



# CITY OF WINTER GARDEN

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## CITY COMMISSION REGULAR MEETING MINUTES

November 13, 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, Kent Makin, Robert Olszewski and Colin Sharman

**Also Present:** City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, 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, and Recreation Director Jay Conn

### 1. **APPROVAL OF MINUTES**

**Motion by Commissioner Olszewski to approve regular meeting minutes of October 23, 2014, as submitted. Seconded by Commissioner Makin and carried unanimously 3-0.**

*Commissioners Buchanan and Sharman arrived at 6:34 p.m.*

### 2. **OATH OF OFFICE AND INTRODUCTION OF NEW POLICE OFFICER**

Police Chief Brennan introduced and administered the oath of office to Officer Jessica McCambridge.

*At this time, Mayor Rees changed the order of business to act on Items 4.A. B. and C.*

### 4. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

A. **Ordinance 15-01:** 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

B. **Ordinance 15-02:** 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

- C. **Ordinance 15-03**: 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 15-01, 15-02, and 15-03 by title only. Community Development Director Williams stated that this is a voluntary request for annexation, initial zoning, and comprehensive plan designation. He noted that this property was before the City Commission last year and was continued for approximately four months due to title issues. The title issues have been resolved and that application was withdrawn. The process has been restarted.

The request for zoning is a little different than other properties in the area. It is for R1-B, which are 75 foot lots. On the south side of the road, properties are all R1 with 85 foot lots. However, the properties on the north, where this property is located, are all 65 and 70 foot lots under PD zoning and R1-B. He explained that the other properties in the area had the lower lot sizes, so they have asked that the applicant go with the lower size of 75 feet rather than 85. He noted that the odd configuration of the property with its triangular peak precludes the applicant from getting a very good yield on the property. The applicant will actually only have 26 lots on the 11+ acres. This is approximately 2.3 homes per acre. Staff and the Planning and Zoning Board have reviewed this application and recommend approval, subject to the conditions.

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

**Motion by Commissioner Makin to approve Ordinances 15-01, 15-02, and 15-03 with the second reading and public hearing being scheduled after review by the state. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

3. **FIRST READING OF PROPOSED ORDINANCE**

- A. **Ordinance 14-42**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE III, PENSION PLAN FOR FIREFIGHTERS AND POLICE OFFICERS, OF THE

CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-189, FINANCES AND FUND MANAGEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 14-42 by title only. City Manager Bollhoefer stated that this ordinance is required by the State, and the City has to allow this change or lose its funding.

**Motion by Commissioner Olszewski to approve Ordinance 14-42 with the second reading and public hearing being scheduled for December 11, 2014. Seconded by Commissioner Sharman and carried unanimously 5-0.**

4. **SECOND 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

City Attorney Ardaman read Ordinance 14-38 by title only. Community Development Director Williams stated that this property has been purchased and is currently being used as three rental units within a single family house and an accessory structure. The applicant is the purchaser. They may, in the future, convert it to either an office with rental units or an artist gallery. Staff feels this is appropriate for what the City has planned along that corridor. Staff recommends approval of the request.

Commissioner Sharman asked if this was in the parking garage district. Mr. Williams responded yes.

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

**Motion by Commissioner Buchanan to adopt Ordinance 14-38. Seconded by Commissioner Sharman and carried 4:1; Mayor Rees opposed.**

5. **REGULAR BUSINESS**

- A. **Recommendation to approve the Final Plat for Hickory Hammock Phase 1D**

Community Development Director Williams stated that this is an active project on Avalon and Marsh Road. It has been a very successful lakefront community and is moving quite quickly. This plat is for 149 lots on 101 acres that has been reviewed by

staff and is in compliance with all conditions of the code and all conditions of approval on the project. Staff recommends approval.

**Motion by Commissioner Sharman to approve the final plat for Hickory Hammock Phase 1D. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

**B. Recommendation to approve proposed site plan for 591 Susan B. Britt Court owned by Tierra, Inc.**

Community Development Director Williams stated that this is a proposal for approval on Susan B. Britt Court. This particular property is proposed to be developed with a material testing lab for construction materials. They have submitted a site plan that complies with our codes and the conditions of approval. Staff recommends approval subject to the conditions provided in the staff report.

**Motion by Commissioner Olszewski to approve the proposed site plan for 591 Susan B. Britt Court owned by Tierra, Inc. Seconded by Commissioner Makin and carried unanimously 5-0.**

**C. Recommendation to authorize the City Manager to sign a purchase agreement for the acquisition of 15,461 square feet (45.95 x 336.47) from parcel 26-22-27-9147-00-010 adjacent to the City water storage tank on Daniels Road for \$20,000.00**

Community Development Director Williams stated that this is a recommendation to authorize the City Manager to sign a purchase agreement for a 15,461 square feet property next to the storage tank on Daniels Road. Somehow there were odd configurations of the parcel and the business part that runs on CR535 actually encroaches on the City's tank site. The owner was very cooperative and willing to sell that piece of property to the City; allowing for better security and control of the property. They have agreed to a purchase price of \$20,000.00, which is \$1.70 per square foot. Staff recommends approval.

Commissioner Sharman noted that this property has been chopped up a couple different times and hopes this is the last time it will need to come before the City Commission.

**Motion by Commissioner Sharman to authorize the City Manager to sign a purchase agreement for the acquisition of 15,461 square feet (45.95 x 336.47) from parcel 26-22-27-9147-00-010 adjacent to the City water storage tank on Daniels Road for \$20,000.00. Seconded by Commissioner Makin and carried unanimously 5-0.**

**D. Recommendation to approve entering into a Termination for Convenience Agreement with Morris and Associates and award \$7,447.04 for costs incurred on the 9<sup>th</sup> Street Sewer Replacement Project**

Assistant City Manager of Public Services Cochran stated that several months ago the City awarded a contract to Morris and Associates for the 9<sup>th</sup> Street sewer main

replacement. He noted that during this time, Mr. Morris has had some difficulties within his company. Since negotiations began on this agreement, Mr. Morris has since stepped into a wet well of a lift station and is incapacitated in the hospital. Before this happened, Mr. Morris was given a notice to proceed and had put up message boards as though he was going to start the work, but never did. After several months of this, staff met with him and gave him an opportunity to pull out of the contract, with the City paying his administrative costs. Staff advised Mr. Morris that it would be best to terminate for convenience, with the City paying him \$7,447.04 for his administrative costs he had into the project at this time. Mr. Morris was more than happy to do so in order to back out of the project.

Commissioner Makin asked how much of those fees were negotiated down, noting that he was sure it was higher than that. Mr. Cochran agreed that it was higher, noting that Mr. Morris had wanted another \$20,000.00 to \$30,000.00.

**Motion by Commissioner Sharman to approve entering into a Termination for Convenience Agreement with Morris and Associates and award \$7,447.04 for costs incurred on the 9<sup>th</sup> Street Sewer Replacement Project. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

E. **Recommendation to award contract to DeWitt Excavating, Inc. for 9<sup>th</sup> Street Sewer Replacement Project at a reduced bid amount not to exceed \$1,136,561.13 that includes a 15 percent contingency**

Assistant City Manager of Public Services Cochran stated that this is a rare request for permission to award a contract for which there is an emergency on 9th Street. He shared why the road is currently collapsing and that there are steel plates out there. Therefore, staff is asking the City Commission to award the contract to the highest bidder, DeWitt, who has lowered their price to \$988,396.62. The way staff was able to get DeWitt to the lower price is that the construction zone will be a hard road closure. The road would be open on both ends, only to local traffic, but you would not be able to drive all the way through. He explained that the pipe sits right in the middle of the road and will need heavy equipment to expedite this project. Staff recommends that the City require a hard road closure in this construction zone.

Commissioner Makin asked how long would it be. Mr. Cochran responded that it would be approximately 90 to 120 days, if there are no unforeseen problems.

Commissioner Makin asked if any of the businesses had been notified. Mr. Cochran replied that staff has spoken to the businesses all along the way, but right now the road would be open up to the point of the lift station for local traffic. He explained that people would be able to get to their subdivision and business destinations.

Commissioner Makin voiced concerns regarding the Lynx bus, schools buses, and public transportation. There was discussion that notifications would need to go out to Lynx and the Orange County Public School Board.

Mr. Cochran noted that the plan will be to detour big trucks down Carter Road, so they can get to Story Road and then on to Ninth Street.

Mayor Rees asked when this project is anticipated to start. Mr. Cochran stated that the City has already purchased the materials and DeWitt is ready to start work.

Commissioner Olszewski thanked City staff and noted that he knows the smell that has been coming from this lift station has been a problem that has been mitigated. He asked the City Manager to relay to Mr. DeWitt the importance of expediting this project.

Commissioner Olszewski noted that the owner of the BBQ restaurant has been in contact with him numerous times throughout the last couple years and asked if staff has spoken to him. Mr. Cochran replied that he has been to this establishment many times over the past several months. Commissioner Olszewski expressed that he would like to see the City do as much as we can for him as he has been inconvenienced a couple times; with this sounding like it could be a potentially grave threat to his business. Mr. Cochran responded that staff has already been looking into paving the north side of his business to give him additional parking. He expressed that the City would put up signage and do what we can to make sure customers can find their way to his business. He also stressed that it will be finished before Thanksgiving.

Mr. Cochran shared the difficulty with the pipe being 19 feet deep is one of the reasons why lower bidding contractors were not chosen. He expressed that DeWitt has more resources for as fast as it needs to be done.

Mr. Cochran stated that he is recommending that a 15 percent contingency be added, bringing the project amount up to \$1,136,561.13. He usually would only request a 10 percent contingency but considering the depth of this pipe and that it straddles in between the existing sewer pipe and a six inch high pressure gas main to the east side, if the trench starts to collapse, they will have to be able to hold up that gas main and bridge it as they go. He stressed that we do not want anything to happen to the gas main; thus the additional funds should there be a problem.

City Attorney Ardaman asked for clarification on this being a health and safety emergency need for the contract in order to be able to make those adjustments and recommendations that he made to the City Commission. Mr. Cochran responded yes.

**Motion by Commissioner Buchanan to award contract to DeWitt Excavating, Inc. for 9<sup>th</sup> Street Sewer Replacement Project at a reduced bid amount not to exceed**

**\$1,136,561.13 that includes a 15 percent contingency. Seconded by Commissioner Makin and carried unanimously 5-0.**

F. **Recommendation to approve purchasing one 2015 Elgin Mechanical Street Sweeper under the State's contract, at an amount not to exceed \$239,717.00, as approved in this year's budget**

Assistant City Manager of Public Services Cochran stated that this item is to approve the purchase of 2015 Elgin Mechanical Street Sweeper. The City currently only has one street sweeper that not only picks up debris but also has a vacuum unit. Staff has found that when it is used on brick streets, it is pulling up the sand. The street sweeper staff is recommending here, does not have a vacuum unit and it will be used on the downtown streets and all the brick streets around town. This will save the City from having to make so many repairs as in the past. He also noted that there is a need for two street sweepers to keep up with the workload.

Commissioner Buchanan asked if there was a way to turn off the vacuum portion of the sweeper. Mr. Cochran stated that is the question he asked and apparently not.

Mayor Rees asked if this will allow the streets to be swept a little more often in the downtown corridor to keep runoff from going down into the lake. Mr. Cochran replied yes, we will be running both of them almost on a daily basis.

**Motion by Commissioner Sharman to approve purchasing one 2015 Elgin Mechanical Street Sweeper under the State's contract, at an amount not to exceed \$239,717.00, as approved in this year's budget. Seconded by Commissioner Makin and carried unanimously 5-0.**

G. **Recommendation to approve bids and award contract for SunRidge Boulevard Widening Project to DeWitt Excavating, Inc. in the amount of \$734,346.29 that includes a 10 percent contingency**

Assistant City Manager of Public Services Cochran stated that this item is for the widening of SunRidge Boulevard. On November 4, 2014, the City received bids for the widening project. There were three eligible lowest bidders with DeWitt Excavating coming out as the lowest bidder at \$667,587.54. Staff recommends awarding this contract to DeWitt Excavating, Incorporated.

Mayor Rees asked Mr. Cochran if he had any concerns about the amount of contracts DeWitt Excavating is doing in town and will they be able to get them all completed in a timely manner. Mr. Cochran responded that he has no concerns because DeWitt will be using another crew to do this work.

Commissioner Sharman asked if this will be done over the Christmas and New Year's break from school. Mr. Cochran answered that this will start in January and probably carry through to the summer, but hopefully be complete before school starts next year.

City Manager Bollhoefer stated that staff met with the school and ask what would be the best timeframe for them and this is what they suggested.

**Motion by Commissioner Sharman to approve bids and award contract for SunRidge Boulevard Widening Project to DeWitt Excavating, Inc. in the amount of \$734,346.29, which includes a 10 percent contingency. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

H. **Appointment to the Planning and Zoning Board for expiring term of Millard (Mac) McKinney for a three year term ending October 2017**

Mayor Rees stated that this item is the appointment to the Planning and Zoning Board for the expiring term of Millard (Mac) McKinney for a three year term ending October 2017, which was postponed from the prior City Commission meeting. He noted that Mac McKinney was in District 1 and recognized Commissioner Makin.

**Motion by Commissioner Makin to appoint James William Hawthorne [District 1] to the Planning and Zoning Board for expiring term of Millard (Mac) McKinney for a three year term ending October 2017. Seconded by Commissioner Buchanan.**

Commissioner Buchanan stated that he seconds the motion but wanted to submit the name of George Spigener, Jr. for future consideration. He noted that it was not necessarily for this appointment but he would like to see him be considered. Mr. Spigener has lived here all his life and his dad has been here. He feels that he would have a lot to offer if he was appointed to a position.

Commissioner Makin noted that he also talked to George Spigener and expressed that he too felt that George was a good guy who had done a lot for the community. In reviewing the applications, he noted that William Hawthorne has been here all his life and is an engineer, which is an aspect that he liked.

Mayor Rees asked Commissioner Buchanan if he was submitting Mr. Spigener's name for future consideration. Commissioner Buchanan responded yes, he would like to see him be recommended.

**Motion carried unanimously 5-0.**

6. **MATTERS FROM PUBLIC** – There were no items.
7. **MATTERS FROM CITY ATTORNEY** – There were no items.
8. **MATTERS FROM CITY MANAGER** – There were no items.
9. **MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Buchanan** stated that he was gone this past weekend and missed the downtown festivities but made up for it with the Gator's game.

**Commissioner Olszewski** expressed that it was a great job for our first inaugural CultureFest. He noted that at night the Cityscape and lighting was breathtaking.

Commissioner Olszewski announced the East Winter Garden Gala coming up at the end of the month at Tanner Hall.

**Commissioner Sharman** reminded everyone of the Car Show this weekend. He noted that it is potentially Andy Bruns' last year of running the Car Show.

**Mayor Rees** thanked staff for their efforts with the Halloween and great events. He expressed that a lot of people put in a lot of time both with preparation and afterwards cleaning up.

A. **Discussion on the number of members on the Planning and Zoning Board and staggered terms**

Mayor Rees stated that the Planning and Zoning Board currently has seven members and asked if the City Commission wanted to increase it. He expressed that from a functional standpoint, it probably does not do a lot of good; but if it allows the Commissioners to have two representatives from each district and one at large, this is something the City Commission can take a look at. It may alleviate the issue of having three or four members terming out and potentially start a whole new Planning and Zoning Board.

Commissioner Olszewski noted that he brought this up at the last meeting and thinks it is fair for the citizens that live in Winter Garden's fourth district to have the extra seat and have their member on the Planning and Zoning Board and an at large appointment who can be appointed or recommended by the Mayor.

Mayor Rees suggested that the City Commission think on this issue and it will be brought back for discussion at the next meeting.

The meeting adjourned at 7:10 p.m.

APPROVED:

\_\_\_\_\_/S/\_\_\_\_\_  
Mayor John Rees

ATTEST:

\_\_\_\_/S/\_\_\_\_\_  
City Clerk Kathy Golden, CMC