



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

July 9, 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, Commissioner H. Gerald Jowers and Colin Sharman

Also Present: City Attorney Kurt Ardaman, City Clerk Kathy Golden, Police Chief George Brennan, Fire Chief John Williamson, Human Resources Director Frank Gilbert, Finance Director Robin Hayes, Public Services Director Don Cochran, City Planner Ed Williams, Community Development Director Tim Wilson, Recreation Director Jay Conn, Information Technology Director Bob Reilly, Economic Development Director Dolores Key, Community Relations Manager Andrea Vaughn and West Orange Times Report Michael Laval

1. **APPROVAL OF MINUTES**

Motion by Commissioner Jowers to approve the regular meeting minutes of June 25, 2009 as submitted. Seconded by Commissioner Boulter and carried unanimously 5-0.

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

A. **Ordinance 09-27:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 6.4 ± ACRES LOCATED AT 12403 WEST COLONIAL DRIVE, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-27 by title only. Community Development Director Wilson stated that the next three ordinances annex, amend the land use and rezone the property located at the corner of Carter Road and State Road 50. He stated that the annexation of this property has been reviewed by the Planning and Zoning Board, the Development Review Committee, and staff; approval is recommended.

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

Motion by Commissioner Sharman to adopt Ordinance 09-27. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- B. **Ordinance 09-28:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY COMMERCIAL TO CITY COMMERCIAL FOR PROPERTY GENERALLY DESCRIBED AS 6.4 ± ACRES LOCATED AT 12403 WEST COLONIAL DRIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-28 by title only.

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

Motion by Commissioner Jowers to adopt Ordinance 09-28. Seconded by Commissioner Sharman and carried unanimously 5-0.

- C. **Ordinance 09-29:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 6.4 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 12403 WEST COLONIAL DRIVE FROM ORANGE COUNTY C-3 TO CITY C-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-29 by title only.

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

Motion by Commissioner Boulter to adopt Ordinance 09-29. Seconded by Commissioner Sharman and carried unanimously 5-0.

- D. **Ordinance 09-30:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.49 ± ACRES LOCATED AT 700 9th STREET, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-30 by title only. Community Development Director Wilson stated this property is located on 9th Street and is the Elks Lodge property. The three related ordinances annex, amend the land use and rezone the property. The property has been reviewed by the Planning and Zoning Board, Development Review Committee and staff; approval is recommended.

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

Motion by Commissioner Jowers to adopt Ordinance 09-30. Seconded by Commissioner Sharman and carried unanimously 5-0.

- E. **Ordinance 09-31:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY COMMERCIAL TO CITY COMMERCIAL FOR PROPERTY GENERALLY DESCRIBED AS 0.49 ± ACRES LOCATED AT 700 9th STREET; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-31 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 09-31. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- F. **Ordinance 09-32:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.49 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 700 9th STREET FROM ORANGE COUNTY C-2 TO CITY C-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 09-32 by title only.

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

Motion by Commissioner Boulter to adopt Ordinance 09-32. Seconded by Commissioner Jowers and carried unanimously 5-0.

3. **REGULAR BUSINESS**

- A. **Recommendation to approve the purchase of a Pro-Patch Pot Hole Patcher from the Florida Sheriff Bid #08-16-0908 in the amount of \$120,000.00 and approve the budget transfer of \$120,000.00 from the Local Option Gas Tax Fund Balance to the Local Option Gas Tax Capital Equipment**

Public Services Director Cochran stated that the City's current method for repairing streets involves the use of three or four employees to deliver the required equipment for patching and repairing the streets. With this piece of equipment, everything that is needed is equipped on one vehicle. The City has the opportunity to purchase this equipment under the Florida Sheriff's contract for \$120,000.00. Funds for this purchase would come from the local option gas tax; staff recommends approval.

Mayor Rees clarified that the City currently uses four employees to patch holes in the streets and the purchase of this equipment will reduce the number of employees needed and reduce the time for patching by 50 percent. Mr. Cochran agreed that it would be more efficient and less expensive to haul equipment to the sites so there will be a fuel savings. In addition, the new equipment has a heating feature which keeps the asphalt hot, thereby allowing quality control over the construction materials throughout the workday.

Commissioner Buchanan asked what size of hole can be repaired with the equipment. Mr. Cochran replied approximately five feet by five feet.

Commissioner Sharman asked how long the equipment can be kept in service. Mr. Cochran replied that the equipment will probably last eight to ten years.

Motion by Commissioner Jowers to approve the purchase of a Pro-Patch Pot Hole Patcher from the Florida Sheriff Bid #08-16-0908 in the amount of \$120,000.00 and approve the budget transfer of \$120,000.00 from the Local Option Gas Tax Fund Balance to the Local Option Gas Tax Capital Equipment. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- B. **Resolution 09-11:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, ESTABLISHING THE CITY OF WINTER GARDEN INVESTMENT POLICY; ESTABLISHING INVESTMENT OBJECTIVES; ESTABLISHING THE DELEGATION OF AUTHORITY; ESTABLISHING THE AUTHORIZED FINANCIAL INSTITUTION AND DEALERS; ESTABLISHING REPORTING REQUIREMENTS; ESTABLISHING AUTHORIZED INVESTMENTS; AND PROVIDING AN EFFECTIVE DATE

City Attorney Ardaman read Resolution 09-11 by title only.

Finance Director Hayes stated that this investment policy has been provided with the assistance of PFM Asset Management. PFM representative Steve Alexander will go over any questions. She also noted corrections made to the policy on pages 14 and 15 that reference "Council" has been changed to "Commission". Ms. Hayes recognized Mr. Alexander to answer any questions the City Commission may have.

Stephen Alexander stated that market conditions have been changing and have been for a while. As these changes take place, they want to make sure that the investment policy for the City stays current. Some changes were made to the investment policy to reflect what has changed during the unusual economic cycle that everyone has been facing.

Commissioner Buchanan asked how often the City Commission would receive a status update. Mr. Alexander replied that their firm provides a report to the City's finance staff on a quarterly basis. All the investments their firm manages are available on their website and are updated daily.

Commissioner Sharman asked about the expected rate of return considering the current climate in the economy. Mr. Alexander responded by giving some history of their experiences that range from 7 to 4 percent over the last five or six years. They have been doing that with an average maturity or duration of a portfolio that is about a year and a half out. They have a very detailed cash flow analysis for the City on an ongoing basis that separates short-term assets versus long-term assets to minimize the market risk. He explained that their current concern is the rising interest rates that cause a loss in market values. They are looking at a return at around 3 to 3 ½ percent.

Motion by Commissioner Buchanan to adopt Resolution 09-11. Seconded by Commissioner Boulter and carried unanimously 5-0.

- C. **Resolution 09-12:** A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA, WITH THE INTENT TO ENTER INTO AN LOCAL AGENCY PROGRAM AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE DESIGN AND CONSTRUCTION OF THE LULU CREEK TRAIL

Recreation Director Conn stated that this resolution allows the City to enter into an agreement with the Florida Department of Transportation (FDOT) for the design phase of the Lulu Creek Trail. This project has been on the books for quite some time and the City has been awarded the grant funding to construct the trail. This is the design phase and it is hoped that the construction phase will be included in the 2011/2012 budget.

Mayor Rees verified that the trail will be from Division Street down to Crest Avenue so that people can get to the park.

Motion by Commissioner Jowers to adopt Resolution 09-12. Seconded by Commissioner Sharman and carried unanimously 5-0.

- D. **Recommendation to approve acquisition of right-of-way for Plant Street from Winter Garden Property, LLC**

Planning Director Williams explained that the Winter Garden, LLC is a part of the Strates property; two entities own the property so there are two agreements. He noted that on the first agreement there is a typographical error on page three that states the City will reimburse the seller up to \$10,000.00, it should actually say \$5,000.00. They are getting \$5,000.00 for each parcel for a total of \$10,000.00. He asked the City Commission to approve this correction if the acquisition agreement is approved. .

Motion by Commissioner Sharman to approve both the right-of-way acquisition agreements for Plant Street with Winter Garden Property, LLC and Strates Property, LTD with a correction to both agreements that the purchase price is \$5,000.00 each for a total of \$10,000.00. Seconded by Commissioner Boulter and carried unanimously 5-0.

E. **Recommendation to approve acquisition of right-of-way for Plant Street from Strates Property, LTD - (This item was covered with item 3.D.)**

4. **MATTERS FROM CITIZENS** – There were no items
5. **MATTERS FROM CITY ATTORNEY** – There were no items

6. **MATTERS FROM CITY MANAGER**

A. **Discussion on golf carts**

Due to the City Manager's absence, this item was postponed until the next meeting.

B. **Discussion on a request from Progress Energy for a transmission line easement located at the City's reclaimed water percolation pond site on Ocoee/Apopka Road**

Public Services Director Cochran stated that the City has received a request from Progress Energy for a 50 foot easement to run their line. This easement is on the eastern border of the City's reclaimed water percolation pond site located at Ocoee/Apopka Road. He displayed a map showing the proposed route of the power line. The total acreage they are requesting is 3.39 acres and Progress Energy has made an offer of \$167,900. Staff feels that this offer is too low because once that transmission line goes through the property it will impact what the City can do with the property in the future.

He recognized Planning Director Williams to address the City Commission concerning the evaluation method of the appraisal. Mr. Williams stated that their offer was based on certain assumptions. The City's property is in the City of Ocoee and is designated for residential development. The market for residential property does not perceive high power lines as an asset to the property; they look at it as a negative. That could hurt the City's ability to use, sell, or develop that property for residential purposes. The appraisal that they have provided does not address any damages. There are a lot of issues with the appraisal whereby City staff believes the value should be substantially higher. Before the City gets to that point, the question is should we consider letting them use this particular property for that particular use, realizing what those long term implications could be to the property. On the other side of that issue, the City needs the power. Having that power connected to the substation is also a benefit to the City. He stated that in weighing these factors, staff felt it was an issue in which the City Commission needs to give direction.

Mayor Rees stated that he has no problem with continuing discussions to determine a fair and reasonable amount. Mr. Cochran recognized a representative from Progress Energy who was available for questions.

Progress Energy representatives Dan Hendricks, Project Manager of Transmission Line Sitting and Debbie Clements, Community Relations Manager were recognized by Mayor Rees to address this issue.

Ms. Clements read a prepared statement from their lead engineer explaining the need for the lines and the benefits to the City of Winter Garden. The main issue is that they are at power capacity and cannot supply power to any new development until this issue has

been resolved. The new Crown Point Substation will strengthen the distribution grid and will aid in the outage restoration by providing capacity needed to allow greater flexibility in transferring loads from one substation to another in order to restore service.

Mr. Hendricks explained the routes that Progress Energy has studied. There was discussion on possible alternate routes for the transmission lines and underground costs versus overhead lines.

Commissioner Buchanan asked if the proposal is based upon a low appraisal and what the difference is in today's appraisal versus a year ago. Mr. Hendricks stated that he did not have the appraisal in front of him but typically their appraiser is offering 90 percent of what he considers is the value. They are willing to take a look at it.

Commissioner Buchanan stated that he feels they need to take a look at the valuation but he is not opposed to the transmission lines because the City needs the power.

Commissioner Sharman stated that he would like to see them go back to staff and see if they can come up with a better offer.

Mayor Rees stated that he is not opposed to continuing negotiations because the City will need the power in the future.

Commissioner Jowers stated that he does not have a problem with the negotiations but does have a problem with transmission lines cutting through the City's property.

Mayor Rees stated that the City would certainly like to have it underground but he understands the extra costs involved.

City Attorney Ardaman suggested there be further negotiations with Progress Energy not only with respect to the money but also with respect to the any terms and conditions that the easement would best protect the City's remaining interest in the property for future use and development.

It was the **consensus** of the City Commission for staff to move forward with negotiations.

C. **Discussion on modifying the Stonecrest right-of-way maintenance agreement to include a reimbursement for 50% of maintenance costs (not to exceed \$15,000.00) for medians on Daniels Road within the Stonecrest corridor**

Public Services Director Don Cochran stated that staff is recommending that the City enter into an agreement with the Stonecrest Subdivision which is currently the only subdivision maintaining their own medians. The City Manager has asked him to clarify that 50 percent of their cost is somewhere between, and not to exceed, \$15,000.00 to \$20,000.00 annually. It is estimated that for mowing only with City personnel it would be approximately \$3,000.00 to \$4,000.00 per year, not including edging, spraying, or landscaping. In addition, he noted that the general public benefits from these medians because they are on a public road.

Motion by Commissioner Sharman modifying the Stonecrest right-of-way maintenance agreement to include a reimbursement of 50 percent of the maintenance costs (not to exceed \$15,000.00) for medians on Daniels Road within the Stonecrest corridor. Seconded by Commissioner Jowers and carried unanimously 5-0.

D. Discussion on future meeting and workshop dates

Community Relations Manager Vaughn stated that she would like to go over several future workshops and then discuss the budget meetings that need to be changed from the normal second and fourth Thursday in September. Ms. Vaughn noted that the signage workshop has already been scheduled for Thursday, August 20, 2009 at 6:00 p.m.

Ms. Vaughn stated that staff is requesting a joint workshop with the Architectural Review and Historical Preservation Board and the City Commission on Thursday, September 17, 2009 at 6:00 p.m. *(No objections were noted.)*

Ms. Vaughn stated that staff is requesting that the budget workshop be held on Monday, August 24, 2009 or Wednesday, August 26, 2009 at 5:30 p.m. It was the **consensus** of the City Commission to have the budget workshop on Monday, August 24, 2009 at 5:30 p.m.

Ms. Vaughn stated that the first reading of the budget and the second reading have to be within 15 days of each other and cannot be held the same dates as the Orange County budget hearings are held. The first option is Wednesday, September 9, 2009 with the second reading on the Monday, September 21, 2009. The second option would be Friday, September 11, 2009 with the second hearing being on Wednesday, September 23, 2009. Ms. Vaughn noted that the hearings must be held after 5:01 p.m.

It was the **consensus** of the City Commission to hold the two budget hearings on Wednesday, September 9, 2009 at 6:30 p.m. and September 21, 2009 at 6:30 p.m.

• **Relay for Life of Winter Garden**

Ms. Vaughn stated that for the past two years the City has had a Relay for Life of Stoneybrook team. By calling it Stoneybrook there are some that think it is exclusive to a certain area, although it is clearly for anyone. Ms. Vaughn has been asked to inquire of the City Commission if they would be interested in supporting the event being called the Relay for Life of Winter Garden.

Commissioner Buchanan asked if it would still be held at Stoneybrook. Ms. Vaughn replied that at this point it is held at Whispering Oak as the event did not outgrow their location. However, there are plans to move it and add more teams in the future.

It was the **consensus** of the City Commission to support renaming the event the Relay for Life of Winter Garden.

7. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Buchanan stated that it was a great weekend for the Fourth of July celebration and commended staff, particularly Recreation Director Jay Conn, on their hard work in making this event a success,

Commissioner Sharman commented on the great fireworks and activities at the Fourth of July event.

Mayor Rees stated that the bicycle parade had a lot of people in attendance and the Fourth of July celebration was great. He stated his appreciation of staff giving up their holiday to put this event on for our residents.

The meeting adjourned at 7:22 p.m.

APPROVED:

_____/S/_____
MAYOR JOHN REES

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC