



# CITY OF WINTER GARDEN

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## CITY COMMISSION REGULAR MEETING MINUTES

July 28, 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, Acting City Attorney Richard Geller, 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, Fire Chief Matt McGrew, Parks and Land Operations Director Laura Coar, and Police Chief George Brennan

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

**Motion by Commissioner Buchanan to approve the regular meeting minutes of July 14, 2016 as submitted. Seconded by Commissioner Makin and carried unanimously 5-0.**

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

A. **Ordinance 16-45:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, RELATING TO MEDICAL CANNABIS ACTIVITIES; ADOPTING FINDINGS OF FACT; PROVIDING DEFINITIONS; IMPOSING A TEMPORARY MORATORIUM ON THE GROWING, CULTIVATION, PROCESSING, MANUFACTURE, DISPENSING, DISTRIBUTION, AND SALE OF MEDICAL CANNABIS, LOW-THC CANNABIS, DERIVATIVE PRODUCTS, AND RELATED ACTIVITIES; DIRECTING CITY STAFF TO DEVELOP PROPOSED LAND DEVELOPMENT REGULATIONS AND OTHER RECOMMENDATIONS REGARDING SUCH CANNABIS-RELATED ACTIVITIES; PROVIDING FOR PENALTIES, SEVERABILITY, CONFLICT WITH OTHER ORDINANCES, NONCODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE

Acting City Attorney Geller read Ordinance 16-45 by title only. City Manager Bollhoefer stated that with the potential for expanding the upcoming sales of Charlotte's Web, staff believes it makes sense to create a moratorium. This will allow staff time to look into this issue and our zoning laws to make sure they are appropriate for moving forward.

Mayor Rees noted that this ordinance includes an exception for activities that have previously received final approval by the City of Winter Garden. City Manager Bollhoefer confirmed that no one has received final approval at this time.

**Motion by Commissioner Buchanan to approve Ordinance 16-45 with the second reading and public hearing being scheduled for August 11, 2016. Seconded by Commissioner Makin and carried unanimously 5-0.**

- B. **Ordinance 16-46:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE II, DIVISION 3 OF CHAPTER 18 OF THE WINTER GARDEN CITY CODE; PROVIDING FOR PROHIBITION OF SECURITY BARS GRILLES AND GRATES ON DOORS, WINDOWS, BREEZEWAYS AND OPENINGS FACING OR VISIBLE FROM STREETS OR PUBLIC RIGHTS OF WAY; PROVIDING FOR PENALTIES AND ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

Acting City Attorney Geller read Ordinance 16-46 by title only. Community Development Director Pash stated this ordinance is being considered in order to prevent any negative affect associated with these types of bars and approval is recommended.

Mayor Rees questioned that if the owner wishes to repair or replace their existing bars, they have to do it exactly as they currently are, otherwise it would fall under this ordinance. Mr. Pash stated that anything that is pre-existing and meets the building code could remain.

**Motion by Commissioner Sharman to approve Ordinance 16-46 with the second reading and public hearing being scheduled for August 11, 2016. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

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

- 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

Acting City Attorney Geller 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 in order to have the ability to develop it in the future with a small office under a special exception. Staff has reviewed this request and it is

consistent with the existing future land use designation and recommends approval of Ordinance 16-36.

Commissioner Makin announced that he would be abstaining from the vote because he has a financial interest in this item.

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

**Motion by Commissioner Buchanan to adopt Ordinance 16-36. Seconded by Commissioner Olszewski 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

Acting City Attorney Geller read Ordinance 16-37 by title only. Community Development Director Pash stated that the owners of this property have requested rezoning to PUD. This will allow for future expansion of school classrooms, expansion of the sports complex, a communication tower along SR 429 as well the ability to have student boarding and a 2.6 acre commercial site on the corner of Tilden and Mann Road. He mentioned future traffic studies to review the impact of how traffic is entering and leaving the school. They will remain subject to the 2007 developer agreement. Approval of this ordinance was recommended.

Commissioner Sharman reiterated that there would not be a gas station on the corner commercial lot.

Mayor Rees opened the public hearing.

David Buckles, 967 Glenview Circle, Winter Garden, Florida, as representative of Foundation Academy noted he was available for any questions.

Brian Denham, 5212 Timberview Terrace, Orlando, Florida, of Denham Engineering, stated he was available to answer any technical questions.

Mayor Rees closed the public hearing.

**Motion by Commissioner Sharman to adopt Ordinance 16-37. Seconded by Commissioner Makin and carried unanimously 5-0.**

4. **REGULAR BUSINESS**

A. **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 gave a PowerPoint presentation. He explained how Winter Garden's success in the downtown area is because of the willingness to invest in it. The belief has been that once the public investment is made, the private investments will follow. He showed some examples totaling \$27.7 million and how he thinks it pays off in the long-term with the return on the investment. A successful downtown helps benefit the property values of the entire city and becomes one of our primary assets. He looked at the Community Redevelopment Area (CRA) values in 2003 when the assessed value of the CRA was \$67 million and then for 2017, after all our investments, our assessed value is \$120 million. Our revenues have increased by \$400 thousand per year over that time and continue to go up.

Looking to the future of our downtown, staff looks at what needs to be done to ensure Winter Garden is successful during the downturns. He believes in ensuring that we have the right critical mass for our downtown. From a planning perspective, he believes those key areas include; increasing retail going down Boyd and Main Streets, increasing retail in general and stretching out the downtown with probably more residential at the end of Plant and Park. Also, possibly begin redevelopment on Dillard Street.

What we don't have downtown is residential and he believes it is necessary for a successful downtown. Another area for improvement for downtown is retail. A standard is to have retail at 30 percent. Two primary goals for staff are to increase residential and retail. This should be accomplished without bringing in the big boxes that tend to kill off the mom and pop shops.

Bringing residential into the downtown area puts people there 24 hours a day and that makes it a safer community. This project will put people directly across from the parking garage. There are very few locations able to accommodate residential units. There is a high demand for this housing. This project is asking for fee assistance of \$409,000 and a land purchase for \$152,000. More details of the project have already been provided. He is confident this will be a high-end project. He noted that balconies were excluded from this project because people tend to hang things from them and it would not look as well.

He believes it is critical to have retail on the first floor as it will pull people down Boyd Street. He displayed a chart for the CRA values. He invited Planning Consultant Ed Williams to come forward to share his analysis of values in communities that are investing in their downtowns.

Mr. Williams noted that the investments made by the City of Winter Garden were made at a time when there was a downturn in the economy and the work was being done at half the price or less. Secondly, the City invested in the right places and he made a comparison to Atlanta. Mr. Williams went onto the County Property Appraiser's website and looked at specific downtown properties. He compared the market values in 2013 to 2016 and gave the percentage of increases experienced. He also looked at the Town of Windermere who has not made a similar investment and those values have increased minimally.

City Manager Bollhoefer shared how prospective developers have stated that in order for a project to work financially, they need additional floors. Staff believes that residential is needed downtown for long-term viability. The only way to get residential and keep the height below four, five and six stories is to provide some way for the numbers to work. His goal is to make sure Winter Garden is viable going forward.

Mayor Rees asked if conceptually there would be any merit to asking someone, who exceeds their anticipated rate of return on their investment, to share (return) a portion (percentage) up to a specified amount to the City over a period of years. Mr. Williams responded that there are some affordable housing projects that have done this but not for anything that is at market rates. If they exceed their projections, the assessments go up and the City gets it back through tax revenue. The fees being asked to be waived are for parking or transportation impact fees where our infrastructure can already handle the building. The infrastructure is already in and the downtown roads can't be widened.

Mr. Bollhoefer noted that anytime incentives have been look at, we have always done them for justifiable reasons and he gave some examples. Mayor Rees stated he understands the increase in property values will help us recoup our funds.

Commissioner Olszewski shared that the key investments shown on the City Manager's presentation were areas for public use and access. For him the blighted areas were held by private parties that the city made concessions for as a choice to improve the area. This action, to him, was different because it was public property owned by the people of Winter Garden which was his original concern. After talking with the City Manager about the intricacies of the project and the fact it was publicly noticed with one proposal being submitted, he thinks this project is an opportunity for a return on our investment. He is confident everything has been done correctly and the citizens will get a return on their investment. He advised that he will be supporting this project.

Commissioner Makin asked how long ago this proposal was put out to the public. Mr. Bollhoefer responded approximately eight months ago. Commissioner Makin noted that even in eight months we have had a lot of increase in property values downtown. He has an issue with the sales price per square foot for this property, owned by the residents of Winter Garden, plus waiving of impact fees. Mr. Bollhoefer reiterated that if you want residential downtown and you do not want five and six stories, then incentives will have

to be provided. Commissioner Makin stated that he prefers fee simple. There was discussion on what could happen either way.

Commissioner Sharman noted that he has had several citizens contact him about this item and he feels he should share the information provided in the City Manager's presentation with them. So until then, he would like to postpone this matter. If it is not postponed, he will be voting against it.

Commissioner Buchanan stated that this matter has been through the selection process and making the developer wait does cost him more money. Mayor Rees asked Mr. Rinehart about a delay and he explained his position and the process.

**Motion by Commissioner Sharman to postpone this matter until August 11, 2016. Seconded by Commissioner Makin and carried 4-1; Commissioner Buchanan opposed.**

**B. Recommendation to approve entering into a parking agreement for 161 South Boyd Street**

City Manager Bollhoefer stated that this item needs to be tabled since it is connected to the prior agenda item. **Motion by Commissioner Sharman to table this item. Seconded by Commissioner Makin and carried unanimously 5-0.**

**C. Recommendation to approve Roper Reserve Final Plat (562 Beard Road) subject to staff recommended conditions**

Mayor Rees advised that staff has requested **postponement** of this item. *No objections were noted.*

**D. Recommendation to approve the Site Plan for Britt Plaza office/warehouse industrial building located at 530 Susan B Britt Court, subject to conditions**

Community Development Director Pash stated this is a Site Plan for a new 6,000 square foot office and warehouse building. The Development Review Committee (DRC) has reviewed the plan and recommends approval subject to the conditions provided with the agenda packet. Mayor Rees called for questions. Hearing none, he asked for a motion. Hearing none, this item **died** for the lack of a motion.

**E. Recommendation to approve the Site Plan for Winter Garden Feed Company located at 12403 W. Colonial Drive, subject to conditions**

Community Development Director Pash stated that the owner is planning on renovating an existing building behind Main Street Mowers. The downtown location of the Winter Garden Feed Company would relocate to this site. DRC has reviewed this Site Plan and approval is recommended subject to the conditions provided in the agenda packet.

**Motion by Commissioner Olszewski to approve the Site Plan for Winter Garden Feed Company at 12403 W. Colonial Drive, subject to conditions. Seconded by Commissioner Sharman and carried unanimously 5-0.**

F. **Recommendation to approve Site Plan for Tag Aero Headquarters office/warehouse located at 660 Garden Commerce Parkway, subject to conditions**

Community Development Director Pash stated that this Site Plan is for a 12,000 square foot office and warehouse building with associated parking and landscaping. The plans have been reviewed by DRC who recommends approval subject to the conditions provided in the agenda packet.

**Motion by Commissioner Olszewski to approve the Site Plan for Tag Aero Headquarters office/warehouse located at 660 Garden Commerce Parkway subject to conditions provided in the agenda packet. Seconded by Commissioner Sharman and carried unanimously 5-0.**

G. **Recommendation to approve a special event request by the Winter Garden Heritage Foundation to hold a Music Fest October 7, 8, and 9, 2016 downtown, with conditions**

Community Development Director Pash stated that this is the annual request for the Music Fest. This year they are proposing to extend the event a little further to the west to include the Plant Street Market. This event will close Plant Street from Central Avenue to Dillard Street and close all the abutting streets to Plant Street. There will be three stages, vendors, and they would like the ability to sell beer and wine as they have in the past.

Mayor Rees noted that the music at Plant Street Market stops at 9 p.m. and asked why not close Plant Street at Park instead of the roundabout. City Manager Bollhoefer responded that it gives them a way to turn around when they come in from the detour.

**Motion by Commissioner Makin to approve the special event request for the Music Fest October 7, 8 and 9<sup>th</sup>, 2016 downtown, with conditions. Seconded by Commissioner Sharman and carried unanimously 5-0.**

H. **Recommendation to approve bids and award contract for Reclaimed Water Booster Pump Station on Avalon Road south of the Turnpike to CenState Contractors not to exceed \$405,460 that includes a ten percent contingency**

City Manager Bollhoefer asked that this item be tabled to conduct public meetings with those adjacent to the park. **Motion by Commissioner Sharman to table this matter. Seconded by Commissioner Makin and carried unanimously 5-0.**

I. **Recommendation to rankings and award contract for RFQ 16-002 to Quentin L. Hampton Associates, Inc., for Engineering Design Services for Stormwater Capture,**

**Reuse Water and Aquifer Recharge Project with a not-to-exceed amount of \$313,635**

City Manager Bollhoefer asked that this item be tabled. **Motion by Commissioner Sharman to table this matter. Seconded by Commissioner Makin and carried unanimously 5-0.**

**J. Recommendation to approve the Police Department purchasing ballistic helmets with \$10,361 in Fiscal Year 2016 from the Edward Byrne Memorial Justice Assistance Grant (JAG) State Solicitation Program and allowing for public comments**

Police Chief Brennan explained the allocation of this program and the intent is to purchase ballistic helmets for our officers. Commissioner Sharman asked if this purchase will outfit all of our Police Officers. Chief Brennan advised it would outfit most of them, if not all of the uniformed patrol officers. The helmets would primarily be used for active shooter responses. There was discussion on how important it is to adequately outfit our officers for their safety.

Mayor Rees asked for public comments. There were none.

**Motion by Commissioner Sharman to approve expending state allocated JAG funds to purchase ballistic helmets for police officers. Seconded by Commissioner Makin and carried unanimously 5-0.**

**K. Recommendation to approve the Police Department purchasing ballistic vests with \$13,842 in Fiscal Year 2016 Edward Byrne Memorial Justice Assistance Grant (JAG) Local Solicitation and allowing for public comments**

Police Chief Brennan stated the City has been awarded a JAG grant of \$13,842 and he recommends purchasing ballistic vests in conjunction with the helmet purchase in the last item.

Mayor Rees asked for public comments. There were none.

**Motion by Commissioner Makin to approve expending local allocated JAG funds to purchase ballistic helmets for police officers. Seconded by Commissioner Sharman and carried unanimously 5-0.**

**L. Recommendation to approve entering into a contract with Orange County Supervisor of Elections for the Special Election of District 3 City Commissioner**

City Clerk Golden stated that for the City Commission's consideration is a standard contract with the Orange County Supervisor of Election to assist us with our upcoming special election.

**Motion by Commissioner Sharman to approve entering into a contract with Orange County Supervisor of Elections for the Special Election of District 3 City Commissioner. Seconded by Commissioner Makin and carried unanimously 5-0.**

5. **MATTERS FROM PUBLIC**

Anthony L. Peterson, 194 Jean Street (unincorporated Orange County), Winter Garden, Florida, addressed his annual Unity in the Community event highlighting its successes and his learning experiences getting to this point. He looks forward to a continued partnership with the City of Winter Garden.

6. **MATTERS FROM ACTING CITY ATTORNEY**

Acting City Attorney Geller stated that he has distributed to the City Commission a draft copy of the proposed agreement with the School Board of Orange County for the School Resource Officer Program. He noted that Mr. Ardaman has been negotiating with the School Board's attorney and Mr. Ardaman is not satisfied with this contract as it stands now. It includes revisions the School Board wants that City Attorney's office disagrees with. He asked the Commission how they would like to proceed.

**Motion by Commissioner Sharman to approve the School Resource Officer Program agreement version without the School Board's changes, which is the Commission's prior version. Seconded by Commissioner Makin and carried unanimously 5-0.**

7. **MATTERS FROM CITY MANAGER**

A. **Discussion on Architectural Review and Historic Preservation Board membership**

Mr. Bollhoefer handed out the interest applications on file and a draft ordinance that recreates staggered terms that will be on the next agenda. He will probably send out a spreadsheet shortly for the Commission's review.

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

Mr. Bollhoefer postponed this item for additional research.

- He announced the Unity in Community event that is scheduled for August 13<sup>th</sup> at Zanders Park from 10 a.m. to 2 p.m. There is also a back-to-school health event scheduled at Jessie Brock Center, August 13<sup>th</sup> from 11:00 a.m. to 3:00 p.m.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Sharman** asked everyone to let our Police Officers and Firefighters know that we appreciate what they do and how they handle themselves. The community likes what they are doing. Their efforts are keeping incidents from happening in Winter Garden.

**Commissioner Olszewski** agreed with Commissioner Sharman's comments.

**Commissioner Makin** echoed Commissioner Sharman's comments.

**Mayor Rees** stated that when it comes to our Police and Fire, we have the best around and we appreciate everything they do.

The meeting adjourned at 7:44 p.m.

APPROVED:

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

ATTEST:

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