issues the City has seen in some subdivisions in the past. Mr. Bollhoefer noted that roads were a big issue. He expressed that it is only an issue if the developer does not do a good job when building. Mr. Williams asked them to recall the amendments to this ordinance two years ago after the infamous inadequate infrastructure protection act was passed. This ordinance tightens that up even more than the act.

Mr. Bollhoefer noted that this item changes the timeframe it runs to when the last house is built. He recalled a subdivision that is still not finished. Under the City's old rules there was no leverage to get developers to fix what should have been fixed.

Commissioner Olszewski asked for a clarification to the law, regarding the presumption that before an ordinance was passed that the City would be operating under it. Mr. Williams indicated that there was a lawsuit on one of the City's subdivisions where the infrastructure is literally falling apart. The legislature passed an act that basically states the developers were not liable to fix it. It seriously harmed the homeowners in that development. City Attorney Ardaman explained that the HOA filed a lawsuit. During the pendency of that lawsuit, the legislature made a change that effectively eviscerated the homeowners associations and homeowner's rights under that law. Mr. Bollhoefer stated that this HOA has since gone to the Supreme Court in Florida and won.

Mayor Rees opened the public hearing.

David Kassander, 15155 Ovation Drive, Winter Garden, Florida, asked if this item has any effect on HOA's after the turnover by developers or is this strictly before the actual turnover of the development. City Manager Bollhoefer responded that there is some

effect as there may be a time when it is turned over to the HOA and there will still be that period of time where the builder is responsible to fix items, so the HOAs will need to know that. Mr. Kassander asked what timeframe. Mr. Bollhoefer responded that he believes it is after the last home is built, there is a two year warranty period.

City Attorney Ardaman informed that it really goes a long way in protecting the HOA when that HOA becomes controlled by the homeowners themselves. Mr. Kassander asked if the perimeter walls count as a part of the infrastructure. Mr. Ardaman responded yes, as they are part of the common property.

Mayor Rees closed the public hearing.

Motion by Commissioner Sharman to approve Ordinance 14-29 with the second reading and public hearing being scheduled for July 24, 2014 at 6:30 p.m. Seconded by Commissioner Makin and carried unanimously 4-0.

- H. **Ordinance 14-30:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING SECTION 102-1 OF CHAPTER 102 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN TO CLARIFY CERTAIN DEFINITIONS AND TO ADD A DEFINITION FOR DIGITAL BILLBOARDS; AMENDING SECTION 102-92 OF CHAPTER 102 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN TO PROHIBIT DIGITAL BILLBOARDS EXCEPT UNDER LIMITED CONDITIONS AS A SPECIAL EXCEPTION AND PURSUANT TO A REPLACEMENT AND RELOCATION PLAN; CREATING SECTION 102-94 OF CHAPTER 102 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN PROVIDING FOR REPLACEMENT AND RELOCATION AGREEMENTS FOR BILLBOARDS AND DIGITAL BILLBOARDS, FOR SPECIAL EXCEPTION RESTRICTIONS AND REGULATIONS GOVERNING DIGITAL BILLBOARDS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

Community Development Director Williams stated staff requests postponement to a date uncertain. In the draft ordinance, the City received comments from various billboard companies trying to clarify certain issues in the program. The City has not come to agreement on all of the issues, so staff is requesting this item be postponed until we have an ordinance with which everyone is comfortable.

Motion by Commissioner Makin to postpone Ordinance 14-30 to a date and time uncertain. Seconded by Commissioner Sharman and carried unanimously 4-0.

3. **REGULAR BUSINESS**

A. **Community Development Block Grant (CDBG) Matters**

I. **Public workshop on Fair Housing**

Consultant, David Fox with Red Fox Enterprises stated that as part of the CDBG, a quarterly fair housing activities report is required. He gave a PowerPoint presentation on general information regarding fair housing (*See attached Exhibit A*).

II. Results of possible conflicts of interest as determined by the Florida Department of Community Affairs Small Cities CDBG Program

Mr. Fox noted that there were several possible conflicts of interest noted by staff and board members (*See attached Exhibit B*). The list includes Mark Jones, City Building Official, Mr. Snell Assistance Advisory Taskforce Member and John Kirby, also an Assistance Advisory Task Force Member.

In all of the potential case information submitted to Roger Daughtery, Planning Manager of the Department of Economic Opportunity (DEO), it was determined that there is no conflict of interest in relationship to the list of applicants.

III. Applicant ranking for approval

Mr. David Fox noted that the third item is the ranking of applicants in accordance with the City's housing assistance plan. In the agenda packet is a ranking of all qualified applicant submittals for the program based on their initial application. There were 35 applicants whom were ranked in order based on the following identifications in the housing assistance plan:

The first highest ranked applicants were very low income, 30 percent of area median. The second highest ranked applicants were low to moderate income, 50 percent of area median. The third would be over 50 percent but up to 80 percent, which is the maximum allowed for the program. The third criterion is disabled or handicapped. The fourth is head of household over 62 years of age. The fifth criterion is households with large families. The sixth criterion is households with small families.

Mr. Fox stated that the Assistance Advisory Task Force has reviewed the proposed ranking and recommends it be approved by the City Commission.

Commissioner Olszewski asked for the total number of houses. Mr. Fox replied that the number of houses to be addressed in the application is 12. There are 35 applicants and if someone is disqualified after verification of income and title, then we will go to the next applicant on the list of 35 based on their ranking.

Mayor Rees clarified that there are 12 out of the 35 with a possibility that this may change as they go through this process. Mr. Fox responded yes and we will keep going if there are funds left.

Commissioner Olszewski asked about the expected completion. Mr. Fox replied that the proposed date for going out to bid is late September; it takes about 30 days for title search and environmental review. After that, there is an environmental review for

each individual unit, and it takes about 30 days after the bids have been received. Mr. Bollhoefer asked if sometime in October to start. Mr. Fox affirmed, stating that he believes that they would break ground sometime in October.

Motion by Commissioner Olszewski to approve the ranking list as submitted (See Exhibit C). Seconded by Commissioner Makin and carried unanimously 4-0.

B. Recommendation to approve Florida Hospital (Adventist Health System/Sunbelt, Inc.) Phase A Site Plan, subject to conditions recommended by staff

Community Development Director Williams stated that before the City Commission is a staff report that includes proposed conditions of approval (*See attached Exhibit C*) for the hospital site plan; building plans are not included. This is the site work. The plans contain very detailed schedules of when off-site and on-site improvements have to be started and completed. He noted there has been some off-site preparation started, but the real work on the site cannot be done until this plan is approved.

Mr. Williams noted not included on the plan is the lay down yard to the south of the pond on the west side of the property. This is where the construction trailers and storage of equipment will be located during construction. He described the round-a-bout for access, parking areas, walls, acoustic walls, and fencing; displaying drawings for the City Commission. He displayed some of the buffer areas and described the landscaping that will remain and be installed. He described the area that the acoustical wall would be on top the berm, on the east end where Dona [Gussow's] house is, that will then turn and go all the way to the corner. The homes closest to the roundabout and the headlight buffer wall will be buffered with an acoustic wall. When it turns to the west, staff proposes putting in a regular wall as opposed to an acoustic wall. He noted there is a distance of 240 to 300 feet from the road to the landscape that does not support the need for an acoustical. Where the black fence is, there will be additional plantings.

With this distance separation, additional landscaping, the berm, supplemented with a six foot wall, all will make it almost impossible to see or hear the activity. The west end of the road will have the round-a-bout, and the prior entrances were designed to discourage traffic from heading in this direction. Therefore, the traffic count should be very low in this area. Between all of these factors, staff feels this should be a very effective buffer. The most difficult part is near Donna [Gussow's] house, where the houses are close to the road and require that extra level of protection.

Mr. Williams stated that off-site road construction will begin in February of next year and will be completed in four to six months. The initial issue will be the turn lanes that will get people in and out and off of Daniels Road and onto the Hospital as quick as possible. There are approximately 30 conditions of approval for the City Commission's consideration. Staff recommends approval subject to the conditions provided.

City Manager Bollhoefer stated that he believes one of the conditions is the bike path. Staff would like to change the focus from the bike path to fixing the intersection under the State Road 429, which is a greater impact to the community. The bike path would become a part of Phase 2. These projects are approximately the same cost for both (\$800,000.00).

City Attorney Ardaman sought clarification that the City Commission is being asked to approve with the expectation that these two items be swapped at a later date and is acceptable to the applicant. **Mr. Bollhoefer** replied yes.

Mr. Bollhoefer clarified the use of the term wall. The intention is that the acoustical wall along the "L" along the eastern section is actually made out of PVC, and is actually an acoustical fence, but staff uses the term wall. The wall where the rest of the trees are is a PVC fence and not an actual wall. There will be a change in the costs for adding the additional section where Donna [Gussow's] house is across the entire length of her yard and all the way down to the corner. This additional expense is approximately \$64,000.00. Of this expense, Florida Hospital has agreed to pay a portion of it at \$23,000.00 and the City's portion is approximately \$40,000.00, which we can justify using impact fees for that portion of the wall. The cost of the other fence is \$30,000.00 to \$40,000.00 to go all the way to Winter Garden Vineland Road.

Commissioner Sharman clarified that this is a change tonight because the site plan submitted only shows it partially up the length of Donna [Gussow's] house. **Mr. Williams** responded yes, that is why he spent so much time on this issue because it has changed from the conditions proposed by staff.

Mayor Rees asked about ongoing maintenance. **Mr. Williams** replied the Hospital has responsibility for maintaining all of the landscaping and berm in that area, so we are assuming the wall is part of that.

Attorney Borrón Owen of Gray Robinson on behalf of Florida Hospital, stated that their agreement with the property owners association, who actually owns this land, is to allow Florida Hospital to put in the fence and landscaping. Florida Hospital would maintain everything that they actually put on their property. This includes the head light wall, the fencing, and the landscaping.

Commissioner Olszewski asked Community Development Director Williams and City Manager Bollhoefer are the changes to the site plan making things better and we are not going back on what was promised. **Mr. Williams** assured that staff trusts everyone but verifies everything; noting that this is why it has taken the applicant six to eight months to get to this point.

Mayor Rees explained that what he thinks Commissioner Olszewski is indicating is that we all agree there are going to be issues but the end product will be equal to or better than

what was presented to the residents and to the City Commission. Mayor Rees expressed that he is confident that it will be.

Mr. Williams mentioned that there is a new condition in the staff report that addresses traffic concerns for staff access along the rear of the facility on Sembler Way when the second phase of construction starts, should there be traffic problems, Florida Hospital will hire off-duty police to direct traffic and come in with a plan to correct that problem. He reported that this condition has not been in the plan all along, but the applicant has agreed that if problems should come up they are willing to solve them.

Commissioner Sharman asked for confirmation on what the City Manager described as additions to referenced changes to site plan C5.8 (*See attached Exhibit D*) regarding the acoustical fence section that shows Dona's wall would go halfway to 58 feet. Not included is the City paying for additional 220 feet to the north of acoustic wall. **Mr. Bollhoefer** repeated that Florida Hospital will pay for the wall that was initially half way through the yard and will pay to the full length of Donna's yard on the west side. The City will cover costs for the next two houses all the way down to the corner. **Commissioner Sharman** further clarified that the City is paying for the full length of the fencing. **Mr. Bollhoefer** replied yes. **Commissioner Sharman** stated that he wanted to be sure this was stated in the motion and on the record.

Mayor Rees opened public comments.

Roy Thompson, representative for the Glynwood Homeowner's Association, expressed their appreciation for everything that has been done in effort to protect the community from noise resulting from building a hospital at this location. He stated that the new plans are not making everyone happy, which is to be expected from a community of individuals. He referred back to the February 27th meeting, section 3, paragraph 3 through 5, where the City Commission agreed to make sure that our community is protected from the noise. He indicated that he is not an acoustical expert and does not know if a PVC fence will stop the noise. He challenged the City Commission to make corrections, if necessary and stand by their word given on February 27th. He thanked whoever asked that it be put in writing regarding who will maintain the berm, the trees, and the fence; which he indicated is important to them as well.

Commissioner Olszewski asked Mr. Thompson for additional information about the reasons some are not happy as he mentioned earlier. **Mr. Thompson** responded that it is the fence that goes from the corner west out to Daniels Road. The homeowner's backed up to that fence feel that they should have the same type of acoustical fence as the other residents. He expressed that the only thing they can ask is that the City stand by what was said in the February 27th meeting. That the City will make sure that they are not inundated with noise beyond what is reasonable.

Mayor Rees asked that staff make sure the PVC fence provides the same protection as the physical fence and provide the City Commission with information on the difference in cost. **City Manager Bollhoefer** replied that an acoustical fence more than 200 feet away really does not provide protection from sound, which is why there is no difference there. Acoustical fences are only effective generally between 100 and 200 feet because of the refraction of noise. The idea of an acoustical fence is that you want it to be as close to the road as possible in order to be effective. The difference in cost would be the addition of approximately \$225,000.00 to construct the additional acoustical fence.

Commissioner Sharman asked if it would be possible to get an independent engineering report on the sound difference. **Mr. Bollhoefer** responded he was sure we could. **Mayor Rees** agreed that staff should look into this. **Mr. Bollhoefer** indicated that the City could use impact fees for the L-shaped wall, but may not be able to use the impact fees for the other portion because it does not provide sound barrier past 200 feet. It may be difficult to justify this to the auditor on the impact fees resulting in a general fund expense on the other portion. **Commissioner Sharman** stated that our independent sound engineering study would be able to prove or validate our claims.

Mr. Williams suggested monitoring the noise after the walls go up and construction is underway, which would be cheaper and more realistic. **Mr. Manager Bollhoefer** noted you cannot accurately monitor because there will not be the two walls up for comparison. He noted you have to have someone do an analysis. An expert will be hired to do a study to be completed in 30 days.

David Kassander, 15155 Ovation Drive, Winter Garden, Florida, voiced his concerns with traffic and sound reduction. The City Manager clarified some items.

William Palmer, 13736 Windshell Drive, Winter Garden, Florida, addressed the effectiveness of the different types and sizes of walls and fences.

Commissioner Sharman emphasized an independent person can provide the effectiveness of the different sound proofing options. **Mr. Bollhoefer** stated that can be provided within 30 days. **City Attorney Ardaman** asked if this issue needs to come back to the City Commission. **Mr. Bollhoefer** responded yes to confirm one way or the other. **Mr. Ardaman** stated this agenda item is to approve the site plan with conditions. **Mr. Bollhoefer** responded that the acoustical could be constructed but the other wall could not be started until the study is done. He will try to get it done by the next meeting.

Motion by Commissioner Sharman to approve the site plan with the changes discussed with the acoustical wall going to the corner of the Glynwood Subdivision, which is currently not reflected on the site plan, the City will cover the cost of this additional acoustical wall. The City will hire an engineering consultant to report back to the City Commission prior to building anything between the corner and the

