



# CITY OF WINTER GARDEN

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## CITY COMMISSION REGULAR MEETING MINUTES

February 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. The invocation and Pledge of Allegiance were given.

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

**Also Present:** City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, City Clerk Kathy Golden, Assistant to City Manager - Public Services Don Cochran, Community Development Director Ed Williams, Finance Director Laura Zielonka, 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 January 23, 2014 as submitted. Seconded by Commissioner Makin and carried unanimously 5-0.**

- **Proclamation 14-02** was read and presented to SunRidge Middle School Future Farmers of America students by Mayor Rees declaring February 15 – 22, 2014 as Future Farmers of America (FFA) Week.

### 2. **FIRST READING OF PROPOSED ORDINANCE**

A. **Ordinance 14-19:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING SECTIONS 38-123 THROUGH 38-150 OF CHAPTER 38 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING LITTERING; PROVIDING FOR REGULATIONS OF DOOR-TO-DOOR DISTRIBUTION OF LEAFLETS, PAMPHLETS, AND OTHER HANDBILLS; PROVIDING REGULATIONS OF DISTRIBUTION OF LEAFLETS, PAMPHLETS AND OTHER HANDBILLS UPON AUTOMOBILES AND OTHER VEHICLES; PROVIDING FOR REASONABLE REGULATION OF EXPRESSION AND SPEECH; PROVIDING FOR REGULATIONS NECESSARY TO MAINTAIN AESTHETICS OF THE CITY AND TO PREVENT THE ACCUMULATION OF LITTER AND THE AESTHETICS OF THE CITY BY PROVIDING A LEAST RESTRICTIVE MANNER OF SECURING EXPRESSIVE ITEMS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR VARIANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 14-19 by title only. City Manager Bollhoefer stated that this ordinance would create some rules and regulations for those distributing handbills to homes. He noted that this allows someone, who does not want handbills, the ability to notify the company and then they will not be allowed to distribute the handbills to those houses.

City Attorney Ardaman noted some typographical errors that will be corrected prior to the second reading.

**Commissioner Olszewski** asked the City Attorney about the Florida Supreme Court ruling that campaign and political literature are not considered a solicitation. He noted that this ordinance appears to make political palm cards illegal and asked for clarification. **Mr. Ardaman** responded that the ordinance does not make an exemption or exception for political matters. When you start getting into regulating the content that is when the Supreme Court says you can regulate proper time, place, and manner. He noted that there is some heightened protection for political speech but this ordinance primarily focuses on littering and does make an exception for subscriptions voluntarily requested to receive. He shared that if the City Commission wants to place an exemption in the ordinance, and we can, it will be problematic and he will bring it back for consideration.

**Commissioner Olszewski** stated that it is his understanding that the Florida Supreme Court has ruled that any kind of political promotional material would be protected by the Florida Constitution Supreme Court, so even our ordinance would be superseded. He asked if this was correct even if the City passed this [*ordinance*], political speech would still be protected. **Mr. Ardaman** responded that the cities and counties still have the authority to regulate signage, even in the political arena. He reiterated that it does not address the content. He expressed that throughout the country there is some heightened protection. This ordinance does not key in to any particular type of speech and doesn't suggest going into this particular ordinance thinking you will have an exemption.

**Commissioner Buchanan** shared that it is his understanding that if a person places a solicitation item on someone's property and is asked by the resident to no longer solicit their address, it then becomes an enforceable violation if that person places an item a second time. **Mr. Ardaman** stated that if this is the Commission's intent, then he will clarify it to make sure it is clear in all aspects.

**Mayor Rees** stated that we are creating something here that is unenforceable.

**Commissioner Makin** expressed that he was looking at this from a standpoint of littering and shared his own experience with similar solicitations. In addition, numerous residents have called him in the past and he would like the attorney to see what exemptions could be included in this ordinance. He noted that the political solicitations are not all the time and his concern is for those littering every week.

**Commissioner Olszewski** asked if the location could be regulated because it is different to have something thrown on the driveway as opposed to leaving something on the door.

**Mr. Ardaman** suggested allowing him to redraft the ordinance, based on the conversations, and bring it back to the City Commission.

It was the **consensus** of the City Commission that the City Attorney will bring this item back for their review.

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

- A. **Ordinance 14-10:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 13-64, THE CITY OF WINTER GARDEN FISCAL YEAR 2013-2014 BUDGET TO CARRY FORWARD PRIOR YEAR APPROPRIATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 14-10 by title and the following excerpt from Section 1, appropriated as follows:

<b>REVENUES</b>	
General Fund	\$ 1,102,993
CRA	7,174,710
Law Enforcement Grants	3,363
Local Option Gas Tax Fund	938,710
Transportation Impact Fee Fund	6,207,186
Utilities Operating Fund	2,454,920
Utilities Impact Fee Fund	6,280,294
Utilities Renewal & Replacement	<u>1,949,455</u>
	<b>\$26,111,631</b>

Mr. Ardaman noted that the expenditures for each of the items were the same amount.

City Manager Bollhoefer stated that this is a carryover from projects of last year's budget for projects that were not completed.

Commissioner Olszewski clarified that these are not new expenditures but are the funds not spent in the last budget cycle which is moving forward, so there is no additional cost coming to any taxpayer. Mr. Bollhoefer responded correct.

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

**Motion by Commissioner Buchanan to approve Ordinance 14-10 with the second reading and public hearing being scheduled for February 27, 2014. Seconded by Commissioner Sharman and carried unanimously 5-0.**

4. **REGULAR BUSINESS**

- A. **Resolution 14-01: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, DECLARING THE QUALIFYING RESULTS OF THE 2014 GENERAL ELECTION FOR DISTRICTS 1 AND 5; AND THE CANDIDATES ELIGIBLE TO RUN FOR DISTRICTS 1 AND 5 TO BE HELD ON MARCH 11, 2014**

City Attorney Ardaman read Resolution 14-01 by title only. City Clerk Golden stated that this is a resolution declaring those candidates eligible for the election. She shared that Section 3 delegates that the election will be handled by the Orange County Supervisor of Elections because of combining the special election for State Representative Precourt's seat (District 44) with ours.

**Commissioner Olszewski** inquired as to why the City Commission was not voting on the election date this time. He further inquired why was the Commission was able to vote to not have it on the same date as the Presidential Primary the last time and this time the date is being told to us. **Ms. Golden** responded that the City is combining elections out of necessity because opening voter registration books for both elections can't be done. Therefore, the elections are being merged together.

**Motion by Commissioner Sharman to adopt Resolution 14-01. Seconded by Commissioner Olszewski and carried unanimously 5-0.**

- B. **Recommendation to approve bids and award contract to T. D. Thomson Construction Co. Inc., for South Woodland and East Tremaine Street Project in the amount not to exceed \$438,298.30, that includes a 10 percent contingency**

City Manager Bollhoefer stated that staff would like to pull this item until the next meeting.

- C. **Recommendation to approve the site plan, subject to conditions, for AutoZone at 1089 Walker Street**

Community Development Director Williams stated that the City Commission is very familiar with this project because of the number of times the City has had to review it over the course of the variance and getting the traffic to work. Staff is recommending approval of the site plan, subject to conditions. Staff would like to add a condition that the City will have a developer's agreement that incorporates all of the conditions that the City has put on the variance. He noted that in trying to get the project moving, staff has the site plan before the City Commission without the developer's agreement, but would like to recognize the condition that the developer's agreement will be coming back to the City Commission.

**Motion by Commissioner Olszewski to approve the site plan for AutoZone at 1089 Walker Street, subject to a developer's agreement being entered into. Seconded by Commissioner Makin and carried unanimously 5-0.**

**D. Recommendation to approve Mathews Grove Developer's Agreement**

Community Development Director Williams stated that normally a developer's agreement is fairly standard, but the developer's agreement for this project and the adjoining project involve a lot of other issues. Staff feels it is important to bring this to the City Commission's attention in conjunction with approval. He stated that this summer the City will be four-laning the road that is to the south of SunRidge School. It will go from two lanes to a four lane facility to handle the traffic that is occurring from these projects and at the school. In addition, the City will be opening SunRidge to connect to Siplin Road. He noted that the problem with Siplin Road is that it is a substandard road and a substandard right-of-way, in some places as low as six and eight foot wide. Mr. Williams stated that through annexation the City now controls the property over the vast majority of the land between Siplin and the lakes. The Mathews Grove project and the Black Lake Preserves to the west will have similar developer's agreements. He noted that it is important that these issues be brought to the City Commission's attention.

Mr. Williams described that when the City connects SunRidge with the south section of Siplin Road, the City will work with the developers to take that old substandard right-of-way out and relocate Siplin into this project and build a standard public road and right-of-way. It will come back into the existing substandard right-of-way at the southern boundary where it hits the county jurisdiction. Until the properties annex into the city and provide the city with sufficient right-of-way to extend the road, they will continue to use their existing substandard road.

The section to the north of SunRidge where it hits Siplin, staff is proposing to take that right-of-way and vacate it so there will no longer be a substandard road going through. City staff is working with the School Board staff to provide a pedestrian access way for access to the neighborhoods to the north for children to walk to the school. This will be maintained by the School Board. The developer would be giving up more land to develop the road. Staff is recommending that when the vacation is being done, they get the land back and incorporate into their project. Mr. Williams went to a map displayed pointing out the locations he was referencing.

**Motion by Commissioner Buchanan to approve the Mathews Grove Developer's Agreement as submitted. Seconded by Commissioner Makin and carried unanimously 5-0.**

**E. Recommendation to authorize the City Manager to enter into an agreement with the Florida Department of Environmental Protection to accept a \$200,000 Land and Water Conservation Fund grant for the Tucker Ranch Park property**

Parks and Recreation Director Conn stated that staff is very happy to report that the City has been awarded an additional \$200,000 grant to help fund the construction of the Tucker Park property. It does require that the City enter into an agreement with the State of Florida. Staff recommends allowing the City Manager accept to these funds.

Commissioner Sharman asked what the City must do to get the money. Mr. Conn stated that there are stipulations in the agreement. He noted that there are things such as record keeping requirements that are pretty standard for grants. The City needs to build a park and there is a stipulation that we have accepted that in perpetuity this will be a park. If it does become anything else in the future, the City would have to repay these funds.

Commissioner Makin asked about the timeframe. Mr. Conn responded that this grant is exactly the same as the grant that was accepted to purchase the property, so these are construction funds. He noted that the deadline was March of 2015. Mr. Conn has spoken to the liaison with this grant program and they will extend the deadline to three years from the time the City accepts this grant, which will be the spring of 2017.

**Motion by Commissioner Buchanan to authorize the City Manager to enter in an agreement with the Florida Department of Environmental Protection to accept the \$200,000 Land and Water Conservation Fund grant for the Tucker Ranch Park property. Seconded by Commissioner Sharman and carried unanimously 5-0.**

**F. Recommendation to approve request by Tri-N-Run of West Orange to close a portion of Plant Street and Lakeview Avenue, and waive permit fees to accommodate a 5k road race on April 19, 2014 from 7 a.m. to 9:00 a.m.**

Parks and Recreation Director Conn stated that we have a request from Jerry Pegram of Tri-N-Run of Winter Garden for an additional race on April 19, 2014. Mr. Conn noted that there is a 10K this weekend, but this is a request for a 5K run. He noted that Mr. Pegram has received approval from the Merchant's Association for the few streets that need to be blocked downtown. He noted that races that early in the morning really have no disruption to the businesses downtown. Staff recommends approval.

**Motion by Commissioner Makin to approve request by Tri-N-Run of West Orange to close a portion of Plant Street and Lakeview Avenue, and waive permit fees to accommodate a 5K road race on April 19, 2014 from 7:00 - 9:00 a.m. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

**G. Recommendation to approve request by Winter Garden Rotary to waive fees and allow alcohol sales at the Evening at the Pops event at Newton Park/Tanner Hall on March 29, 2014**

Parks and Recreation Director Conn stated that the Winter Garden Rotary is requesting to have their evening at the Pops this year on March 29, 2014. They are requesting to waive the event and permit fees, waive Tanner Hall rental fees, and permission to serve alcohol in the park in a designated area. This is a charitable event for the Rotary Club and the charities that they support during the year.

Commissioner Buchanan asked the City Manager if the funds have been already distributed to the Winter Garden Rotary Club. Mr. Bollhoefer responded that the funds have not been distributed but they have been budgeted. Commissioner Buchanan asked if it was the \$5,000. Mr. Bollhoefer responded correct.

**Motion by Commissioner Buchanan to approve request by Winter Garden Rotary Club to waive fees and allow alcohol sales at the Evening at the Pops event at Newton Park/Tanner Hall on March 29, 2014. Seconded by Commissioner Makin and carried unanimously 5-0.**

H. **Recommendation to approve the Winter Garden Elks Lodge conducting a turkey shoot on March 8, 2014 at 700 South 9<sup>th</sup> Street to observe noise and impact to the surrounding area for possible future events**

Community Development Senior Planner Pash stated that this item is a special event for the Winter Garden Elks Lodge located at 700 South 9<sup>th</sup> Street. He noted that they would like to resume holding their turkey (target) shoot. This turkey shoot will allow contestants to shoot shotguns at a paper target. The City's noise ordinance requires the maximum allowed noise is 60 decibels. They will be firing shotguns with low velocity shot. He noted that through staff's research it was found that this range is from 140 to 170 decibels, which due to that noise level required City Commission approval. The event is proposed for Saturday, March 8, 2014, from 9:00 a.m. to 5:00 p.m. Staff recommends approval so that the event can be observed and the impact reviewed.

Commissioner Olszewski stated that he supports the second amendment on this issue but noted that this is in a residential area and wanted to be sure the City is working with our Police Department so there would be no panicked residents hearing gunshots fired in succession. Mr. Pash stated that there will be multiple gunshots fired in succession as they will be in a row, but this will be a well-advertised event so it will be well known what is happening.

**Roy LaBossier** stated he is one of the trustees at the Elks Lodge on Ninth Street. He noted that these shoots were held for many years and they never had one complaint from the neighborhood. He noted that except for one new tenant in the neighborhood, they are all the same as when this was done before. One change that they have is the starting time from 8:00 a.m. to 9:00 a.m. He had no idea of how loud they are but affirmed that the shots are with low velocity concentrated powder.

Commissioner Olszewski asked when the last shoot was held. Mr. LaBossier replied, roughly around 2007. Mr. Olszewski shared that he was not in this seat in 2007 and wanted to be sure that the residents were taken care of.

Commissioner Buchanan asked whose guns are used. Mr. LaBossier replied they would bring their own shotguns and get the shots from the Elks.

Mayor Rees stated that he has no problem with doing this once and seeing what the impact is and go from there.

**Motion by Commissioner Olszewski to approve the Winter Garden Elks Lodge conducting a turkey shoot on March 8, 2014 at 700 South 9<sup>th</sup> Street to observe noise**

**and impact to the surrounding area for possible future events. Seconded by Commissioner Makin and carried unanimously 5-0.**

**I. Appointment to fill vacancy on the Code Enforcement Board (Wanda Patterson) with term to expire July 1, 2015**

City Clerk Golden stated that as indicated in the agenda packet, there has been a vacancy created on the Code Enforcement Board. She noted that district information was provided, although this is not a requirement for this board.

Mayor Rees opened nominations.

**Motion by Commissioner Olszewski to appoint Bruce Woloshin to fill the vacancy on the Code Enforcement Board with the term to expire on July 1, 2015. Seconded by Commissioner Makin and carried unanimously 5-0.**

5. **MATTERS FROM PUBLIC** - There were no items.

6. **MATTERS FROM CITY ATTORNEY** – There were no items.

7. **MATTERS FROM CITY MANAGER**

**Donation of old police equipment to Lake County Sheriff's Office**

City Manager Bollhoefer stated that the City no longer uses Crown Victoria's as police cars. The old molded transport seats and trunk boxes will not fit into our new cars. Our Police Department would like to give these items to the Lake County Police (Sheriff) Office. He stated we could probably sell them, but assured the City Commission that they would not get much for them. He thinks the City would gain more from the goodwill for giving these to the Lake County Police (Sheriff) Department.

**Motion by Commissioner Olszewski to approve donating the plastic seats and trunk boxes from our old Crown Victoria police vehicles to the Lake County Sheriff's office. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

**Aide to the Family of Slain Orange County Deputy Sheriff Jonathan Scott Pine**

City Manager Bollhoefer stated our Police Chief Brennan has been in contact with Orange County Sheriff Demings regarding the recent shooting of [*Orange County Deputy Sheriff Jonathan Scott Pine*], a member and protector of our community. Sheriff [*Demings*] was asked what we as a City could do to help. These are tough times for a wife and children without their husband and father. The Sheriff has asked, because it takes some time for the pension benefits to be enacted, if the City would be willing to waive utility fees for the family for six months, thus removing that financial burden. City Manager Bollhoefer made a recommendation to waive the utility fees for six months.

**Motion by Commissioner Makin to approve waiving utilities fees for Orange County Deputy Sheriff Jonathan Scott Pine's family for the next six months. Seconded by Commissioner Olszewski and carried unanimously 5-0.**

**Winter Garden Police Memorial Dedication**

City Manager Bollhoefer stated that the Police Memorial dedication will be in front of the Police Department at 10:00 a.m. on Monday, February 17<sup>th</sup>.

**8. MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Olszewski** announced that the City of Winter Garden was awarded a franchise in the Florida Collegiate Summer Baseball League. He mentioned that they are having a vote for the team name and the three names are the Trailblazers, the Squeeze, and the Gnomes. He suggested that everyone go onto their website to vote.

**Commissioner Olszewski** stated that he was up in Tallahassee with a small contingent from the Tri-County League of Cities and thanked State Senators Geraldine Thompson and Kelly Stargill who are very interested in working with the City of Winter Garden on future projects.

**Commissioner Olszewski** addressed an issue he stated he brought up a while ago that he is concerned about. He inquired if there is some way a Commissioner can be kept informed when an issue has been handled or be kept informed on an issue to be sure citizens are being helped. **Mayor Rees** suggested that one person be contacted by e-mail, the City Manager, thereby making the City Manager responsible for making sure it gets done. The City Manager can respond or delegate someone to respond to the Commissioner. **Commissioner Olszewski** stated that is a great suggestion that follows the City Charter and to know we are going to get a response. **City Manager Bollhoefer** added that he sometimes receives an e-mail with five to six people copied and the staff members wonder if they should respond. If it only comes to him, then he can delegate it and it is easier to tract. **Mayor Rees** asked if this works for everyone. **Commissioner Makin** indicated that is what he has been doing.

**Commissioner Buchanan** stated that when someone comes to him with a concern he cannot answer, he suggests to the resident that they come to the City Commission meeting and the Commission can address it as a whole. The item becomes documented in the minutes and it is on record.

**Commissioner Olszewski** stated that his concern is when you think something has been handled and it hasn't it is frustrating that and as a Commissioner, our hands are tied. He is glad to have clarification that now whenever a Commissioner sends an e-mail, there will be a confirmation and a response from City staff or the City Manager. **Mayor Rees** added that citizens always have the right to come to City Commission meetings and appeal to us. **Commissioner Olszewski** added that he always includes the involved department so they know where it is coming from, but Mr. Bollhoefer is the boss and it is funneled through him and he agrees. He emphasized that his reason for bringing this matter up is to receive whatever the action and outcome was on a matter.

The meeting adjourned at 7:30 p.m.

APPROVED:

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

ATTEST:

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