



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

May 8, 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, Robert Olszewski and Colin Sharman

Absent: Commissioner Kent Makin

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, Finance Director Laura Zielonka, Fire Chief Matt McGrew, Police Chief George Brennan, Economic Development Director Tanja Gerhartz, Recreation Director Jay Conn, Senior Planner Stephen Pash, and West Orange Times Reporter Peter M. Gordon

Mayor Rees reversed the order of the first two agenda items.

2. **PRESENTATIONS of Annual Drop Savers Poster Contest Winners**

Assistant City Manager - Public Services Director Cochran stated that every year the City has its water conservation public education program. He recognized Water Conservation and Recycling Coordinator Angela Ewanitz to introduce the drop saver poster contest winners as follows:

Dillard Street Elementary School

Caitlin Foster (Division 2) – School Winner

Whispering Oak Elementary School

Morgan Jacob (Division 3) – School Winner and City Winner

Tildenville Elementary School

Seth Guzman (Division 3) – School Winner

Ariana Gonzalez Ramos (Division 2) – School Winner and City Winner

1. **APPROVAL OF MINUTES**

Motion by Commissioner Buchanan to approve regular meeting minutes of April 24, 2014, as submitted. Seconded by Commissioner Sharman and carried unanimously 4-0.

2. **REGULAR BUSINESS**

A. **Recommendation to approve Hickory Hammock Phase 1B Final Plat**

Senior Planner Pash stated that this is the final plat for Hickory Hammock Phase 1B which is 19.78 acres and contains 67 lots. This has been reviewed by the Development Review Committee and staff; both recommend approval.

Motion by Commissioner Olszewski to approve Hickory Hammock Phase 1B Final Plat as submitted. Seconded by Commissioner Buchanan and carried unanimously 4-0.

B. **Recommendation to approve Hickory Hammock Phase 2A Final Plat**

Senior Planner Pash stated that this is the final plat for Hickory Hammock Phase 2A which is 23.2 acres and contains 61 lots. This has been reviewed by the Development Review Committee and staff; both recommend approval.

Motion by Commissioner Sharman to approve Hickory Hammock Phase 2A Final Plat as submitted. Seconded by Commissioner Olszewski and carried unanimously 4-0.

C. **Recommendation to approve Developer's Agreement with Royal Oak Homes, LLC for Black Lake Preserve**

Senior Planner Pash stated that this is the developer agreement for Black Lake Preserve, a development of 91 single family homes on the southwest corner of SunRidge Boulevard and Siplin Road. This agreement outlines all the development requirements as well as the SunRidge Boulevard Fair Share Agreement. Staff recommends approval of the developer agreement.

Motion by Commissioner Buchanan to approve Developer's agreement with Royal Oak Homes, LLC. for Black Lake Preserve as submitted. Seconded by Commissioner Sharman and carried unanimously 4-0.

D. **Recommendation to approve bids and award contract for Vineland Road Improvements Project to DeWitt Excavating, Inc. for \$842,334.13 that includes a ten percent contingency**

Assistant City Manager - Public Services Cochran stated that this item is for the Vineland Road improvements project. He noted that this project consists of restructuring the road and utilities between Palmetto Street and State Road 50 on Vineland Road. He noted that two bids were received with DeWitt Excavating being the lowest responsive and qualified bidder at \$765,758.30. Staff recommends the addition of a ten percent contingency, which brings the total project amount to \$842,334.13.

Commissioner Olszewski thanked the City Manager and Mr. Cochran for getting this done and also noted that this is in his district.

Motion by Commissioner Olszewski to approve the bids received and award the contract for the Vineland Road Improvements Project to DeWitt Excavating, Inc. for \$842,334.13, that includes a ten percent contingency. Seconded by Commissioner Sharman and carried unanimously 4-0.

E. **Recommendation to approve bids and award contract for North Dillard Street Phase 4 Improvements to DeWitt Excavating, Inc. for \$426,305.00 that includes a ten percent contingency**

Assistant City Manager - Public Services Cochran stated that this item is for the North Dillard Street Phase 4 improvements project. This project is for the reconstruction of the utilities, roadway, and stormwater lines on North Dillard Street between Verna Street and Division Street. He noted that this is the last phase of improvements on Dillard Street. He shared that the City is trying to complete this project when school is out so as to lessen the impact on Dillard Street Elementary School. Plans are to start this project right away.

Mr. Cochran stated that DeWitt Excavating was the lowest responsive and qualified bidder at \$387,550.00. Staff recommends the addition of ten percent contingency, which brings the total project amount to \$426,305.00.

Mayor Rees asked if there would be a problem with DeWitt doing both projects at the same time. Mr. Cochran responded no, they are also doing most of their work in Winter Garden. They are a pretty big operation and should have no problem doing these jobs and are glad to be at home and doing this work for the City.

Commissioner Sharman inquired of Dillard Street being down to one lane in each direction at certain times during this project. Mr. Cochran replied that the streets will be open to through traffic as to access the businesses and homes in the area.

Motion by Commissioner Buchanan to approve bids and award contract for North Dillard Street Phase 4 Improvements to DeWitt Excavating, Inc. for \$426,305.00 that includes a ten percent contingency. Seconded by Commissioner Sharman and carried unanimously 4-0.

F. **Recommendation to approve utilizing up to \$6,500.00 in confiscation funds to acquire and transport an armored vehicle through Florida's Federal Property Assistance Program**

Police Chief Brennan stated that he is requesting authorization to utilize up to \$6,500.00 of confiscation funds to acquire and transport an armored vehicle through the Florida Federal Property Assistance Program.

Mayor Rees asked if the funds have to be used for police equipment. Police Chief Brennan responded yes. He noted that they also cannot be used for normal operating costs.

Commissioner Olszewski sought clarification that this purchase would not cost the City as it is coming from a special fund. Police Chief Brennan replied that these are not taxpayer dollars but funds forfeited from drug seizures. He noted that the City will never own this vehicle and if for any reason the City no longer wants it, the vehicle must go back to the program.

There was discussion on the use of this vehicle in keeping our officers safe. Chief Brennan stated that he hopes to never need it, but is best to have it just in case. He also described that it will need to be specially outfitted and he will not actually know the cost for this until the City receives the vehicle.

Commissioner Buchanan stated for the record, due to an email he received concerning this vehicle, that he has had an opportunity to have all his questions answered from the City Manager before the City Commission meeting in an effort to not take up too much time asking the same questions during a meeting.

Police Chief Brennan shared that this vehicle can go through flooded areas that other vehicles may have limited access. He also shared other areas where these confiscated funds are making a difference in our community. Commissioner Sharman thanked the Chief for informing the public of the contributions to the community.

Motion by Commissioner Buchanan to approve utilizing up to \$6,500.00 in confiscation funds to acquire and transport an armored vehicle through Florida's Federal Property Assistance Program. Seconded by Commissioner Olszewski and carried unanimously 4-0.

3. **FIRST AND FINAL PUBLIC HEARING MATTER**

- A. **Resolution 14-04:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, RELATING TO THE FUNDING OF IMPROVEMENT TO THE STORMWATER AND DRAINAGE MANAGEMENT INFRASTRUCTURE AND SYSTEMS LOCATED ON, ABOUT, OR WITHIN PHASE I OF THE LAKE COVE POINTE SUBDIVISION; ESTABLISHING ANNUAL ASSESSMENTS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2014; APPROVING AN ASSESSMENT ROLL FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2014; ESTABLISHING THE LIEN ASSOCIATED THEREWITH; DIRECTING THAT THE ASSESSMENT ROLL BE CERTIFIED TO THE ORANGE COUNTY TAX COLLECTOR; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO FLORIDA'S UNIFORM ASSESSMENT COLLECTION ACT; AND PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE

City Attorney Ardaman read Resolution 14-04 by title only. Finance Director Zielonka stated that a while ago the City Commission agreed to work with the Lake Cove Subdivision to address their drainage issues. At the time, the City agreed to the Developer paying one-third, the City paying one-third, and the residents paying one-third. She noted that this resolution addresses the residents paying their one-third. This is a special assessment for over a 30-year period. The developer has already paid for their portion and the City cannot pay its portion until we actually have done the work.

City Manager Bollhoefer acknowledged the residents attending this meeting from Lake Cove Pointe and noted there have been draining issues in this neighborhood for quite some time. He expressed that this is not a special assessment where the City is coming in and forcing payments on people. The residents support this item and want the fix to take place. He also shared that this is almost ready to go and can start approximately in June.

Commissioner Sharman stated that he has heard a lot about this and noted that the City has done this for other neighborhoods and he has no questions.

Commissioner Buchanan asked the amount of the special assessment. Ms. Zielonka replied that it is \$86,000 for the entire community and for each resident it is \$48.65 per year per parcel.

Mayor Rees opened the public hearing.

David Campbell, 406 Terra Vierde Lane, Winter Garden, Florida, asked if the special assessment can be paid upfront as he does not want a lien placed on his house for 30 years. City Attorney Ardaman replied yes, you do have the right to do that. Mr. Campbell stated that this amount is \$1,460.00.

City Manager Bollhoefer directed staff to have a letter sent to each resident informing them of this right and also to give a timeframe of when they can do this.

Mr. Campbell stated that the second thing he would like to know is that he gave the City the right to an easement across his property to put in a drain pipe to clear another problem to keep it from going down the hill that might not take care of this. He asked if this was in this bid. City Manager Bollhoefer responded yes, noting that staff nodded to him that this is indeed included.

City Manager Bollhoefer noted that staff met with every owner in this project to customize this for everyone.

Motion by Commissioner Buchanan to approve Resolution 14-04. Seconded by Commissioner Sharman and carried 3-1; opposed by Commissioner Olszewski.

4. **MATTERS FROM THE PUBLIC**

Ervin Sharpless, 336 Sunset Oaks Road, Winter Garden, Florida, voiced his concerns about Story Road. He noted that he lives in Winter Oaks and the property south of Story Road is horrible and asked if they are rentals. Mayor Rees responded that the area is mostly Orange County. City Manager Bollhoefer responded that a lot of it is Orange County but some is Winter Garden and the City does a lot of code enforcement in this area.

Mr. Sharpless asked about the homes being built by Mathews Hope and the revenue stream. Mr. Bollhoefer responded that he would have to get him an answer on this, but believes it may be taxed as they are charging rent. He will get this answer and let him know.

5. **MATTERS FROM CITY ATTORNEY**

City Attorney Ardaman stated that the City Commission should have received a memo on May 2, 2014 regarding the City's Community Development Block Program. He noted that attached to the memo was a list (**Attachment "A"**) of 35 homes who are the applicants for the grant. He noted that part of the Federal requirements is that each commissioner and each member of the advisory task force review this list and indicate yes or no if they have any relationship or potential conflict. He noted that it is required that the applicants names be read publicly.

Mayor Rees asked if the conflict is whether the Mayor or City Commission knows the applicants. Mr. Ardaman clarified that it is not knowing them but actually having some form of a financial or business relationship with them or their family. The City Commission may know all of them but that does not constitute a conflict.

Mr. Ardaman directed that once he read the names out loud, if there is a conflict it should be voiced and the last page of the form be signed. If there are no conflicts, the form should be signed and dated with the City Clerk as the witness.

• **Consent form for Fishback Dominick to Represent Standard Pacific Homes**

City Attorney Ardaman stated that he has presented a consent form for Fishback Dominick to represent Standard Pacific Homes. He noted that he has spoken to each of the Commissioners regarding this subject. Standard Pacific Homes has requested his firm be involved in the high school rezoning in the east part of the county regarding Timber Creek and East River High School. He noted that their law firm does not see any conflict, nor does the City Manager. He noted that in the event of a conflict they would decline any representation of them and clearly represent the City; they have agreed to these terms. He requested City Commission approval to allow the Mayor to sign.

Motion by Commissioner Olszewski to approve the Mayor signing the consent form as submitted. Seconded by Commissioner Buchanan and carried 4-0.

6. **MATTERS FROM CITY MANAGER**

- City Manager Bollhoefer announced that a light is on order with Duke Energy [for the Tilden and Belle Meade school crossing] and is approximately five weeks away.

A. **Draft ordinance amending the subdivision code**

City Manager Bollhoefer asked that the City Commission read the draft ordinance very carefully. He shared that it addresses what staff thinks are holes in the development code. He stated that staff has found a way, within the City Code, to provide more protection for our current and future residents.

Commissioner Sharman asked if this will cover wastewater and stormwater in subdivisions as we seem to have a problem with this issue. Mr. Bollhoefer replied that the biggest issue is more stormwater than wastewater. One of the most important things

this does is it changes things to a period of time in which the City can take action against a developer that begins two years after the final Certificate of Occupancy.

Commissioner Sharman shared there is an issue in his neighborhood. What is nice is that the proposed change is for the homeowners association being run by the developer, most of the time, the first year. Usually, by the time these conditions become noticeable by the resident, the developer is gone and it is too late.

City Attorney Ardaman expressed that the legislative change has caused the City to step up, as a community, to protect the residents.

7. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Sharman stated that he is glad that the Lake Cove Pointe community came to the meeting and wanted to pay the special assessment fee upfront. It shows that the community is behind it and no one came to speak against it. He noted that we have done this for other communities and he thinks this is a good thing that the City does to help.

Commissioner Olszewski thanked everyone on the City staff for a great Relay for Life Event.

Commissioner Olszewski thanked the Garden Theatre and noted that they invited him for a guest appearance in Hairspray that was a lot of fun.

Commissioner Olszewski thanked the friends of Orange County Community Action for allowing him to give their welcome address at their banquet at the Rosen Center.

Mayor Rees thanked Community Relations Manager Andrea Edwards for all her work on the Relay for Life event, and city staff for all their efforts.

The meeting adjourned at 7:12 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC