



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

June 25, 2015

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. An Opening 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 City Manager - Public Services Don Cochran, Assistant City Manager - Administrative Services Frank Gilbert, Community Development Director Ed Williams, Economic Development Director Tanja Gerhartz, Finance Director Laura Zielonka, Fire Chief Matt McGrew, Police Chief George Brennan, and Recreation Director Jay Conn

1. **APPROVAL OF MINUTES**

Motion by Commissioner Sharman to approve the regular meeting minutes of June 11, 2015. Seconded by Commissioner Makin and carried unanimously 5-0.

2. **PRESENTATION**

Natalie Betancourt, owner of Shape up 4 Seniors, LLC, presented the City Commission with a plaque in appreciation of the support given to the Seniors Health Expo 2015 event at the Jessie Brock Center. She shared that she plans on repeating the event next year that will only get bigger and better.

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

A. **Ordinance 15-53:** 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 15-53 by title only. Mr. Ardaman noted that this ordinance is very close to the Altamonte Springs provisions. This is a mechanism for dealing with the primary concern of the casting of unwanted materials on private premises. It also deals with placement of items on automobiles. He informed that this ordinance would not be easy to enforce.

Mayor Rees explained that it is his understanding that a call would have to be made to whomever is distributing the material or the resident would place a sign in the yard stating (i.e. no trespassing, no soliciting, etc.) to have it stopped. Mr. Ardaman confirmed the understanding.

Commissioner Buchanan shared what he personally has done in the past in order to stop such distributions at his home. City Attorney Ardaman explained the process of homeowner communication with the distributor, whether by sign or calling. There was discussion that if the distributor continued, the City would then issue a warning and if still not stopped, the City would then pursue penalties under the ordinance.

Commissioner Olszewski gained clarity on the subject by invoking a hypothetical situation which was answered by City Attorney Ardaman. There was discussion and clarification on the use of such an ordinance and possible complications in its enforcement. Also discussed was the use of a single sign at the entrance of a multi-unit development and the need for case by case analysis.

Commissioner Olszewski addressed the issue of freedom of speech and its protection. Commissioner Olszewski confirmed with City Attorney Ardaman that his understanding of the Florida Supreme Court ruling is that political canvassing is not solicitation under the law. Mr. Ardaman expressed that with this issue of door to door solicitation the City has the authority to provide for what we have here with no distinction between political speech or other speech; it is all the same.

Mayor Rees opened the public hearing.

Sharon Lambert, 749 Stevelynn Circle, Winter Garden, Florida, stated that she brought this issue to the City Commission with her concern being the idea of protection of private property and not having to opt out. She feels that it should be an opt-in situation and shared her past experience with the Orlando Sentinel's use of a third party for their distributions. She expressed that the advertiser is not always the one actually in our community distributing the material. They are not looking at whose address doesn't want delivery. Third party deliverers are not easy to track down.

Commissioner Sharman shared that it will be possible to adjustment or update of the ordinance as needed.

Mayor Rees closed the public hearing.

Motion by Commissioner Makin to approve Ordinance 15-53 with the second reading and public hearing being scheduled for July 9, 2015. Seconded by Commissioner Sharman and carried 4-1; Commissioner Olszewski opposed.

- B. **Ordinance 15-54:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING SECTIONS 38-121 THROUGH 38-150 OF CHAPTER 38 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING LITTERING; PROVIDING FOR THE REGULATION OF COMMERCIAL HANDBILLING AND REQUIREMENTS FOR LICENSING FOR OFF-PREMISES COMMERCIAL HANDBILLING ON PUBLIC PROPERTY; PROVIDING FOR THE DELETION OF SURPLUSAGE AND FOR RENUMBERING; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 15-54 by title only. Mr. Ardaman stated that the First Amendment attorney in his office reviewed this ordinance and suggested changes to make it consistent with the other ordinance. It also deals with the same kind of distributions but is primarily key to streets, alleys, parkways, parks and anything within the City.

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

Motion by Commissioner Buchanan to approve Ordinance 15-54 with the second reading and public hearing being scheduled for July 9, 2015. Seconded by Commissioner Makin and carried unanimously 5-0.

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

- A. **Ordinance 15-50:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE CITY OF WINTER GARDEN FISCAL YEAR 2014-2015 BUDGET; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 15-50 by title and the following excerpt from Section 1 as follows:

REVENUES	
General Fund	\$997,701
Law Enforcement Trust Fund	21,353
Local Option Gas Tax Fund	55,906
Transportation Impact Fee-General Fund	1,955,548
Utility Operating Fund	1,170,553
Utility Impact Fee Fund	33,089
Utility Renewal and Replacement Fund	438,386
Stormwater Fund	660,658

Solid Waste Fund

108,665
\$5,441,859

Mr. Ardaman shared that the expenditures are itemized identically to the revenues for the same total.

Finance Director Zielonka stated that this ordinance amends the current year budget to account for all the changes that have happened since the approval of the original budget back in September. She stated that Exhibit 1 shows the details of the requested adjustments.

Mayor Rees asked for clarification on some of the adjusted items.

Commissioner Buchanan asked about the funds for the Tucker Ranch project to go along with the grant. Ms. Zielonka informed the Commissioner that it was included in the original budget.

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

Motion by Commissioner Buchanan to adopt Ordinance 15-50. Seconded by Commissioner Sharman and carried unanimously 5-0.

- B. **Ordinance 15-51**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING DIVISION 2, ARTICLE II, CHAPTER 42 OF THE WINTER GARDEN CITY CODE; PROVIDING FOR THE WAIVER OF ROAD IMPACT FEES IN THE HISTORIC DOWNTOWN DISTRICT AREA UNDER CERTAIN CIRCUMSTANCES; PROVIDING CRITERIA FOR SUCH WAIVERS; PROVIDING FOR AUTOMATIC REPEAL OF WAIVER PROVISION AFTER A SET PERIOD; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 15-51 by title only. Community Development Director Williams stated that this is within the historic downtown area as identified on the comprehensive plan with a set boundary for that area. He noted that primary redevelopment is occurring and the City would like it to continue. This ordinance allows the City Commission, under certain circumstances, to negotiate a waiver or reduction in transportation and impact fees as an inducement for quality development. He noted that there may be circumstances where it may be appropriate to waive the entire fee or a portion of it. He expressed that many jurisdictions use this as a method of encouraging development and staff recommends approval.

Commissioner Buchanan asked if there would be criteria for the City Commission to follow in coming up with these different values. Mr. Williams responded yes and explained that it would be weighted criteria and gave an example.

Commissioner Makin asked if this impact fee reduction includes parking spaces. Mr. Williams responded no, that is a separate issue.

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

City Attorney Ardaman explained that if this ordinance is passed, it will expire after two years unless adjustments are made.

Motion by Commissioner Buchanan to adopt Ordinance 15-51. Seconded by Commissioner Makin and carried unanimously 5-0.

- C. **Ordinance 15-52:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS APPROXIMATELY 0.19 +/- ACRES OF LAND LOCATED AT 161 SOUTH BOYD STREET ON THE EAST SIDE OF SOUTH BOYD STREET NORTH OF WEST SMITH STREET AND SOUTH OF TREMAINE STREET, FROM R-2 (RESIDENTIAL DISTRICT) TO C-1 (CENTRAL COMMERCIAL DISTRICT); PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 15-52 by title only. Community Development Director Williams stated that this parcel of land is located just south of the old fire station. It currently contains a duplex that is in less than perfect repair. The property owner is looking to redevelop the property with office and commercial uses. The Planning and Zoning Board and staff have reviewed it and recommend approval of the rezoning.

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

Motion by Commissioner Buchanan to adopt Ordinance 15-52. Seconded by Commissioner Sharman and carried unanimously 5-0.

5. PUBLIC HEARING MATTER

- A. Consider condemning property located at 160 East Plant Street, Winter Garden, Florida;
Owner: Winter Garden Gateway Corporation

Community Development Director Williams stated that the property owner has submitted the documentation the City requested regarding stabilization and structural integrity improvement of the building. He noted that architectural plans and a site plan have been submitted. Staff has not completed the architectural review with the Architectural Review and Historical Preservation Board which will be done before the second reading in July. In addition, staff is preparing a DRC type review of the site plan. The property owner has

met the submission dates. Staff has not completed the review and is asking the City Commission for postponement of this item until July 23, 2015 at 6:30 p.m.

There was discussion on the current condition of the building.

Motion by Commissioner Buchanan to POSTPONE the consideration of condemnation for property located at 160 East Plant Street, Winter Garden, Florida until July 23, 2015 at 6:30 p.m. Seconded by Commissioner Sharman and carried 4-1; Commissioner Makin opposed.

6. **REGULAR BUSINESS**

A. **Recommendation to approve the Police Department purchasing additional body-worn cameras and accessories for \$12,634 from Fiscal Year 2015 Justice Assistance Grant (JAG) funds, with public comment**

Police Chief Brennan stated that the fiscal year of 2015 local Edward Byrne Memorial Justice Assistance Grant Program has earmarked \$12,634 for use by the City of Winter Garden Police Department. He noted that staff is requesting to use some of those funds to purchase additional body-worn cameras for the officers.

There was discussion on the number of cameras needed to outfit an entire shift.

Mayor Rees asked about reimbursement if the City purchased the units themselves. It was noted that JAG will purchase the units with grant money but will not reimburse. Police Chief Brennan stated that he could look at purchasing additional body-worn cameras as part of his budget for next year, but it would not be a part of this process.

There was discussion regarding storage and retention of the cameras data.

Mayor Rees opened the matter to public comment.

James Hall, 375 Grove Court, Winter Garden, Florida, stated that in support of what Police Chief Brennan addressed, it is a lot more complex with camera video in potential evidentiary situations. If there is something caught on camera, it would not be in the best interest of the City to have this stored in the Cloud. He mentioned recent news of the Federal government being hacked and stated that it would be best to have this data stored in-house.

Mayor Rees closed the public hearing.

Motion by Commissioner Buchanan to approve the Police Department purchasing additional body-worn cameras and accessories for \$12,634 from fiscal year 2015 Justice Assistance Grant (JAG) funds. Seconded by Commissioner Makin and carried unanimously 5-0.

B. Recommendation to approve contributing \$5,000 towards playground equipment at the Winter Garden Little League field

City Manager Bollhoefer shared that the Little League has solicited funds from the Sports Authority and are using some of their own funds to purchase a playground by the Little League fields for the younger children to play while their families are there watching the games. They are requesting the City give them an additional \$5,000 to help pay for this playground. Mr. Bollhoefer noted that the Little League has done a wonderful job and the City tries to partner with them and help whenever possible.

Mayor Rees agreed that they have done a wonderful job and stated that the total cost is \$33,000. He suggested the City Commission go ahead and contribute \$7,000. Commissioner Sharman noted that the playground would be available for everyone to use when there are no games and would be a benefit for everyone.

Motion by Commissioner Sharman to approve contributing \$7,000 towards playground equipment at the Winter Garden Little League field. Seconded by Commissioner Makin and carried unanimously 5-0.

C. Appointments to the Code Enforcement Board for three-year terms for expiring seats held by Johnny Clark, Bruce Woloshin, and Joe Skubas, and fill the unexpired term of resigning board member Harold Petch ending July 1, 2016

City Clerk Golden stated that the list of names provided is for the positions that are expiring. There are three terms expiring and one resignation, for a total of four seats of the seven to be considered.

Commissioner Makin motioned to appointed Eric Rainville. Commissioner Buchanan seconded the motion. Motion carried unanimously 5-0. Commissioner Olszewski noted a correction to the list of members that Bruce Woloshin is a resident of District 3, not 1 as indicated.

City Manager Bollhoefer noted that both Johnny Clark and Bruce Woloshin have expressed their desire to stay on the Code Enforcement Board for another term.

Commissioner Makin hearing that the current members wished to retain their seats **WITHDREW** his motion to appoint Eric Rainville. **Motion by Commissioner Makin to reappoint Johnny Clark and Bruce Woloshin to the Code Enforcement Board and rescind his earlier motion of appointing Eric Rainville. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

Motion by Commissioner Buchanan to appoint Ron Sikes to the Code Enforcement Board to replace Joe Skubas. Seconded by Commissioner Olszewski and carried unanimously 5-0.

Commissioner Sharman requested a postponement of his nomination for District 4 (Harold Petch's seat) until he has had a chance to speak with the applicants.

7. **MATTERS FROM PUBLIC**

Anthony Peterson, 194 Jean Street, Winter Garden, Florida, stated that each year he requests permission to hold an event called Unity in the Community. He explained that it is an event for children and their parents to better their mindset and is especially for the youth in East Winter Garden. He described the purpose of the event and shared some of its history, noting that this event has been successful in the past.

Commissioner Olszewski stated that he has attended the Unity in the Community event for the past five years and shared that he observed the community involvement. He applauds Mr. Peterson's efforts and his intent to better the lives of the children in East Winter Garden.

City Manager Bollhoefer stated that this request actually came to the City Commission last year and it was decided that Mr. Peterson would work with the local Economic Development group to help organize the event. Mr. Bollhoefer asked Mr. Peterson if he had met with this group and if they agreed to work with him on the event. Mr. Peterson explained that he was sent to Pastor Snell and some others. He explained that he was told by the City Manager that this event did not have enough community support and that it required a petition. He noted that he had petitions signed and it still was not allowed. City Manager Bollhoefer asked if he had met with the board. Mr. Peterson responded no, because the denial came from the City Manager, not the board (Commission).

Mr. Bollhoefer stated that at the last event held in the City of Winter Garden there were three shootings; one of which was into a sheriff's car. Mr. Bollhoefer suggested that the City put on the event and have it be held for the locals. He noted past issues were because of a lot of the people coming from outside [*Winter Garden*] and getting out of control. He expressed that staff would like the City to host the Unity in the Community event, put up the funds, work together, and bring in the speakers.

Mayor Rees asked Mr. Peterson if he could get with staff and work with the City, we would be happy to help put on this event.

Mr. Peterson announced that the event would be August 25, 2015 at 1:00 p.m. which is a week before school starts.

David Kassander, 15155 Ovation Drive, Winter Garden, Florida, asked for an update on the Avalon/Tilden traffic light. Mr. Bollhoefer stated that he believes the City is within two to three weeks of getting that light up and noted that it is a long process. He explained that the road needed to be redesigned to add an extra lane. There was discussion on the delay. He will give Mr. Kassander the date when he has it.

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

9. **MATTERS FROM CITY MANAGER**

A. City Manager Bollhoefer announced that the City offices will be closed on Friday, July 3rd in observance of the 4th of July holiday.

10. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Makin addressed the green poles near the event signage on Daniels Road just past Daniels Landing near the townhomes. Mr. Bollhoefer stated that they are in the process of being replaced.

Commissioner Buchanan asked if there is a board reviewing downtown to be sure things did not get worn out before being replaced, such as canopies. City Manager Bollhoefer responded yes, there is the Code Enforcement Board. He briefed the Commission that the City is going through three phases. Phase one is going after the worst offenders first, phase two would be the secondary offenders such as awnings, and the third would be the small cases. Mr. Bollhoefer noted that this is a minimum maintenance ordinance.

Commissioner Makin asked that the downtown post office parking area be reviewed. He noted that people cannot get in to check their mail on Saturdays due to the Farmer's Market, and everything else going on that is taking up too much area. It was also discussed that some people park there for hours to go on the bike trail.

There was discussion that some of the spaces be marked "15 minutes only" with City Manager Bollhoefer stating it would be implemented for a few spaces.

Commissioner Olszewski addressed an email sent by Orange County Commissioner Scott Boyd stating that the Windermere and Roberson Road project has been delayed. He asked if this was correct as he thought that this project was to be taken over by the City of Winter Garden. Mr. Bollhoefer responded that the last he spoke with Orange County Commissioner Boyd two weeks ago and he was told there were going to be a few minor changes. He explained some of the discussions.

Commissioner Sharman shared that he meets regularly with the City Manager, and the Windermere and Roberson Road intersection is his number one agenda item. The temporary signal was approved at the last meeting. The finalization will be back to the City Commission. He is anxious to get the intersection done.

Commissioner Sharman thanked Commissioner Olszewski for setting up the event with the Governor at Main Street Mowers.

Mayor Rees invited everyone to attend the July 4th events.

The meeting adjourned at 7:33 p.m.

APPROVED:

____/S/_____
Mayor John Rees

ATTEST:

____/S/_____
City Clerk Kathy Golden, CMC