



CITY OF WINTER GARDEN

CITY COMMISSION BUDGET HEARINGS and REGULAR MEETING MINUTES September 11, 2014

The **BUDGET HEARINGS** and **REGULAR MEETING** of the Winter Garden City Commission were 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, 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, and Orlando Sentinel Report Stephen Hudak

1. **SPECIAL PRESENTATION** by Orange County Property Appraiser Rick Singh highlighting points regarding the 2014 assessments was given. He noted that every city in Orange County has seen positive growth within the last year. He congratulated the City of Winter Garden on topping the list at 10.1 percent in growth.

Mr. Singh noted some key achievements of his office. They included becoming the first property appraiser's office in the country to design and implement mobile technology solutions for field appraisers. Also, more than \$72.8 million was returned to the tax-base through exemption fraud investigations since January 2013. Additionally, their office returned \$1.3 million out of an \$11 million budget by practicing efficiencies.

Commissioner Olszewski thanked Mr. Singh for his accessibility, hard work and outreach to the community.

Mr. Singh indicated that he and his staff are available for any questions.

BUDGET HEARINGS

2. **FIRST READING AND PUBLIC HEARING TO ADOPT THE PROPOSED MILLAGE RATE AND BUDGETS FOR FISCAL YEAR 2014/2015**
 - A. **Ordinance 14-34:** AN ORDINANCE LEVYING TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2014 AND ENDING ON SEPTEMBER 30, 2015

Finance Director Zielonka stated that staff would not repeat the PowerPoint presentation as in the previous meeting but are available for any questions.

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

Motion by Commissioner Buchanan to approve Ordinance 14-34 with the second reading and public hearing on September 25, 2014. Seconded by Commissioner Sharman and carried unanimously 5-0.

- B. **Ordinance 14-35:** AN ORDINANCE APPROPRIATING AND ALLOCATING ALL REVENUE AND FUNDS OF THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2014 AND ENDING ON SEPTEMBER 30, 2015

City Attorney Ardaman read Ordinance 14-35 by title and read the following excerpt from Ordinance 14-35:

Collection of Ad Valorem	\$ 8,985,856
Revenue other than Ad Valorem	<u>19,116,460</u>
TOTAL REVENUES	\$28,102,316
Appropriations from Fund Balance	<u>11,102</u>
TOTAL AVAILABLE FOR EXPENDITURES	\$28,113,418

Commissioner Olszewski thanked the City Manager and Finance Director for providing answers to his list of questions.

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

Motion by Commissioner Olszewski to approve Ordinance 14-35 with the second reading and public hearing on September 25, 2014. Seconded by Commissioner Sharman and carried unanimously 5-0.

- C. **Ordinance 14-36:** AN ORDINANCE APPROPRIATING AND ALLOCATING ALL REVENUE AND FUNDS OF THE COMMUNITY REDEVELOPMENT AGENCY (CRA) OF THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2014 AND ENDING ON SEPTEMBER 30, 2015

City Attorney Ardaman read Ordinance 14-36 by title with the following excerpt from Ordinance 14-36:

Collection of Ad Valorem	\$ 310,992
Revenue other than Ad Valorem	<u>324,512</u>

TOTAL REVENUES **\$ 635,504**

TOTAL AVAILABLE FOR EXPENDITURES **\$ 635,504**

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

Motion by Commissioner Buchanan to approve Ordinance 14-36 with the second reading and public hearing on September 25, 2014. Seconded by Commissioner Sharman and carried unanimously 5-0.

- D. **Ordinance 14-37**: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, AUTHORIZING THE APPROPRIATIONS OF CITY FUNDS FOR FISCAL YEAR 2014-15 IN ACCORDANCE WITH ARTICLE 3 SECTION 30 (5) OF THE CITY CHARTER OF THE CITY OF WINTER GARDEN, FLORIDA AND FLORIDA STATUTE 166.241 FOR THE PURPOSE OF FULFILLING THE FINANCIAL OBLIGATIONS OF THE CITY

City Attorney Ardaman read Ordinance 14-37 by title only.

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

Motion by Commissioner Makin to approve Ordinance 14-37 with the second reading and public hearing on September 25, 2014. Seconded by Commissioner Buchanan and carried unanimously 5-0.

REGULAR CITY COMMISSION MEETING

3. **APPROVAL OF MINUTES**

Motion by Commissioner Makin to approve Budget Workshop and Regular Meeting of August 28, 2014. Seconded by Commissioner Olszewski and carried unanimously 5-0.

• **Moment of Silence**

Mayor Rees addressed the moment of silence issue as implemented in the previous special meeting [*Resolution 14-05*]. He asked if the City Commission would allow the City Attorney to review this issue and return with another alternative for their consideration.

Commissioner Makin stated that as a result of the last meeting he has had time to think about the policy which has now been put in place as procedure. He expressed that it has disturbed him and thinks and feels that they were rushed to pass a policy without the appropriate time to review and consider something different. He was not satisfied with the vote that he gave and is glad that this issue is being revisited. He hopes that they can take some time and come up with a different policy or revert back.

It was the **consensus** of the City Commission to have the City Attorney review this issue [*Resolution 14-05*] and come back to the City Commission with alternatives.

Commissioner Olszewski asked the City Attorney if the language given in the resolutions offered on Friday were legally sound. City Attorney Ardaman responded that this is correct.

4. **PRESENTATION**

Fire Chief McGrew stated that September 11th is a day we will never forget; a day in which we honor all patriots. He shared that he could not think of a better way to remember this day than to administer the Firefighter Oath to our newest public servant. Fire Chief McGrew introduced our newest Firefighter Sadrac Remy, gave him the oath of office and presented him with his badge.

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

A. **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 this is a request to go to planned unit development (PUD) on a piece of property on Beard Road. He described Beard Road as a substandard, poorly constructed facility for which the City is not able to correct all of its deficiencies. The property currently has an R-1 zoning which allows 89 units; the applicant has chosen to submit a plan for 77 units, which is less. It provides flexibility for different lot sizes so they are able to have useable open space for recreation area and for the protection of the wetlands which are on a large portion of this property.

Mr. Williams stated that this project has been reviewed by the Planning and Zoning Board and staff. He indicated that there was public input in opposition of the project at the first Planning and Zoning Board meeting where a lot of issues were raised. The last two months have been spent correcting and addressing those issues. However, the Planning and Zoning Board meeting of last week offered no opposition to the project.

Mr. Williams stated that approval is recommended by the Planning and Zoning Board and staff, and acknowledged that the applicant was in attendance to address any specific questions.

Mayor Rees asked if there were no issues at the Planning and Zoning Board meeting. **Commissioner Sharman** asked if Mr. Williams would give a brief description of those issues and their resolution. **Mr. Williams** responded that the biggest issue is the road which is substandard in width and ends at the base of the turnpike bridge; offering no means of installing a signal light. There are also no sufficient turn lanes to allow better access to the property. He noted there is a terrible curve when heading to the east on Beard Road as it comes out to Beulah Road. There is no way to provide the right-of-way to create a 24-foot normal public roadway.

Mr. Williams stated that the applicants have proposed two options and described access through the joining development, converting that project to a gated community. The applicant would absorb the cost of the gate and a portion of the cost of maintaining the roads. He noted that traffic could then come safely out onto Daniels Road at that location. In addition, in the future that project and Daniels Landing across the street may eventually get a street light which would never occur at the base of the turnpike bridge.

Mr. Williams mentioned issues regarding lot sizes and whether they fit in with the character of the area. He also noted that during the community meetings there was also communications back and forth on the driveways to the property on the north. Improvements are being made to those driveways so that they can get in and out safely. Mr. Williams stated that a large issue is the speeding in that area which is a secondary route to the high school. He commented that busses and kids have a tendency to speed when running late and suggested traffic enforcement as the only means for resolving this issue.

Mr. Williams noted that there was opposition at the first community meeting and none at the second because he feels the issues had been worked out.

Commissioner Makin asked about the site plan showing a break at the far west of the property going through the other development. He asked if this is where the City feels it would relieve some pressure off of Beard Road; cutting through this development to get to Daniels Road. He also noted that on the landscape site plan this was not shown and asked if this will be done. **Mr. Williams** responded that there are actually two different options for access.

There was discussion that the HOA requires an approval vote of at least 67 percent for this option. Mr. Williams noted that if the applicant is unable to get this approval they will come back and install two accesses onto Beard Road.

Commissioner Buchanan noted that this still does not allow them to turn south. **Mr. Williams** affirmed that this is correct and there is no solution. **Commissioner Buchanan** stated that he felt this is why Planning and Zoning Board disapproved this project in the beginning. **Mr. Williams** replied that this is one of the major reasons; there were too many unknowns about the road and whether anything else could be done. They have exhausted all of those methods and there is no good way to expand the road.

City Manager Bollhoefer noted that there is already zoning for R-1, so they could move forward without going through these procedures. In the past they were given the R-1 zoning which ties the hands of the City and this option actually offers fewer houses.

Commissioner Makin noted that he understood but was concerned about the breach on the far west side and its approval from the HOA. **Mr. Williams** responded that they have been working on that, but because this is not complete, it was asked that they show the City Commission the other drawing. If the applicant is not able to accomplish this they will have to have the two accesses for safety purposes out onto Beard Road.

Mr. Williams expressed that staff is supporting this and recommending it to the City Commission because this improves the current situation. It goes from 89 lots down to 77, the pavement is being widened from 22 to 24 feet, installing sidewalks makes it safer for pedestrians, and some of the traffic issues are addressed. Mr. Williams stated that there is no rational nexus that says 77 lots have to give up that road, relocate it and receive the right-of-way between the two roads to make it standard public roadway.

Commissioner Makin asked if this would be the widening of Beard Road from far west of the property to the far east of the property of the curb, and sidewalk. **Mr. Williams** responded yes and they are adding pavement on the sides to make it wider. As long as it comes out at the bridge and as long as we have that bad curve it will never be a good situation. **City Manager Bollhoefer** reiterated that there is no way to fix the area where they intersect because of the proximity of that road to the bridge.

Commissioner Olszewski noted that this is in the heart of his district and he uses Beard Road quite a bit to get access to his home. He expressed his concern regarding the traffic, and described scenarios of kids and others walking in that area during peak traffic times. He stated that he did not see how we could make a bad situation worse. He voiced that he understood the property owner's rights in this situation but does not feel this would be something he could support because of the safety issues.

Commissioner Olszewski asked for legal clarification on this issue from the City Attorney. **City Attorney Ardaman** explained that this is a quasi-judicial situation. If the applicant meets the requirements of the City's code and there is no basis to deny; the choice is to approve it. The only time to legally deny a quasi-judicial matter is when there is competent substantial evidence that shows that the conditions are not met. Staff is indicating that they have met the code's requirements in their opinion. Unless you can find some basis as to why they do not meet those requirements, it could be a very difficult position to defend if denied.

Commissioner Olszewski asked if the City could do something to have the applicant work with the other neighborhood for the better solution, as he does not see this as a good situation.

There was discussion on wetlands that do not allow for additional options.

Commissioner Buchanan asked for confirmation that the City had no opposition from the residents on the north side. **City Manager Bollhoefer** noted that he was actually the one that met with them and is not saying that they had no opposition, as they are not happy with the project or any project there, but understand there is already R-1 zoning. Mr. Bollhoefer reiterated that saying they have no opposition is unfair; to say they understand the situation is fairer.

Commissioner Sharman clarified that Commissioner Olszewski can vote his conscience. If the Commission votes no, then the landowner can come back and submit R-1, but a commissioner can vote anyway they want.

Mr. Williams stated that under R-1 there would be at least an additional 120 vehicles a day from those additional houses. This was a consideration that the City would be getting fewer units, because in a normal planned development they would be normally requesting more. **Commissioner Makin** and **Mr. Williams** noted that under R-1 zoning they could have less landscaping and it would not be as attractive. **Commissioner Makin** described some of the benefits of a planned development.

Mayor Rees expressed his concerns with the traffic at this location but noted that the actual issue is the applicant's ability to go back to the R-1 zoning and have more homes, producing more traffic and the City would not have solved the problem. **City Manager Bollhoefer** indicated that if the City Commission does approve this, the City will still need to look at ways to improve that road.

Commissioner Makin asked if that enclave is still Unincorporated Orange County. **Mr. Bollhoefer** responded yes it is and noted that the City has been looking for solutions there.

Commissioner Sharman suggested that at some point in time the City may have to purchase that property at that curve. **Mr. Bollhoefer** responded that this may be imperative at some point.

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

Motion by Commissioner Sharman to approve Ordinance 14-26 with the second reading and public hearing being scheduled for September 25, 2014. Seconded by Commissioner Makin and carried 4-1; opposed by Commissioner Olszewski.

6. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

- A. **Ordinance 14-27**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 03-51 ESTABLISHING PCD ZONING FOR

APPROXIMATELY 14.14 ACRES OF LAND (WEST ORANGE BUSINESS CENTER, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 71, PAGE 87) GENERALLY LOCATED SOUTH OF THE TURNPIKE AND EAST OF C.R. 535 TO ALLOW FOR ADDITIONAL PERMITTED AND SPECIAL EXCEPTION USES FOR AN APPROXIMATELY 2.55 +/- ACRE LOT WITH ORANGE COUNTY TAX PARCEL IDENTIFICATION NUMBER 26-22-27-9147-00-020 OWNED BY WEST ORANGE OUTPARCEL, LLC; PROVIDING FOR AMENDMENTS, NON-SEVERABILITY AND AN EFFECTIVE DATE (*West Orange Business Center*)

City Attorney Ardaman read Ordinance 14-27 by title only. Community Development Director Williams stated that this amendment to the planned development (PD) is to allow for additional uses on vacant land within the project. He noted past struggles for this project due to the economy and the turnpike bridge approval which stopped all traffic through that area for two years. He noted that this is now getting a great deal of interest for churches, schools and other uses on the property. He shared that a daycare is located across the street and there is one within the property. The applicant has asked that additional uses be allowed on this property. This has been reviewed by both the Planning and Zoning Board and staff who recommend approval subject to conditions.

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

Motion by Commissioner Olszewski to adopt Ordinance 14-27 with conditions as stated in the staff report. Seconded by Commissioner Makin and carried unanimously 5-0.

7. **REGULAR BUSINESS**

A. **Recommendation to approve entering into a Developer's Agreement with West Orange Outparcels, LLC for West Orange Business Center generally located south of the Turnpike and East of CR 535**

Community Development Director Williams stated that this is in conjunction with the last hearing the City Commission just conducted. It is a developer's agreement to address their share of roadway contributions for necessary turn lanes and access improvement to the overall project. He noted that it is on a sliding scale based on the actual use to be developed on the property as to what their contribution to the turn lane would be.

Staff recommends approval of the developer's agreement and request authorization for the Mayor to sign.

Motion by Commissioner Sharman to approve entering into a Developer's Agreement with West Orange Outparcels, LLC for West Orange Business Center generally located south of the turnpike and east of CR 535. Seconded by Commissioner Buchanan and carried unanimously 5-0.

B. Appointment to the General Employees' Pension Board for expiring term of Theo Graham on September 30, 2014; term is for two years

Commissioner Makin stated that he does not have a problem with this appointment but wanted to mention that there are some other things coming in the future that may be of interest to Mr. Graham.

Motion by Commissioner Olszewski to appoint Theo Graham to the General Employees' Pension Board for two years. Seconded by Commissioner Makin and carried unanimously 5-0.

C. Appointment to the General Employees' Pension Board for the seat previously held by Ms. Kennington and declined appointment by Matthew Moore due to employment conflict; term expires September 30, 2015

Mayor Rees explained that this seat was previously held by Ms. Kennington and then Matthew Moore was appointed by the City Commission. Mr. Moore's employer felt that there was a conflict of interest and would not let him accept the position; thus requiring the City Commission make an effort to appoint someone else.

Commissioner Makin suggested postponement of this item until the next City Commission meeting.

Motion by Commissioner Makin to POSTPONE appointment to the General Employees' Pension Board for the seat previously held by Ms. Kennington and declined appointment by Matthew Moore due to employment conflict; term expires September 30, 2015. Seconded by Commissioner Buchanan and carried unanimously 5-0.

8. MATTERS FROM PUBLIC

Theo Graham, 213 W. Tilden Street, Winter Garden, Florida, asked the City Commission to reconsider their vote on the resolution regarding the discontinuance of prayer at the beginning of City Commission meetings. He read his reasons from the Declaration of Independence, the Constitution of the United States, and the ruling from the Supreme Court of the United States case number 12-696 (*Town of Greece, New York vs Galloway, May 5, 2014*). He expressed that he thought the City Commission should take more time to review this issue.

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

10. MATTERS FROM CITY MANAGER – There were no items.

11. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Sharman shared that he would be interested to see if the City Attorney could come up with any additional options.

Commissioner Olszewski stated that he was confused as to what the additional options would be as the options presented to the City Commission were legally sound and clear.

Commissioner Sharman responded that they are not the only options and there was discussion that there were multiple variations.

City Attorney Ardaman suggested that any of the City Commission having suggestions or comments should call him.

Commissioner Buchanan shared that he believes he has not wrestled with anything in his seven years more than this issue which has come up within the last few weeks. He expressed that we knew we had to do something constitutionally and were told to act on the three choices given. He expressed that from those three choices he made the best choice he could. He indicated that he did not want to sit through a prayer in which he did not believe in, any more than he would want to subject others to prayers that he might chose. A moment of silence to use as one sees fit covers everything. He shared that he had been threatened due to the decision he made and agreed to a review of more options.

Commissioner Makin expressed that he already shared some of his thoughts on the subject but wanted to let everyone know that this was a very trying week; one of being inundated with emails and phone calls from all over the United States. He stated that most of the emails and voice mails were not too pleasant. In between those, the pressure on the options given, and trying to make the best decision within this situation; someone not standing for the Pledge of Allegiance went to a policy on prayer and escalated way too quickly. This is the reason he feels that the City Commission need revisit this issue.

The meeting adjourned at 7:24 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
Assistant City Clerk Angee Grimmage, CMC