



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

October 23, 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. A Moment of Silence and Pledge of Allegiance were given.

Present: Mayor John Rees, Commissioners Bob Buchanan, Robert Olszewski and Colin Sharman

Absent: Commissioner Kent Makin

Also Present: City Manager Mike Bollhoefer, Assistant City Attorney Dan Langley, Assistant City Clerk Angee Grimmage, Assistant City Manager - Public Services Don Cochran, Assistant City Manager - Administrative Services Frank Gilbert, Finance Director Laura Zielonka, Fire Chief Matt McGrew, Police Chief George Brennan, Economic Development Director Tanja Gerhartz, Community Development/Code Manager Stephen Pash and Recreation Director Jay Conn

1. **APPROVAL OF MINUTES**

Motion by Commissioner Olszewski to approve regular meeting minutes of October 9, 2014, as submitted. Seconded by Commissioner Sharman and carried unanimously 4-0.

2. **PRESENTATION**

Proclamation 14-09 was read and presented to Ms. Victoria Laney by Mayor Rees declaring November 1 through November 8, 2014 as the “Week of the Family”. Ms. Laney thanked the City for their outstanding example.

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

A. **Ordinance 14-38:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.32 +/- ACRES OF REAL PROPERTY GENERALLY LOCATED AT 203 SOUTH MAIN STREET AT THE SOUTHEAST CORNER OF SOUTH MAIN STREET AND EAST SMITH STREET FROM CITY R-2 RESIDENTIAL DISTRICT TO CITY R-NC RESIDENTIAL-NEIGHBORHOOD COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE, subject to conditions

Assistant City Attorney Langley read Ordinance 14-38 by title only. Community Development Manager Pash stated that this property is located at the southeast corner of Main and Smith Street. They are requesting to rezone the property from R-2 to R-NC. The rezoning is consistent with the future land use on the property. The Planning and

Zoning Board has reviewed this item and recommend approval. Staff has also reviewed this item and recommends approval.

Mayor Rees referenced the comment included in the agenda packet that the City is moving Smith Street towards more of an arterial road “because we put the parking garage there.” He expressed that he would continue voicing his disagreement on that issue.

Motion by Commissioner Sharman to approve Ordinance 14-38 with the second reading and public hearing being scheduled for November 13, 2014. Seconded by Commissioner Buchanan.

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

Motion carried 3-1; Mayor Rees opposed.

4. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

- A. **Ordinance 14-32:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY RURAL TO CITY SUBURBAN RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 64.39 ± ACRES GENERALLY LOCATED EAST OF AVALON ROAD ON THE NORTH AND SOUTH SIDE OF SUNRIDGE BOULEVARD AT 505 AND 807 AVALON ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
- B. **Ordinance 14-33:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 68.09 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED EAST OF AVALON ROAD ON THE NORTH AND SOUTH SIDE OF SUNRIDGE BOULEVARD AT 505 AND 807 AVALON ROAD AND 14966 SIPLIN ROAD, FROM NO ZONING (NZ) AND R-1B SINGLE-FAMILY RESIDENTIAL DISTRICT TO PLANNED UNIT DEVELOPMENT (PUD); PROVIDING FOR CERTAIN PUD REQUIREMENTS AND DESCRIBING THE DEVELOPMENT AS THE IOTA SESSIONS PUD; PROVIDING FOR NON-SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

Assistant City Attorney Langley read Ordinances 14-32 and 14-33 by title only. Community Development Manager Pash stated that this is a future land use and PUD rezoning for the Sessions property. The land use amendment has been reviewed and approved by the State Department of Economic Opportunity. The PUD would allow for 106 single family homes on 65-foot to 85-foot wide lots. The Planning and Zoning Board has reviewed this item and recommended approval, as well as the State, on land use designation. Staff recommends approval of both ordinances.

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

Motion by Commissioner Buchanan to adopt Ordinances 14-32 and 14-33. Seconded by Commissioner Olszewski and carried unanimously 4-0.

- C. **Ordinance 14-39:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.24 ± ACRES LOCATED AT 1030 VINELAND ROAD ON THE WEST SIDE OF VINELAND ROAD SOUTH OF WEST MORGAN STREET AND NORTH OF WEST COLONIAL DRIVE 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
- D. **Ordinance 14-40:** 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 0.24 ± ACRES LOCATED AT 1030 VINELAND ROAD ON THE WEST SIDE OF VINELAND ROAD SOUTH OF WEST MORGAN STREET AND NORTH OF WEST COLONIAL DRIVE FROM ORANGE COUNTY LOW MEDIUM DENSITY RESIDENTIAL TO CITY RESIDENTIAL NEIGHBORHOOD COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
- E. **Ordinance 14-41:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.24 ± ACRES LOCATED AT 1030 VINELAND ROAD ON THE WEST SIDE OF VINELAND ROAD SOUTH OF WEST MORGAN STREET AND NORTH OF WEST COLONIAL DRIVE FROM ORANGE COUNTY R-2 RESIDENTIAL DISTRICT TO CITY R-NC RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

Assistant City Attorney Langley read Ordinance 14-39, 14-40, and 14-41 by title only. Community Development Manager Pash stated that this is a voluntary annexation of a small piece of property on Vineland Road, with a future land use designation to residential neighborhood commercial, and an initial zoning of R-NC. He stated that the request is consistent with the surrounding area, noting that there is some commercial, as well as office development there. Currently it is a single family house, but the R-NC designation will allow them to come back with a special exception if they later choose to put in an office. The Planning and Zoning Board as well as staff recommend approval.

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

Motion by Commissioner Olszewski to adopt Ordinances 14-39, 14-40, and 14-41. Seconded by Commissioner Sharman and carried unanimously 4-0.

5. **PUBLIC HEARING MATTERS**

A. **Consider condemning property located at 865 Klondike Street, Winter Garden, Florida; Owner: Todd S. Wheeler**

Code Enforcement Manager Pash stated that the property located at 865 Klondike Street contains a single family house that caught fire several years back. He noted that due to the condition of this home, Code Enforcement and the Building Official have determined that the home is a dilapidated home that creates a safety hazard to the surrounding area. Staff recommends that it be condemned and demolished. Staff has complied with all notification and advertisement requirements in Chapter 18 of the Code. Staff recommends the City Commission approve condemnation and authorize demolition of the building.

Commissioner Sharman asked if the property owner has contacted the City. Mr. Pash responded no, he has not heard anything on this even with all the proper notifications.

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

Motion by Commissioner Olszewski to approve condemning property located at 865 Klondike Street, Winter Garden, Florida and authorize staff to move forward with the demolition of the building. Seconded by Commissioner Sharman and carried unanimously 4-0.

B. **Consider condemning property located at 249 Center Street, Winter Garden, Florida; Owners: Betty Brunson, Freddie Anderson, Johnnie Anderson, Ruby Kendrick, and Shirley Anderson**

Code Enforcement Manager Pash stated that the property located at 249 Center Street contained a family home, which caught fire several years ago. He noted that due to the current condition, Code Enforcement and the Building Official have determined that it is a dilapidated home and creates a safety hazard to the surrounding area. Staff recommends that the City Commission authorize condemnation and demolition of the house. He noted that all notifications and advertisement requirements of Chapter 18 have been met.

Commissioner Sharman asked if there were any responses. Mr. Pash replied that staff did have some conversations with this property owner.

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

Commissioner Olszewski shared that Freddie Anderson contacted him and he met with her on this issue and he addressed her concerns.

Mayor Rees noted that this has been sitting there for several years. He asked if when the City demolishes the building, will the lots also be cleaned up. Mr. Pash responded yes. In the future, the City may have to mow some of these lots as part of Code Enforcement but the area will be kept clean. He shared that staff may also work with Habitat for Humanity or some other organization to redevelop.

Motion by Commissioner Olszewski to approve condemning property located at 249 Center Street, Winter Garden, Florida, and authorize staff to move forward with the demolition of the building. Seconded by Commissioner Sharman and carried unanimously 4-0.

6. **REGULAR BUSINESS**

A. **Recommendation to approve Waterside on John's Lake Phase II Developer's Agreement**

Community Development Manager Pash stated that this is the Developer's Agreement for Waterside on John's Lake Phase II. This agreement outlines the phasing of the development, infrastructure, improvements, and also contains a fair share contribution for the intersection improvements of Williams Road and Marsh Road. Staff recommends approval of this developer's agreement.

Mayor Rees addressed increasing the size of the water lines and sewer lines that if they are done by the City, whether or not the City could charge them interest while waiting for reimbursement. Mr. Pash responded that the developer installs the lines. Mayor Rees asked whether the City pays for upsizing upfront. Mr. Pash replied that the developer does the installation and the City only funds the upsizing cost.

Motion by Commissioner Sharman to approve Waterside on John's Lake Phase II Developer's Agreement. Seconded by Commissioner Buchanan and carried unanimously 4-0.

B. **Recommendation to approve and authorize the Mayor to execute an Interlocal Agreement for Police Dispatching Services for the City of Ocoee**

Police Chief Brennan stated that the City was contacted by the City of Ocoee, to assume control of some of their dispatching services. This would switch them from the City of Apopka to the City of Winter Garden. Staff has drafted an interlocal agreement to accomplish this task and approval is recommended for moving forward with the agreement.

Commissioner Sharman asked Police Chief Brennan if he would need to hire more staff or would the City be able to handle their volume. Police Chief Brennan noted that this is why the cost is so high; he will have to hire a lot of people and get them trained. This is why the City cannot start immediately and it will probably be July 1st before the City could add the services.

Mayor Rees noted that there was a chart that addressed percentage of the calls that would have to be answered within a certain timeframe; he asked if there would be any repercussions if these time limits are not met. Police Chief Brennan noted that this is an existing requirement we have to live by and would not make any difference.

Mayor Rees noted that each year there is up to a five percent increase and asked if this would be based on the CPI or PPI. What happens if medical insurance increases, are we locked into that amount. City Manager Bollhoefer responded that the City always uses CPI. He noted that with the length of this contract the assumption is that over the five year period, if there was an issue, it would not be significant. Mr. Bollhoefer stated that staff has looked at the numbers very closely and with the staff increase needed for the growth to the west, this is financially better for the City. He expressed that staff is very confident that this is not going to be a burden for us, but a benefit for the City in the long term.

Commissioner Olszewski noted that the City also handles this service for the Town of Oakland, so we will have our three cities here in West Orange. He asked if the City would have to reconfigure the dispatch center in order to have additional space. Police Chief Brennan responded that the space would be reconfigured to accommodate the additional staff. There are significant additional costs involved such as the purchase of software, but he noted the beauty of it is that Winter Garden, Oakland, and Ocoee would be on the same software system and fully exchange information. He further explained the benefits of being on the same system.

Motion by Commissioner Sharman to approve and authorize the Mayor to execute an Interlocal Agreement for Police Dispatching Services for the City of Ocoee. Seconded by Commissioner Buchanan and carried unanimously 4-0.

C. Appointments to the Planning and Zoning Board for expiring terms of Rohan Ramlackhan, Millard (Mac) McKinney, James Dunn, and Eric Weiss for three year terms ending October 2017

Motion by Commissioner Buchanan to reappoint Eric Weiss (*District 2*) to the Planning and Zoning Board for a three year term expiring October 2017. Seconded by Commissioner Sharman and carried unanimously 4-0.

Commissioner Olszewski recommended the appointment of Mark DeFuso. He shared that Mr. DeFuso was on the Police and Firefighter's Pension board and resigned due to very serious family health issues.

Motion by Commissioner Olszewski to appoint Mark DeFuso (*District 3*) to the Planning and Zoning Board for a three year term expiring October 2017. Seconded by Commissioner Sharman and carried unanimously 4-0.

Commissioner Sharman recommended appointing David Kassander who attends Planning and Zoning Board meetings as well as City Commission meetings.

Commissioner Sharman also noted that he would like to also consider Matthew Martin but he would wait until after the vote on his first nomination.

Motion by Commissioner Sharman to appoint David Kassander (*District 4*) to the Planning and Zoning Board for a three year term expiring October 2017. Seconded by Commissioner Olszewski and carried unanimously 4-0.

Mayor Rees also noted that there was one nomination available for District 1 as Mac McKinney has reached his term limit. City Manager Bollhoefer shared that Commissioner Makin called to inform him that he would not be in attendance, but wished to recommend appointing James Hawthorne to the Planning and Zoning Board for District 1. He stated that Commissioner Makin offered Mr. Hawthorne's as a nomination, who he knows, thinks is very experienced, and would be a good candidate.

Commissioner Sharman suggested postponing the last appointment until Commissioner Makin was present; Mayor Rees stated that could be done.

Mayor Rees suggested addressing term limits that came about years ago with the potential of replacing a majority of the Planning and Zoning Board. He thinks the Commission needs to be careful of how many new people are placed on the Planning and Zoning Board at once, because it does take a while to get up to speed. There was discussion on the time a new member would need to become acclimated as a new member on the Planning and Zoning Board.

Mayor Rees noted that the City Commission would wait on the last appointment (District 1) until Commissioner Makin returns.

Commissioner Olszewski shared that he noticed only one member represents District 4 and spoke of the possibility of expanding the number of members on the Planning and Zoning Board from seven to nine. He suggested having two representatives from each district and the ninth member being an at-large selection. He mentioned the Code currently states at least one member from each district. He expressed that this was just his opinion and it does not affect anything voted upon tonight but needs consideration so that we could have better representation for the citizens of Winter Garden. Mayor Rees responded that he too thought of this option when he saw that there was only one represented for District 4. He noted that he also thought that the only way around this issue would be going from seven to nine members.

There was discussion on having staff review possibly enlarging the Planning and Zoning Board and bringing an ordinance to the City Commission. Mayor Rees suggested waiting until the next meeting to see what Commissioner Makin's thoughts were on this issue.

D. Appointments to the Police and Fire Pension Board for expiring terms of Trustees Erik Halluska and Joe Morabito for two-year terms ending November 2016

Mayor Rees confirmed that both members wished to retain their seats.

Motion by Commissioner Buchanan to reappoint Erik Halluska and Joe Morabito to the Police and Fire Pension Board for a two-year term ending November 2016. Seconded by Commissioner Olszewski and carried unanimously 4-0.

7. MATTERS FROM PUBLIC

Andy Bruns, 3 Palm Drive, Winter Garden, Florida, thanked the Fire Department and medics for their performance at the last Car Show. He expressed that, even with the crowd and congestion in the downtown, our great Fire Department figured out how to respond in a very timely manner. He asked Fire Chief McGrew if he would please thank everyone that was involved.

Mr. Bruns also thanked the Police Department for their efforts in the Toys for Kids drive and noted several bicycles had been received.

8. MATTERS FROM CITY ATTORNEY – There were no items.

9. MATTERS FROM CITY MANAGER

A. Discussion and consideration of a draft ordinance creating a zoning for medical marijuana production and distribution

City Manager Bollhoefer stated that staff has sent the City Commission a draft ordinance that addresses controlling how medical marijuana is implemented because it is on the ballot in the upcoming election. Staff wants to get this in play before the election and he asked that the City Commission read it and contact staff with any questions.

Mayor Rees asked about the 1500 feet. Assistant City Attorney Langley responded a lot of these concepts come from other jurisdictions, including Orange County.

Commissioner Buchanan asked if the City is just copying others or do we actually have options, as opposed to just adopting from someone else. He asked what we are legally allowed to do and can we keep them out of the City altogether. Assistant City Attorney Langley responded that before the implementation of legislation, it is hard to predict what we can do and what the parameters may be. This was an attempt to put something together that would come out in front of any legislation. To the extent that there is any legislation passed, we would have to reassess and make amendments in order to be consistent with the new law. He responded that we could do many different things, but

the attempt here was to limit the location of these medical marijuana treatment centers to industrial districts, and restrict them from certain other uses in the City. Also, implement strict hours of operation and other actively based restrictions such as prohibiting the serving of alcohol on the premises. Other restrictions would also be put in place to be sure that it is conducted in a manner that would mitigate negative impacts to the surrounding areas and the community. This is the first attempt.

City Manager Bollhoefer noted that this can be changed in many different ways. Commissioner Buchanan asked how often it could be changed. Mr. Bollhoefer noted that it could be changed as often as every six months.

This was brought to the City Commission for discussion before the election and it would not be brought back for a first reading.

Commissioner Sharman asked if Commissioner Buchanan's question of limiting this out of Winter Garden completely was an option. Mr. Bollhoefer noted that as a general rule of thumb, if there is a legal use in the State of Florida, to outlaw something within your city is illegal; the courts have not allowed this in the past. You have to provide some way to allow the use within your city.

Assistant City Attorney Langley confirmed Mr. Bollhoefer's statements and noted that if the legislation provides for a legal use, you are allowed to implement location restrictions and activity restrictions to mitigate the impacts to the community. He stated that it would be possible for the legislature, once the constitutional amendment is in place, to preempt the cities or local government from regulating the location of these types of businesses or uses altogether. He expressed that this can't be predicted at this time, but it is possible.

Commissioner Olszewski asked Assistant City Attorney Langley with having this draft ordinance before them in anticipation of Amendment 2, does the City Commission need to take any action based on what the legislature did this year on the Charlotte's Web type medicinal marijuana usage. Mr. Langley responded that if Amendment 2 passes, this draft ordinance would pick up any sort of business that relates to medical marijuana. It would include any type of business that cultivates marijuana, processes, or sells it. He stated this ordinance would touch on those issues. He suggested that without the amendment passing, the City might still want to consider other legislation on that particular issue. As of now, the reason for this draft ordinance is for Amendment 2.

B. Discussion on cancelling regular City Commission meetings of November 27 and December 25, 2014 and closing city offices for the holidays December 26, 2014 and January 2, 2015

City Manager Bollhoefer stated that staff requests permission to give the employees an extra two days off this year; these coincide with Christmas and New Year's. He noted that these days would be December 26, 2014 and January 2, 2015; lengthening their

weekends. He shared that we have great employees that do a great job and it is a very slow time. This would be a great benefit for our employees.

Motion by Commissioner Sharman to approve closing city offices for the holidays December 26, 2014 and January 2, 2015. Seconded by Commissioner Olszewski and carried unanimously 4-0.

Motion by Commissioner Buchanan to cancel the regular City Commission meetings of November 27, 2014 and December 25, 2014. Seconded by Commissioner Olszewski and carried unanimously 4-0.

Sadler Oak Trees on Oakland Avenue

City Manager Bollhoefer advised the City Commission the City needs to take some action in order to prolong the life of these trees. Staff brought in an arborist and will do so again to try to preserve these trees as long as possible. Driving on the road already affects the roots. He offered that staff may have to come back to the City Commission and budget some funds for taking out all of the Spanish moss, which adds additional weight and blocks the sun. We need to do everything possible to preserve these trees. It was noted branches are falling off and staff will have them professionally trimmed. He also stressed that the area may need to be blocked so people cannot drive over the roots.

Commissioner Sharman asked if the City actually needs an arborist or just the people to do the work. Mr. Bollhoefer replied that hiring a professional arborist is needed so they can suggest a deep root fertilizer, ways to protect the roots, and offer advice on periodic trimming. City Manager Bollhoefer added that in the long term, a program will be created that will identify all of our legacy oaks and protect them.

Commissioner Buchanan asked if the City Commission needed to authorize a certain amount of funding. Mr. Bollhoefer responded that funding will be needed at a certain time in the future when the program is created; for now he just wanted to update them in case they got any calls.

10. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Olszewski thanked all those involved with the MusicFest; they did a great job.

Commissioner Sharman echoed the MusicFest comment and mentioned that the base layer of the Florida Hospital site has been poured with orange concrete.

City Manager Bollhoefer shared that he distributed to the City Commission a copy of a report from Matrix Consulting Group. The report is on whether our Fire Department could take over EMS services. He asked that the City Commission to review this report. He noted that there was a lot of great information about our Fire Department, how it works, and the

station locations. He indicated that this item will be brought back to the City Commission very shortly for a decision on whether or not to move forward.

The meeting adjourned at 7:15 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC