



CITY OF WINTER GARDEN

CITY COMMISSION BUDGET HEARINGS AND REGULAR MEETING MINUTES

September 28, 2017

BUDGET HEARINGS and **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 and Commissioners
Lisa Bennett – District 1 Bob Buchanan – District 2
Mark A. Maciel – District 3 Colin Sharman – District 4

Also Present: City Manager Mike Bollhoefer, City Attorney A. Kurt Ardaman, Assistant City Attorney Rick Geller, City Clerk Kathy Golden, Assistant City Manager of Administrative Services Frank Gilbert, Assistant City Manager of Public Services Eric Guth, Community Development Director Stephen Pash, Economic Development Director Tanja Gerhartz, Finance Director Laura Zielonka, Fire Chief Matt McGrew, Information Technology Director Chad Morrill and Police Chief George Brennan

BUDGET HEARINGS

1. **SECOND READING AND PUBLIC HEARINGS TO ADOPT PROPOSED BUDGETS AND MILLAGE RATE FOR FISCAL YEAR 2017/2018**

- A. **Ordinance 17-44:** AN ORDINANCE LEVYING TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2017, AND ENDING ON SEPTEMBER 30, 2018

City Attorney Ardaman read Ordinance 17-44 by title and stated that the City Commission of the City of Winter Garden hereby adopts, establishes and levies a millage rate for ad valorem taxation of real and tangible personal property within the City of Winter Garden for the Fiscal Year beginning October 1, 2017, and ending on September 30, 2018, at the rate of 4.2500 mills (\$4.2500 for every \$1,000 of assessed valuation) upon the assessed valuation of property within the corporate limits of the City of Winter Garden, Florida. This millage rate is greater than the rolled back rate of 4.0326 mills by 5.39 percent.

Finance Director Zielonka stated that this Ordinance proposes keeping the millage rate at 4.25.

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

Motion by Commissioner Maciel to ADOPT Ordinance 17-44. Seconded by Commissioner Sharman and carried unanimously 5-0.

- B. **Ordinance 17-45:** AN ORDINANCE APPROPRIATING AND ALLOCATING ALL REVENUE AND FUNDS OF THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2017, AND ENDING ON SEPTEMBER 30, 2018

City Attorney Ardaman read Ordinance 17-45 by title and the following excerpt:

It is anticipated that there will be available for use and disbursement from the general funds of the City, revenue in the following amounts:

Collection of Ad Valorem	\$12,448,539
Revenue other than Ad Valorem	<u>23,779,766</u>
TOTAL REVENUES AVAILABLE FOR EXPENDITURES	\$36,228,305

Finance Director Zielonka stated that this is the second reading and there have been no changes since the first reading. She shared that books with comments had been delivered and staff is available for answering any questions.

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

Motion by Commissioner Buchanan to ADOPT Ordinance 17-45. Seconded by Commissioner Sharman and carried unanimously 5-0.

- C. **Ordinance 17-46:** 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, 2017, AND ENDING ON SEPTEMBER 30, 2018

City Attorney Ardaman read Ordinance 17-46 by title and stated whereas it is anticipated that it will be available for use and disbursement from the CRA funds of said City, revenue in the following amounts:

Collection of Ad Valorem	\$ 435,838
Revenue other than Ad Valorem	<u>458,640</u>
TOTAL REVENUES AVAILABLE FOR EXPENDITURES	\$ 894,478

Finance Director Zielonka noted that this budget was taken to the CRA board and it was approved.

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

Motion by Commissioner Bennett to ADOPT Ordinance 17-46. Seconded by Commissioner Maciel and carried unanimously 5-0.

- D. **Ordinance 17-47:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, AUTHORIZING THE APPROPRIATIONS OF CITY FUNDS FOR FISCAL YEAR 2017-2018 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 17-47 by title only. Finance Director Zielonka stated that this Ordinance approves all of the expenditures.

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

Motion by Commissioner Maciel to ADOPT Ordinance 17-47. Seconded by Commissioner Sharman and carried unanimously 5-0.

REGULAR CITY COMMISSION MEETING

2. APPROVAL OF MINUTES

Motion by Commissioner Buchanan to approve regular meeting minutes of September 14, 2017 as submitted. Seconded by Commissioner Maciel and carried unanimously 5-0.

3. PRESENTATION

A. St. Johns River Water Management District (SJRWMD) Ceremonial Checks Presentation

Assistant City Manager of Public Services Guth stated that St. Johns River Water Management District representative Susan Davis was in attendance to present two checks to the City. One check is for reuse retrofits in the StoneyBrook West area to get residents off of the potable water lines and onto reuse lines. This will service 221 of the City's residents. He stated that the second check is for the water conservation program and the switching out of the current water meters, towers, and software systems to aid in the reading of those meters.

Susan Davis, Intergovernmental Coordinator with the St. Johns River Water Management District thanked the City for the opportunity to celebrate the partnership between the City and SJRWMD and presented the City with the two checks in this effort.

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

- A. **Ordinance 17-25:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, VACATING A PORTION OF THE PLAT DEDICATED UTILITY EASEMENTS OVER LOTS 8A AND 8B OF THE PAVEX PARK SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 48, PAGE 32 AND 33 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA (LOCATED AT 1318 AND 1342 GREEN FOREST COURT, WINTER GARDEN, FLORIDA) OWNED BY WS GROUP, LLC. AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE AND RECORDING

City Attorney Ardaman read Ordinance 17-25 by title only. Community Development Director Pash stated that this Ordinance vacates a platted utility easement to allow for the future development of this property. Staff recommends approval of Ordinance 17-25.

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

Motion by Commissioner Buchanan to ADOPT Ordinance 17-25. Seconded by Commissioner Bennett and carried unanimously 5-0.

- B. **Ordinance 17-49:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 70 OF THE CITY CODE REGARDING COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY; IMPLEMENTING THE ADVANCED WIRELESS INFRASTRUCTURE DEPLOYMENT ACT; MAKING FACTUAL AND LEGISLATIVE FINDINGS; ADOPTING AND AMENDING CITY REGULATIONS RELATED TO, WITHOUT LIMITATION, PLACEMENT, MAINTENANCE, AND REPLACEMENT OF WIRELESS COMMUNICATIONS FACILITIES IN THE CITY'S RIGHTS-OF-WAY, COLLOCATION OF SMALL WIRELESS FACILITIES ON EXISTING UTILITY POLES, PLACEMENT OF NEW UTILITY POLES, REMOVAL AND RELOCATION OF WIRELESS FACILITIES, INSURANCE AND SURETY BOND REQUIREMENTS, INDEMNITY, PERMITTING PROCEDURES AND REQUIREMENTS, APPEALS, SAFETY REQUIREMENTS, WAIVERS, REVIEW DEADLINES, DEFINITIONS, REGISTRATION OF WIRELESS PROVIDERS; FEES; PROVIDING OBJECTIVE DESIGN STANDARDS, INCLUDING PROVIDING FOR AND INCORPORATING EXHIBITS; PROVIDING FOR CITY COMMISSION AUTHORITY, CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 17-49 by title only. Community Development Director Pash stated that this Ordinance makes changes to Chapter 70 of the City code to be consistent with the new State laws regarding communication facilities in the right-of-way. Staff recommends approval of Ordinance 17-49.

Mayor Rees opened the public hearing.

Jason Kofender, Government Relations Counsel with Crown Castle NG East LLC, addressed legislative passing of the Advance Wireless Infrastructure Deployment Act. He shared that the purpose of the act was to rapidly speed up the deployment of small wireless facilities in the public rights-of-way so that telecommunication providers could provide communication services to the residents. He read an excerpt of the act and stated that the proposed City Ordinance exceeds what is allowed under State Statute. He expressed that it is not in compliance with State Statute and Federal Law. He specifically addressed some sections of the ordinance which he feels does not comply and explained what he felt were contradictions. He requested that the City not proceed with this Ordinance and instead work with them to write an ordinance that addresses everyone's interests.

James L. Hall, 375 Grove Court, Winter Garden, Florida, voiced his concerns on issues he found to be unclear regarding operational devices in this telecommunication equipment. He voiced that his questions have to do with issues of frequency ranges, power level emissions, cell phone use, virtual reality, and driverless vehicles. He has been researching 5-G projects and stated that this issue is open and very broad about what services will be done in and around the City area. He felt that the Ordinance was well written but wants to understand better what it is and what he will be walking under when he walks down the street.

Mayor Rees closed the public hearing.

Assistant City Attorney Geller stated that the City is entitled as a matter of Federal Law and the Federal Telecommunications Act as well as under this statewide Advanced Wireless Infrastructure Deployment Act to regulate the aesthetics of these wireless systems or facilities that would be constructed within the City. This ordinance sets forth objective design criteria and the City is not dictating what kind of technology is to be embodied in these structures. All the City is saying is that we want wireless facilities that are compatible with our City.

City Attorney Ardaman stated that as a matter of record, he believes that the City Commission is aware telecommunications provider industries have spent huge amounts of money on lobbyists to obtain this very interesting statute imposing restrictions and requirements on all local governments. He thinks there are issues and problems with the Statute. This ordinance has been crafted rather than allow our rights-of-way and citizens, property owners, businesses in the City be subject to things that are not appropriate. He added that there is the possibility of future changes.

Assistant City Attorney Geller added that if there is a provision here that is onerous, under the circumstances, it can be granted a waiver by the City.

Commissioner Buchanan sought clarification of who regulates the power frequency and equipment and oversees protection of anyone near this equipment. **Mr. Kofender** responded that this would be the Federal Communications Commission (FCC).

Commissioner Maciel also voiced concerns on what this would actually be and stated that we all want good cell service but some things can be very dangerous to your health.

City Manager Bollhoefer noted that as a City we are not to get involved in this issue, only in the aesthetics. The other would fall under the FCC regulations.

Commissioner Maciel sought legal advice from the City Attorney in the event that there was exposure and a lawsuit was necessary. **City Attorney Ardaman** noted that the City Commission in protection of its residents, business owners and citizens, would aggressively defend this and come together for discussion in an executive session.

Motion by Commissioner Buchanan to ADOPT Ordinance 17-49. Seconded by Commissioner Maciel and carried unanimously 5-0.

- C. **Ordinance 17-35:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE III, PENSION PLAN FOR FIREFIGHTERS AND POLICE OFFICERS, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-190, CONTRIBUTIONS; AMENDING SECTION 54-193, DISABILITY; AMENDING SECTION 54-215, SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS; CHAPTER 175 AND 185 SHARE ACCOUNTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 17-35 by title only. Assistant City Manager of Administrative Services Gilbert stated that this is the second reading of Ordinance 17-35. This ordinance implements changes as required by the Internal Revenue codes and as agreed upon in the collective bargaining agreement with the Fraternal Order of Police.

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

Motion by Commissioner Bennett to ADOPT Ordinance 17-35. Seconded by Commissioner Sharman and carried unanimously 5-0.

5. **REGULAR BUSINESS**

- A. **Recommendation to approve Binding Lot Combination Agreement for properties located at 1318 & 1342 Green Forest Court**

Community Development Director Pash stated that this is a Binding Lot Combination Agreement to combine two lots for the next City Commission item regarding their development. Staff recommends approval of the Binding Lot Combination Agreement.

Motion by Commissioner Sharman to approve Binding Lot Combination Agreement for properties located 1318 & 1342 Green Forest Court. Seconded by Commissioner Maciel and carried unanimously 5-0.

B. Recommendation to approve Site Plan for properties located at 1318 & 1342 Green Forest Court, subject to conditions

Community Development Director Pash stated this item is the site plan review for properties located at 1318 and 1342 Green Forest Court. The owners are requesting this approval to develop the site of approximately 90,000 square feet of office and industrial uses. The site plan is consistent with the approved PCD zoning and staff recommends approval, subject to conditions as stated in the DRC staff report.

Motion by Commissioner Sharman to approve site plan for properties located at 1318 & 1342 Green Forest Court, subject to DRC conditions. Seconded by Commissioner Buchanan and carried unanimously 5-0.

C. Recommendation to approve Site Plan for Shepherd's Hope single-story medical office building located at 455 9th Street

Community Development Director Pash stated that this is a site plan for Shepherd's Hope. This is a City-owned property located at 455 9th Street. The request is for approval to develop the site. Site improvements will include an approximately 10,000 square foot office building for medical offices servicing under privileged families. This proposed development is also consistent with the approved PUD and staff recommends approval, subject to the conditions as outlined in the staff report.

Motion by Commissioner Maciel to approve site plan for Shepherd's Hope single-story medical office building located at 455 9th Street, with staff recommendations. Seconded by Commissioner Bennett and carried unanimously 5-0.

D. Recommendation to approve Developer's Agreement for The Sanctuary at Twinwaters

Community Development Director Pash stated that this is the Developer's Agreement for The Sanctuary at Twinwaters. This agreement outlines their fair share requirement for reimbursing the original developer for the extension of the utility improvements. These were general requirements in the City's typical developer's agreements, following developer guidelines. Staff recommends approval.

Motion by Commissioner Buchanan to approve Developer's Agreement for the Sanctuary at Twinwaters. Seconded by Commissioner Maciel and carried unanimously 5-0.

E. **Recommendation to approve authorizing the Mayor and the Police Chief to execute the Memorandum of Understanding Orange County Intergovernmental Radio System Encryption Key**

Police Chief Brennan stated that this Memorandum of Understanding (MOU) establishes the parameter for use of a common encryption key for public safety radios operating on the system. There is no additional cost to the City and no additional equipment is needed. Staff recommends approval.

Motion by Commissioner Bennett to approve authorizing the Mayor and the Police Chief to execute the Memorandum of Understanding Orange County Intergovernmental Radio System Encryption Key. Seconded by Commissioner Sharman and carried unanimously 5-0.

6. **MATTERS FROM PUBLIC**

Joseph Richardson, 220 N. Highland Avenue, Winter Garden, Florida, reminded City Manager Bollhoefer of two outstanding records requests. Mr. Richardson read an excerpt from the Holy Bible and spoke of the Golden Rule of doing to others as you would have them do to you. He also mentioned John Rawls' Veil of Ignorance and voiced that he wanted to give everyone something to think on.

Adam Hartnett, 1743 Lindzlu Street, Winter Garden, Florida, spoke as a representative for the East Winter Garden Neighborhood Alliance and stated that the Alliance would like a seat at the planning of the events for the Martin Luther King Jr. events. City Manager Bollhoefer advised that he would have Laura Coar the Director of Parks and Recreation contact him.

Commissioner Maciel spoke on the Alliance and other churches having their own events and stated that it would be nice if there could be a combined event with the City.

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

8. **MATTERS FROM CITY MANAGER**

Zoning Issues

City Manager Bollhoefer distributed ordinances for the City Commission's review and stated that one of them is regarding C-2 Zoning and the issues of transportation with the types of businesses allowed on them. He spoke of changing these to special exception, giving the City Commission greater control when reviewing these types of businesses.

Downtown Parking Ordinance

Mr. Bollhoefer addressed the downtown parking ordinance and stated that the way it is written now, a person could pay that fee in lieu of building parking and it would automatically have to be given. He does not think this is wise and the City Commission should have control of whether or not to grant this option of people building downtown.

Mr. Bollhoefer announced that Shepherd's Hope groundbreaking is Wednesday, October 4th at 8:45 a.m.; National Night Out is Tuesday, October 3rd at 6:00 to 9:00 p.m. at the Target parking lot in Fowler Groves.

Mr. Bollhoefer also praised the employees for their efforts during the hurricane.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Bennett echoed City Manager Bollhoefer comments regarding the cleanup efforts and stated that the response has been awesome. She also thanked Mayor Rees for his questions concerning the budget and thought that they were very helpful.

Commissioner Buchanan spoke of the budget, noting that it is difficult sometimes to understand and is a different kind of accounting. He also shared some resident reactions to those who complained about the City's response to trash pickup after the storm. He expressed that it was the citizens that came to the defense of the City and he felt this speaks a lot to their appreciation of their City. He also commended staff for a job well done after the storm.

Commissioner Sharman thanked the City employees for their efforts during the clean up after the storm and spoke of how they managed removal of tree limbs and debris in a very special way. Commissioner Sharman also thanked Community Development Director Steve Pash for his efforts in a recent community meeting attended by HOA presidents and concerned citizens. He stated that Mr. Pash did a great job handling their concerns and getting the developer to agree to some good conditions.

Mayor Rees noted that the people are still talking and bragging about the City of Winter Garden in their cleanup efforts after the storm and noted that we do appreciate it. Mayor Rees also shared a story of some City of Winter Garden Police officers who, while the storm was coming, assisted a citizen that was riding a very slow moving motorized scooter. They got a pickup truck, loaded the scooter on and ushered the citizen to safety before the storm. Mayor Rees made the heartfelt statement "now that is Winter Garden".

The meeting adjourned at 7:18 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC