



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

May 14, 2009

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. The invocation and Pledge of Allegiance were given.

Present: Mayor John Rees, Commissioners Harold L. Boulter, Bob Buchanan, and Colin Sharman

Absent: Commissioner H. Gerald Jowers

Also Present: City Manager Mike Bollhoefer, Assistant City Attorney Giffin Chumley, Assistant City Clerk Angee Grimmage, Fire Chief John Williamson, Police Chief George Brennan, Human Resources Director Frank Gilbert, Finance Director Robin Hayes, Public Services Director Don Cochran, Building Official Skip Lukert, Director of Information Technology Bob Reilly, Assistant City Engineer Mike Kelley, Economic Development Director Dolores Key, and Community Relations Manager Andrea Vaughn

1. **APPROVAL OF MINUTES**

Motion by Commissioner Boulter to approve the regular meeting minutes of April 23, 2009 as submitted. Seconded by Commissioner Buchanan and carried unanimously 4-0.

2. **PRESENTATION**

Mayor Rees read and presented Proclamation 09-03 declaring May as Neurofibromatosis Awareness Month

3. **FIRST READING OF PROPOSED ORDINANCE**

A. **Ordinance 09-24:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTIONS 78-55 AND 78-57 OF CHAPTER 78, CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN, REDUCING THE WATER AND SEWER SERVICES READINESS TO SERVE CHARGE TO FIFTY PERCENT (50%) OF THE APPLICABLE MONTHLY SERVICE CHARGE FOR METERED ACCOUNTS DURING MONTHS OF ZERO CONSUMPTION; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE

Assistant City Attorney Chumley read Ordinance 09-24 by title only. Finance Director Hayes stated that this ordinance reduces the readiness to serve rate and reduces the standard water and sewer fees. The effort here is to help residents with their economic situation.

City Manager Bollhoefer stated that he believes he made an error in the direction he gave to staff on this item. He believes it was the City Commission's intention to reduce the

entire amount by 50 percent. He instructed staff not to reduce the solid waste and storm water; thus the only item reduced by 50 percent was the water and sewer, which does not result in a total reduction of 50 percent. He apologized for not giving clear instructions to staff and stated that this will need to be adjusted and brought back to the City Commission.

It was the **consensus** of the City Commission to postpone this item until the next City Commission meeting on May 28, 2009.

4. **THIRD READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

- A. **Ordinance 09-11:** AN ORDINANCE OF THE CITY COMMISSION OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 94; ARTICLE IV OF THE WINTER GARDEN CODE OF ORDINANCES AND REPEALING ORDINANCE 94-134 AND CREATING THE FOLLOWING SECTION THEREOF: ORDINANCE NO. 09-11; ARTICLE IV WATER CONSERVATION ORDINANCE FOR LANDSCAPE IRRIGATION, PROVIDING FOR LOCAL IMPLEMENTATION OF THE WATER CONSERVATION RULE FOR LANDSCAPE IRRIGATION OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; PROVIDING DEFINITIONS; PROVIDING LANDSCAPE IRRIGATION SCHEDULES; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR APPLICABILITY OF THE ORDINANCE; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE

Assistant City Attorney Chumley read Ordinance 09-11 by title only.

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

Motion by Commissioner Sharman to adopt Ordinance 09-11. Seconded by Commissioner Buchanan and carried unanimously 4-0.

5. **REGULAR BUSINESS**

- A. **Request for approval of a Locally Funded Agreement between the City and Florida Department of Transportation on the State Road 50 road project**

City Manager Bollhoefer stated that staff has been working on this agreement for quite some time and has not reached a final agreement. He suggested bringing this item back to the next City Commission meeting on May 28, 2009. At that time, this agreement will either need to be approved or denied due to the approaching June 1st deadline.

Mr. Bollhoefer gave the City Commission an update of where the City is at in this process. The City is still moving forward with replacing the strand lights with mast arms, burying all utility cables where possible, installing sleeving and electrical for any irrigation for the right-of-way and medians. He described a possible plan for the medians

that have a combination of pavers, concrete, and drought resistant minimum maintenance plants etc. Initial estimates for landscaping and the medians came in at approximately \$3.1 million; staff has negotiated this down to \$1.8 million. The goal is to have the total cost for everything around or less than \$3 million.

Mr. Bollhoefer stated that once a City makes a change to a median, they inherit the maintenance of the median. The City is negotiating with the State to have them pay a stipend to the City every year for the maintenance. Staff believes that the long term redevelopment and upgrade of State Road 50 will make a significant difference. It will probably be a catalyst for redeveloping all of State Road 50.

Commissioner Buchanan asked what is the status of the City in obtaining Dillard Street? Mr. Bollhoefer replied that the city attorney has written a letter to the FDOT attorney and the City is waiting for a reply to see where the FDOT is at on drafting the agreement.

Mr. Bollhoefer gave an update on the State Road 50 intersection by stating that he is hoping to get the crossway street at the Church of Christ paved by next weekend. The church has agreed to enter into an agreement with the City to allow use of the road as an alternate route. Studies and negotiations are underway for the intersection at State Road 50, Dillard Street and Daniels Road to improve traffic movement.

Mayor Rees asked the City Manager if he will have the agreement available for the City Commission's review the week prior to the meeting since it needs to be acted upon no later than May 28, 2009. Mr. Bollhoefer replied that he is hoping it will go out at the latest by next Friday or at least as soon as staff is close to a finished draft. Mayor Rees stated that he wanted to be sure the City Commission has time to review it.

6. **MATTERS FROM CITIZENS**

Bettye Clark, 1467 Kenny Court, Winter Garden, Florida, stated she is asking for a permit to operate a mobile unit for selling snow cones at Klondike Park, which she applied for last March.

Mr. Bollhoefer stated that several weeks ago the City Commission discussed vendor permits for mobile vending carts. Staff is currently drafting a proposed plan for a workshop with the City Commission on this subject. Generally, most governments do not allow vendors in the parks because once someone is allowed, then all vendors are allowed in the park. He is planning to discuss this issue at a workshop in order to make some adjustments to the City's Code. At the next meeting or the following meeting, staff is planning on making a presentation regarding open-air vendor regulations.

Commissioner Boulter asked if the proposed regulations will only be for inside a park. Mr. Bollhoefer replied that the discussion will be for open-air vendors in the entire City. Commissioner Boulter asked if staff will be presenting a proposal for vendors outside or near the park. Mr. Bollhoefer replied that the staff's recommendation will probably be to not allow it because once you allow people to set up at a particular location, you will have vendors setting up everywhere. This would distract from our local businesses that have store

fronts and pay taxes and overhead. They would lose business to cart vendors that don't have the added expenses. At the workshop the City Commission will be provided with a proposed plan with examples of when and where people might be allowed to operate as an open-air vendor.

Ms. Clark noted that her prior mobile unit did pay taxes to the IRS. Mr. Bollhoefer responded that the difference is that the person with a shop pays City property taxes, which are not paid with a push cart.

Mayor Rees stated that this issue will be reviewed and discussed once staff has provided the City Commission with their suggested guidelines at the next City Commission on May 28, 2009.

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

8. **MATTERS FROM CITY MANAGER**

A. **Report on Highway 50 landscaping and construction**

This item was covered previously in the meeting under item 5.A.

• **Upgraded Street Lights within Subdivisions**

City Manager Bollhoefer stated that the City Code addresses upgraded street lights within subdivisions that they are required to pay the difference between the cost of the standard lights and the upgraded lights. In order for the subdivisions to get reimbursed, they are required to send a letter to the City requesting the City reimburse them for the amount that the City would have paid for the standard lights. Several subdivision homeowner associations (HOA's) have not filed their letters and are now requesting retroactive reimbursement from the City. From a staff's perspective, we hate to punish the residents of these subdivisions because their property manager failed to submit the required letter. Mr. Bollhoefer stated that staff would like to pay those subdivisions for prior years even if they have not filed the letter.

Commissioner Sharman noted that these subdivisions have paid their light fees up front so let them file their letter for reimbursement and move forward.

Commissioner Boulter asked if there was a cut-off date for back filings. Mr. Bollhoefer replied that they are generally all the same but one dates back to 2005. All the rest are in good shape. By Code, there is no cut-off date because if they do not send a letter, the City does not have to pay them at all.

Commissioner Buchanan stated that he would like to have a better understanding of this issue rather than have it distributed at the meeting for a decision. He asked why the letter was not sent in. Mr. Bollhoefer replied that some of the property managers were not familiar with the City's Code and failed to send their letter. The downside is that it is not the property manager who suffers, but all the residents paying their HOA fees.

Commissioner Sharman stated that there needs to be a clear understanding of what they are being reimbursed for and explained that if a street has standard street lights, the City receives and pays the power bill. Some subdivisions have upgraded their street lights and the HOA pays for them directly to Progress Energy. The HOA's are supposed to apply to the City for reimbursement of the difference. Some have applied and some have not sent in their reimbursement request letter.

City Manager Bollhoefer stated that all the City would reimburse is what the City would have paid for the standard lights. The subdivisions are still responsible for paying for the upgraded difference.

Mayor Rees noted that the subdivisions on the list provided, with the exception of one (Chapin Station) that goes back to 2005, have failed to turn in their requests. Mr. Bollhoefer stated that he believes the grand total will go over \$100,000, but it should not cause the City any major financial burden. In the future, on an annual basis the City will notify these subdivisions so this does not happen again.

It was the **consensus** of the City Commission to have the additional reimbursement information brought back to the next City Commission meeting for a decision.

Commissioner Boulter asked if there is something in writing given to the subdivisions to let them know about this provision. Public Services Director Cochran stated that the process is included in their developer agreement and on their plat; they are to submit their invoices annually along with their request for reimbursement.

Mayor Rees asked that the exact dollar amount, by subdivision and by year, be brought back for review by the City Commission. Mr. Cochran asked if the documentation should show what has been paid and what is outstanding. Mayor Rees replied yes.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Mayor Rees thanked everyone for attending this meeting and he hopes everyone will have a good weekend.

The meeting adjourned at 6:55 p.m.

APPROVED:

_____/S/_____
MAYOR JOHN REES

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC