



# CITY OF WINTER GARDEN

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## CITY COMMISSION REGULAR MEETING MINUTES

July 14, 2016

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 A. Kurt Ardaman, City Clerk Kathy Golden, Assistant City Manager of Administrative Services Frank Gilbert, Assistant City Manager of Public Services Don Cochran, Community Development Director Steve Pash, Economic Development Director Tanja Gerhartz, Finance Director Laura Zielonka, Deputy Fire Chief Jose O. Gainza Jr., and Police Chief George Brennan

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

**Motion by Commissioner Buchanan to approve the regular meeting minutes of June 23, 2016 as submitted. Seconded by Commissioner Sharman and carried unanimously 5-0.**

### 2. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

A. **Ordinance 16-36:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.34 +/- ACRES OF CERTAIN REAL PROPERTY LOCATED AT 16 EAST VINING STREET ON THE SOUTHWEST CORNER OF SOUTH WOODLAND STREET AND EAST VINING STREET FROM CITY R-2 RESIDENTIAL DISTRICT TO CITY R-NC RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 16-36 by title only. Community Development Director Pash stated that this property is located at 16 E. Vining Street and the owners are requesting a rezoning from R-2 to RNC. The owners are requesting this zoning to develop their property in the future with office or a small commercial use; those uses would be allowed through a special exception and site plan review. Staff has reviewed the request and it is consistent with the surrounding area and recommends approval of Ordinance 16-36.

City Commissioner Makin recused himself from the vote stating that he has a financial interest in this item.

Mayor Rees confirmed that this property would have to come back to the Planning and Zoning Board for a special exception because of the area being majority residential. Mr.

Pash responded yes, the future land use designation of NC exists all the way over to Main Street.

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

**Motion by Commissioner Sharman to approve Ordinance 16-36 with the second reading and public hearing being scheduled for July 28, 2016. Seconded by Commissioner Buchanan and carried 4-0-1; Commissioner Makin abstained.**

- B. **Ordinance 16-37:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 67.7 +/- ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE SOUTHEAST CORNER OF TILDEN ROAD AND AVALON/MANN ROAD, AT 15304 TILDEN ROAD, FROM R-1 (SINGLE-FAMILY RESIDENTIAL) TO PUD (PLANNED UNIT DEVELOPMENT); PROVIDING FOR CERTAIN PUD REQUIREMENTS AND DESCRIBING THE DEVELOPMENT AS THE FOUNDATION ACADEMY PUD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 16-37 by title only. Community Development Director Pash stated that this property is located at 15304 Tilden Road and has been operating as a school K through 12 since 2006 when it went through a special exception. The applicant has requested to do the PUD to outline all of their design requirements. It will also allow a 2.6 acre small commercial site at the corner which would be kind of a residential neighborhood, convenience type of store or office, all related back to the church. He also noted that there is a communication tower in this area. He described some of the requirements for the design including a stadium, lighting, classrooms and possible future boarding of students. He spoke of a developer's agreement in 2007 that is still in place which limits the maximum number of students to 1,200. He mentioned a future traffic study to review the impact on the roads. Staff recommends approval of Ordinance 16-37.

Mayor Rees inquired if the maximum number of students to be boarded and the size of the stadium are to be determined at the time the site plan is submitted. Mr. Pash responded yes and noted that the baseball fields are already in and there was a neighborhood meeting on May 4<sup>th</sup> when lighting and traffic concerns were discussed.

Commissioner Olszewski inquired about whose responsibility the road infrastructure would be for moving traffic patterns. City Manager Bollhoefer shared that when Foundation Academy was first built, they contributed approximately \$300,000 for the expansion of the road as indicated in the original development plan.

Mayor Rees opened the public hearing.

David Buckles, 967 Glenview Circle, Winter Garden, Florida, as representative of Foundation Academy described additional details of the project and stated that the biggest change with this item from the original is with the corner piece, stadium, and cell tower. There will not be a convenience store on the corner and the rumor of a gas station that stemmed from a community meeting is false.

Brian Denham, of Denham Engineering, 5212 Timberview Terrace, Orlando, Florida, agreed with the items covered by Mr. Pash and reconfirmed that there will be no gas station at the corner as specifically prohibited in the ordinance; no fuel sales.

Mayor Rees closed the public hearing.

**Motion by Commissioner Makin to approve Ordinance 16-37 with the second reading and public hearing being scheduled for July 28, 2016. Seconded by Commissioner Sharman and carried unanimously 5-0**

3. **REGULAR BUSINESS**

A. **Recommendation to approve the Site Plan for Oakland Park Phase 4A Amenity Center at 1000 Civitas Way subject to staff recommended conditions**

Community Development Director Pash stated that this is the site plan for the Oakland Park Amenity Center. This is the second amenity center being built in this area, which will have a community building, very large swimming pool, several pavilions, restroom facilities, and an outdoor fireplace. There are trails around the park, a dock and a parking lot associated with this plan. The plans have been reviewed and approved by the Development Review Committee and staff recommends approval, subject to the conditions in the report.

**Motion by Commissioner Olszewski to approve the site plan for Oakland Park Phase 4A Amenity Center at 1000 Civitas Way, subject to the conditions provided in the agenda packet. Seconded by Commissioner Sharman and carried unanimously 5-0.**

B. **Discussion on improvements to the Newton Park Pier**

City Manager Bollhoefer stated that staff would like to delay discussing this item for a couple more weeks to review additional options such as a floating dock/pier, dock size, and possible grants. *It was the consensus of the City Commission to defer this item for two weeks.*

C. **Recommendation to approve setting the proposed millage rate at 4.2500 mills for Fiscal Year 2016/2017 and schedule public hearing dates for September 7<sup>th</sup> and 21<sup>st</sup>, 2016 at 6:30 p.m.**

City Manager Bollhoefer stated that staff recommends maintaining the same millage rate as in past years.

Commissioner Olszewski sought confirmation that by voting affirmative on this issue the City Commission will not be increasing taxes on its residents. City Manager Bollhoefer responded that by voting affirmative, it will not increase the taxes.

**Motion by Commissioner Makin to approve setting the proposed millage rate at 4.2500 mills for Fiscal Year 2016/2017 and schedule public hearing dates for September 7<sup>th</sup> and 21<sup>st</sup>, 2016 at 6:30 p.m. Seconded by Commissioner Sharman and carried unanimously 5-0.**

D. **Recommendation to approve the sale of 109 S. Boyd Street to Tremaine Boyd, LLC for \$152,000 with waiving the transportation impact fees of \$174,177 based on design and other fees approximately \$235,484 (RFP 15-103)**

City Manager Bollhoefer acknowledged John Rinehart to give an overview of this project. Mr. Rinehart shared that this building will be three stories and certified as a sustainable green commercial building. He explained that the building will include approximately 26,000 square feet of usable space with approximately 8,100 square feet of commercial on the first floor and above that are two floors of eleven apartments on each floor. This housing is essential to add to the core walkable area of the downtown. The project adds quality to downtown by providing an opportunity for more people to live in the walkable area of restaurants, shops, City facilities, and be in close proximity to the trail. He then described the design concept for the building and expressed that this project will extend the downtown area by way of Boyd Street.

Commissioner Olszewski expressed that this is a gorgeous project that will bring people to the downtown area. His concern is that the taxpayers and citizens of Winter Garden are not getting market value for the property and are being asked to waive \$410,000 in fees. It does not appear to be an equitable trade-off.

Mr. Rinehart responded that when they looked at downtown and what the uses could be, it would have been very easy to propose a three story office with commercial building. He shared that they chose to do residential and explained that it is not economically developable with the constraints that exist. The requirements involved in providing residential units, the cost to meet ADA standards such as elevators to access those units, and the structural issues for mixed use are also part of the equation.

Commissioner Olszewski asked about any other proposals. City Manager Bollhoefer stated that this was done as a public bid and this was the only submittal. Staff reviewed the pricing for this project and the basis for the incentive is that in order to provide residential units in the downtown area of this type, it would require a minimum of 200 units and go up to five or six stories when reviewing all the costs and fees. He came to the City Commission about six months ago asking if it was okay to build five and six story buildings to accommodate apartments of that size. He explained the profit of the net income generated before the debt service is paid back; there is a difference between

100 percent commercial versus the apartments with commercial there is a difference of \$135,000 per year of net income, which is the cost of paying back the debt service. It is not financially feasible without this type of assistance. He explained the return on the investment in the short term and the long term. Our downtown drives the property values for the entire City. The return may not be these fees but the draw of people to the downtown maintains or increases property values. He expressed that he thinks this is a great project for the City for the long term viability of our downtown.

Mayor Rees expressed that he too had this conversation with the City Manager regarding the purchase price of the \$152,000 and allowing approximately \$410,000 to go uncollected fees; but stated that the question is what is the City Commission's plan for the downtown? We want three stories; we do not want five or six stories and with this comes other issues and decisions that the City Commission will have to make for this to be viable. He asked about the forecast projections to make this project work and if there a way of tying to the project that if it exceeds the projections with the rents going up, and generates more revenue than the projections, the City would get a certain percentage of the funds back to help make up the difference in the reduction in fees. Mayor Rees noted that the City has done this in the past and it has worked for roads and other matters. City Manager Bollhoefer responded that it is possible but you would also have to factor in the subtraction of the cost of living. The only downside is if the main goal is to maintain the low rent; this would now have two driving forces. Mayor Rees gave some examples. Mr. Rinehart responded that they would be open to that concept if they could do it both ways in case they don't meet their expectations.

There was discussion that the apartments would be higher end and the project would be a long term hold. Also discussed were interior finishes, apartment sizes, and other similar projects in Central Florida as well as rent amounts. The City Commission discussed why apartments as opposed to condominiums, designation of one parking space per unit, the budget for this project, and architectural designs.

Commissioner Makin expressed that the City Commission should have some kind of control over the design. City Manager Bollhoefer noted that the design would be brought back to the City Commission but only as a means of stating that these designs warrant the waiver of the street (transportation) impact fees.

Commissioner Olszewski noted that comparing this project to the Plant Street Market, he was just as concerned on waiving infrastructure fees and he specifically asked if the fees were being waived on the taxpayers money and the answer was no because anything that would be there, the improvements need to be done. The land in this case was privately owned. He stressed that the land discussed here belongs to the people and are public dollars being given away. He indicated that with this concern he would not be voting in favor of this project.

City Manager Bollhoefer expressed that the City cannot make people submit bids. The City advertises and waits to see who will bid. The question is of such quality to benefit the downtown that it warrants the reduction in fees.

Commissioner Buchanan shared some of Winter Garden's history and how it has been taxpayer dollars used to grow Winter Garden. This is one of the top quality projects that he has seen and has nothing to do with how much the real estate costs upfront. The question is what is this going to do to help build Winter Garden and keep it going. The businesses downtown cannot continue to flourish if they do not have new growth and this project is helping that growth.

City Manager Bollhoefer added that the SOBO Group is looking to expand and staff will come back to the City Commission to discuss contributing funds, perhaps going to the bond foundation of the County, to help with the expansion of SOBO because it is felt that bringing art and culture to Winter Garden is very important. So the Tremaine Boyd project and the expansion of SOBO will create an entire new corridor in Winter Garden. Commissioner Olszewski asked if the City owns the building SOBO is in. City Manager Bollhoefer responded yes. Commissioner Olszewski asked how much SOBO pays the City in rent. Mr. Bollhoefer replied, a nominal fee of \$10.00 a year.

Commissioner Sharman noted that he is in agreement with Commissioner Makin to have some control over the design standards. An additional clause stating this fact would be needed in order for him to be in favor of this project.

There was discussion on providing additional renderings and information to the City Commission to review.

**Motion by Commissioner Sharman to POSTPONE the sale of 109 S. Boyd Street to Tremaine Boyd, LLC for \$152,000 with waiving the transportation impact fees of \$174,177 based on design and other fees approximately \$235,484 (RFP 15-103) to the next City Commission meeting on July 28, 2016. Seconded by Commissioner Makin.**

Mayor Rees expressed that he thinks the City Commission is excited about the project but it appears there are some concerns about the \$410,000, but the City Commission has set those boundaries by the fact that we do not want five stories. Mr. Rinehart expressed that he has no problem with the City Commission liking the architecture.

**Motion carried unanimously 5-0.**

E. **Recommendation to approve awarding two Community Development Block Grants for housing rehabilitation contracts to Pat Lynch Construction for 526 S. Boyd Street at \$53,460 and Central Florida Renovation for 500 Seminole Street at \$69,050; both bid awards exceed the maximum grants**

Economic Development Director Gerhartz introduced consultant David Fox with Fred Fox Enterprises. Mr. Fox stated that they have re-bid the last two homes under the Community Development Block Grant Housing category.

The re-bid was for 526 S. Boyd Street with a recommendation that it be awarded to Pat Lynch Construction for the low bid amount of \$53,460 which does exceed the maximum award amount of \$50,000. He noted that this amount is recommended and can be awarded as long as it is noted as part of the motion that the award amount is being exceeded.

Mr. Fox stated that the second award recommendation is for 500 Seminole Street to the low bidder Central Florida Renovations in the amount of \$69,050 which also exceeds the maximum award amount but noted that this too can also be waived by the City Commission as part of the recommendation. He noted that homes 11 and 12 are addressed under this contract and thereby meets the contract conditions.

Commissioner Olszewski requested confirmation that these are from the original rankings process. Mr. Fox responded that these are number 11 and 12; one house was skipped due to the cost of the replacement fee. He shared that these had been bid before and the contractor backed out of the bid, which required a re-bid.

Commissioner Olszewski stated that as a representative of District 3, he wanted to be sure that these were going in the order of the original rankings should it be called to question. Mr. Fox responded that these are based on the original rankings.

**Motion by Commissioner Olszewski to approve awarding two Community Development Block Grants for housing rehabilitation contracts to Pat Lynch Construction for 526 S. Boyd Street at \$53,460 and Central Florida Renovation for 500 Seminole Street at \$69,050; both bid awards exceed the maximum grants. Seconded by Commissioner Sharman and carried unanimously 5-0.**

F. **Resolution 16-06:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, DECLARING A SPECIAL ELECTION TO FILL THE VACANCY IN CITY COMMISSIONER DISTRICT 3 DUE TO HIS RESIGNATION AND DECLARING THE CANDIDATE QUALIFYING PERIOD

City Attorney Ardaman read Resolution 16-06 by title only. City Clerk Golden stated that this item addresses the upcoming vacancy for District 3. The recommendation complies with the City's Charter and mirrors the timeframes used for the General Election. The recommended qualifying period would be November 29, through

December 6, 2016, with a Special Election date of January 24, 2017. If a run-off election is necessary, the date would be February 14, 2017. These dates have been confirmed as available with the Orange County Supervisor of Elections Office as available.

Commissioner Sharman requested, for the record and constituents, that the City Clerk give a brief overview of why the City Charter will not allow this election to piggyback the March 2017 General Election.

City Clerk Golden stated that with more than six months remaining on the unexpired term of the vacant office, the City Commission shall schedule a special election to fill the vacancy and the election shall be held no sooner than 45 days, and no later than 60 days, following the occurrence of the vacancy.

There was discussion on the additional cost being up to \$15,000. Also discussed was the provision in the Charter which gives the City Commission the ability to appoint a City Commissioner due to a vacancy. However, it was noted that this had to be in cases where there was less than six months left in the term, which does not apply this case.

**Motion by Commissioner Sharman to adopt Resolution 16-06. Seconded by Commissioner Makin and carried unanimously 5-0.**

4. **MATTERS FROM PUBLIC** – There were no items.

5. **MATTERS FROM CITY ATTORNEY**

City Attorney Ardaman stated that the issue of medical marijuana has been in the news and there is a constitutional amendment on the ballot coming up in November. He stated that the City of Orlando had its first reading of its moratorium on medical marijuana with respect to the opening of distribution facilities. He noted that in the City of Winter Garden we have one of the five or six locations specified by statute and notwithstanding that we, as a City, are also open to dispensing facilities from any of those five or six approved dispensing organizations throughout the State. He noted that there have been a number of amendments to the Statute. After a second reading, this suggested ordinance places a nine month moratorium (270 days) on the growing, processing, manufacturing, and distribution of all medical marijuana. This will give staff an opportunity to craft proposed rules and regulations to bring back to the City Commission for adoption. This would also be just for new organizations, not existing locations already in the City. If the City Commission so desires, this would be on the agenda for the next meeting with a second hearing to follow at the next meeting. He explained that this would impose a moratorium prohibiting those matters with respect to medical marijuana and all aspects of marijuana.

Commissioner Olszewski addressed the City circumventing State law with this local ordinance. Mr. Ardaman expressed that this does not circumvent State law but regulate it. Commissioner Olszewski stated that Knox Nursery can still produce. Mr. Ardaman stated that there are four items with respect to the marijuana issue and with respect to the Knox

Nursery location. There is the question of growth, growing, manufacturing, processing, and distribution for sale. The City has sent a letter to Knox Nursery owners with respect to manufacturing, process, and distribution. They have been advised that they will need to meet with the City's Planning and Zoning Board before moving forward and potentially the City Commission. They currently have a plant nursery under the Orange County's agricultural land use and zoning classification. Growing may be a different issue and the reason it would be covered by this moratorium, it deals with any new growing opportunities that might exist in the City as well.

There was discussion that Knox Nursery is in the City, however the Orange County's Comprehensive Plan and Zoning still applies to their property. City Manager Bollhoefer stated that State law still gives the City's the right to enforce their zoning laws on these properties. He stated that the question becomes whether Knox Nursery meets those laws and this is what the City will be reviewing.

City Attorney Ardaman stated that this is not a first reading and there is time to make comments and/or suggestions. This issue is coming before the City Commission because it is an issue that is fast approaching; if the City Commission wishes to address this, take action, and help regulate this matter they now have the opportunity.

There was discussion on possibly in the future regulating consumption to certain areas and it was noted that it this is already addressed in the law as illegal. This item will be brought back to the City Commission for first reading at the next meeting.

6. **MATTERS FROM CITY MANAGER**

A. **Draft ordinance for bars on windows**

This matter will be brought back to the next Commission meeting for first reading.

B. **Update on golf carts**

City Manager Bollhoefer shared that the City has received the State Attorney General's opinion whereby it stated that a local government cannot add to the laws or regulations on golf carts and we cannot require people to put in child car seats or child restraints. He noted that staff is working on our GIS road mapping system to identify speed limits as part of the equation. He noted that he will hopefully bring back this information in two weeks. Mayor Rees ask if it would be distributed for their review before the meeting. Mr. Bollhoefer the information will be distributed and include a brief overview.

Commissioner Sharman asked if warnings have been issued to anyone on golf carts on a regular basis or have the golf cart drivers been abiding by our rules. Mr. Bollhoefer responded that he would say probably half are not abiding by the rules.

There was discussion on the laws regarding this issue not keeping up with trends and lifestyles. City Manager Bollhoefer stated that no one ever thought that this many people would be using golf carts.

- **Peer Review of the EMT (Emergency Medical Transport) Study**

City Manager Bollhoefer distributed the peer review study for EMT for the City Commission's review. This is the review of the initial study and it would need to be brought back to the City Commission for a final decision. There was discussion that review of the document will take up to 30 days.

C. **Update on corner of Dillard and State Road 50 project**

City Manager Bollhoefer stated that initially, when the site approval was given, the City Commission did not allow Wendy's and staff has been working to get a hotel on this site. Staff would like to continue working towards this goal. In speaking with the developer, staff is requesting that Wendy's be allowed to be included on the site and in return the City will hold off on the building the shopping center/office space in the back. This will give the City approximately a year to see if we can still get a hotel on the site. He clarified that it is not that it is a Wendy's, it is the proliferation of fast food restaurants on State Road 50. The City's primary goal was to get rid of the eyesore and that has been done.

Commissioner Sharman stated that he has no problem with the suggestion and noted that we have learned from Fowler's Grove that when it is done with the right design guidelines and mixed in with others, it can be an asset. City Manager Bollhoefer noted that the City will have control over the architectural design to make sure it fits in.

There was discussion on the Wendy's moving to this new location and what business would be going in the old location; it was noted that there is a separate owner and the City has no control there.

**Motion by Commissioner Sharman to approve including Wendy's in the site plan approval process for the development at the northwest corner of State Road 50 and Dillard Street. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

7. **MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Olszewski** asked the City Manager to make sure Jason Schneider, in the Fire Department, is given a copy of the peer review EMT study. City Manager Bollhoefer responded that the Deputy Fire Chief Gainza has indicated he will make sure Jason receives a copy.

**Commissioner Makin** thanked staff for all their efforts at the 4<sup>th</sup> of July event. He noted that there were a few complaints from constituents about fireworks not associated with the event. These fireworks are happening several nights before and after the 4<sup>th</sup> of July. Commissioner Sharman, City Manager Bollhoefer, and Mayor Rees also noted they had received complaints on this issue. There was discussion on the possibility of regulating the discharging of loud fireworks in the City and the length of these occurrences.

The meeting adjourned at 7:41 p.m.

APPROVED:

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

ATTEST:

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