



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

January 26, 2012

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:32 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, Kent Makin, and Colin Sharman

Also Present: City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, City Clerk Kathy Golden, Public Services Director Don Cochran, Finance Director Robin Hayes, Community Development Director Ed Williams, Human Resources Director Frank Gilbert, Police Chief George Brennan, Fire Chief John Williamson, Building Official Skip Lukert, Information Technology Director Bob Reilly, Economic Development Director Tanja Gerhartz, and West Orange Times Reporter Michael Laval

1. **APPROVAL OF MINUTES**

Motion by Commissioner Boulter to approve the regular meeting minutes of January 12, 2012, as submitted. Seconded by Commissioner Makin and carried unanimously 5-0.

2. **FIRST READING OF PROPOSED ORDINANCE**

A. **Ordinance 12-10:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING ORDINANCE 11-10 RELATING TO PAIN MANAGEMENT TEMPORARY MORATORIUM TO ALLOW RELOCATION OF EXISTING PAIN MANAGEMENT CLINICS UPON PROPER APPLICATION AND APPROVAL BY CITY COMMISSION; PROVIDING CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-10 by title only. Community Development Director Williams stated that this ordinance distinguishes between businesses that have no complaints and/or issues versus the ones that have a history of being a problem. Staff recommends approval.

Commissioner Sharman asked how staff would be able to make a determination and what criteria could be reviewed.

Mr. Williams replied that there are quite a few places where staff can check on these businesses. He explained one place to check is with the Police department regarding any calls and complaints. We do not want to penalize any of the legitimate businesses.

City Manager Bollhoefer added that this ordinance changes for those in existence before Ordinance 11-10 was adopted. There are requirements such as having a medical director on staff to ensure the legitimacy of the pain clinic.

Motion by Commissioner Sharman to approve Ordinance 12-10 with the second reading and public hearing being scheduled for February 9, 2012. Seconded by Commissioner Buchanan and carried unanimously 5-0.

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

- A. **Ordinance 11-37:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 40.29 +/- ACRES OF REAL PROPERTY GENERALLY LOCATED ON ROPER ROAD EAST OF DANIELS ROAD AND WEST OF BEULAH ROAD FROM CITY NZ TO CITY R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT; PROVIDING FOR NON-SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 11-37 by title only. Community Development Director Williams stated that this ordinance is for Grace Church which previously annexed into the City and is now seeking residential rezoning. The church intends to come back at a later date with a request for a special exception under this zoning to develop a church on that property with associated parking and other facilities. The property has 24.91 acres of wetlands and 15 acres of uplands. The current proposal is for approximately 22,000 square foot church with associated parking. They are aware of a single family home at the southeast corner of the property that will have to be buffered from any parking and any other uses. The rest of site is very well buffered from the surrounding development with retention ponds, large areas of wetlands and vegetation across the road. Staff recommends approval of the rezoning with conditions

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

Motion by Commissioner Boulter to adopt Ordinance 11-37. Seconded by Commissioner Sharman and carried unanimously 5-0.

- B. **Ordinance 12-03:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 2, ARTICLE V, ELECTIONS; SECTION 2-251(b), GENERAL AND RUNOFF ELECTIONS; TO DETERMINE WHO IS IN THE RUN-OFF ELECTION IF THERE IS A TIE BETWEEN SECOND AND THIRD PLACING CANDIDATES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-03 by title only. City Clerk Golden stated that this ordinance clarifies how to determine who would be in a run-off election should

no candidate receive 51 percent of the votes cast and should there be a tie between the second and third candidates.

Mayor Rees asked for clarification on the difference between drawing straws and flipping a coin and whether it's designed to mix things up. Ms. Golden replied yes, there is a clear distinction between the acts and what it affects.

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

Motion by Commissioner Sharman to adopt Ordinance 12-03. Seconded by Commissioner Buchanan and carried unanimously 5-0.

- C. **Ordinance 12-04:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.50 ± ACRES LOCATED AT THE NORTHWEST CORNER OF WEST COLONIAL DRIVE AND SOUTH DILLARD STREET 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 12-04 by title only. Community Development Director Williams stated that staff is happy to bring this request for annexation of the Sunoco gas station at the northwest corner of State Road 50 and Dillard Street. He noted that currently at the site there are gas pumps, a convenient store, and a window tinting business. The site in the past year-and-a-half has been remodeled and the current owner and his representatives are working with the City to bring it into compliance with the City's sign and landscaping codes. Mr. Williams noted that they are doing an excellent job and staff recommends approval of the annexation.

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

Motion by Commissioner Buchanan to adopt Ordinance 12-04. Seconded by Commissioner Makin and carried unanimously 5-0.

- D. **Ordinance 12-05:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS 0.50 ± ACRES OF LAND LOCATED AT THE NORTHWEST CORNER OF WEST COLONIAL DRIVE AND SOUTH DILLARD STREET FROM ORANGE COUNTY COMMERCIAL TO CITY COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-05 by title only. Community Development Director Williams stated that this is a recently annexed piece of property that staff would like to have designated commercial.

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

Motion by Commissioner Makin to adopt Ordinance 12-05. Seconded by Commissioner Boulter and carried unanimously 5-0.

- E. **Ordinance 12-06:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.50 ± ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE NORTHWEST CORNER OF WEST COLONIAL DRIVE AND SOUTH DILLARD STREET FROM ORANGE COUNTY C-1 COMMERCIAL DISTRICT TO CITY C-2 ARTERIAL COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-06 by title only. Community Development Director Williams stated that this ordinance is to establish the commercial zoning on the property that was recently designated commercial in the comprehensive plan.

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

Motion by Commissioner Buchanan to adopt Ordinance 12-06. Seconded by Commissioner Makin and carried unanimously 5-0.

- F. **Ordinance 12-07:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 37.8 +/- ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF AVALON ROAD AND DAVENPORT ROAD AT 2911 AVALON ROAD, FROM CITY NZ TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Carriage Pointe Reserve PUD)

City Attorney Ardaman read Ordinance 12-07 by title only. Community Development Director Williams stated that this item was formerly known as the Cantero planned development and has since been purchased and is now the Carriage Pointe Reserve PUD. It is 37.8 acres which will be developed with forty-seven 65 by 120 foot lots and forty-three 75 by 120 foot lots for a total of ninety lots. An interesting component of the plan is that it backs up to the Avalon County rural settlement. They are required to have a 100 foot natural buffer to the west and south. He noted there was a community meeting and the residents asked that because it is all pine trees, would the developer supplement it

with additional plantings and the developers agreed. Staff and Planning and Zoning Board recommend approval subject to the conditions in the staff report.

A representative for the developer came forward and suggested one small revision to the ordinance stating that under Section 7, the fourth bullet talks about garages should be located to the rear of single family residential lots at least five feet behind the primary building facade. He recommended the added language should read “...*unless garage orientation is courtyard or side entry.*”

City Attorney Ardaman noted that there would be no problem changing the ordinance as there would not be a change to ordinance title and recommended staff be allowed to make their comments.

Mr. Williams stated that staff has no objection to the requested change. They will not have rear entry and staff is not supporting alleys. The developer’s added language clarifies the different alternatives they can use and staff is very supportive of that type of arrangement.

City Attorney Ardaman reread the language on page 3, the last bullet under section 7, at the end of the first sentence. “...*unless garage orientation is courtyard or side entry.*”

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

Motion by Commissioner Boulter to adopt Ordinance 12-07 as amended by the City Attorney. Seconded by Commissioner Sharman and carried unanimously 5-0.

- G. **Ordinance 12-08:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION II AND SECTION IV OF ORDINANCE 05-26 OAKLAND PARK PUD; AMENDING THE LOT SIZE MIXTURE, PHASING AND AMENITY SCHEDULE AND ALLOWING FOR 35 ADDITIONAL DWELLING UNITS ON APPROXIMATELY 189.9 +/- ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED WEST OF TILDENVILLE SCHOOL ROAD, SOUTH OF LAKE APOPKA, AND EAST OF THE TOWN OF OAKLAND; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR NON-SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (Oakland Park PUD)

City Attorney Ardaman read Ordinance 12-08 by title only. Community Development Director Williams stated that this project is on approximately 189 acres and this amendment has been under review for about two years. This ordinance amends lot size, mixture, phasing of the project, the amenities schedule, and the types of amenities including deletion of the marina but retaining a boat ramp if it is permitted under the current rules; and it would allow for an additional 35 dwelling units over the entire project. The Planning and Zoning Board and staff have reviewed this project and recommend approval subject to the conditions in the report.

Commissioner Makin asked if the 40 foot lots are situated where there are alleyways.

John Rinehart, 15241 East Oakland Avenue, Winter Garden, Florida, responded yes. All garages will be at the rear of the lot; so anything less than a 50 foot wide lot cannot get a driveway and a house on the lot. Therefore, anything fewer than 50 feet requires an alley.

Commissioner Makin asked about the overflow parking because of on-site street parking in front. Mr. Rinehart replied that staff had expressed that concern during the review and they have committed to provide a parking plan in conjunction with each plat submitted.

Commissioner Sharman asked Mr. Williams if he felt confident that the City could cover all of this under the plat review.

Mr. Williams replied yes, in the existing model sections where they first proposed limited on street parking, the rear and side garages have worked very effectively. They have put a lot of thought and effort into the planning.

Commissioner Sharman asked if there are any 40 foot lots in the Oakland Park Subdivision. City Manager Bollhoefer replied that he believes that there is one lot that he believes is 35 feet deep and looks very good with the way it was designed on the lot.

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

Motion by Commissioner Buchanan to adopt Ordinance 12-08. Seconded by Commissioner Boulter and carried unanimously 5-0.

- H. **Ordinance 12-02:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE V OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES ENTITLED "PLANNED UNIT DEVELOPMENTS" CREATING URBAN VILLAGE PLANNED UNIT DEVELOPMENTS; PROVIDING REQUIREMENTS FOR MIXTURE OF USES AND URBAN DEVELOPMENT CRITERIA FOR ALL PROPOSED PLANNED DEVELOPMENT PROJECTS IN THE URBAN VILLAGE PLANNED UNIT DEVELOPMENT ZONING DISTRICT; CLARIFYING, UPDATING, AND REMOVING REDUNDANT LANGUAGE FOR RESIDENTIAL PLANNED UNIT DEVELOPMENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-02 by title only. Community Development Director Williams stated that this amendment gets rid of redundant sections of the code and establishes a uniform standard of review. It also allows for the adoption of guidelines for urban village planned developments. These urban village centers have a large neighborhood with a commercial core. It also has guidelines that can have either

one developer doing the entire thing or a number of projects joining into it. Mr. Williams referenced connectivity standards as well as very high environmental standards. This ordinance has been before the Planning and Zoning Board and staff both recommends approval.

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

Motion by Commissioner Sharman to adopt Ordinance 12-02. Seconded by Commissioner Makin and carried unanimously 5-0.

4. **REGULAR BUSINESS**

A. **Recommendation to approve Winter Garden Fire Department entering into an Emergency Medical Services Agreement with Orange County that allows the City to receive equipment through grant funds**

Fire Chief Williamson stated that this grant is similar to those previously brought before the City Commission. This specifically deals with a twelve lead rhythm generator for training purposes in cardiac care and also involves modems for monitors that transmit data directly to the hospital. It is 100 percent funded by the grant and there is no City contribution. Staff recommends approval.

Motion by Commissioner Boulter to approve the Winter Garden Fire Department entering into an Emergency Medical Services Agreement with Orange County that allows the City to receive equipment through grand funds. Seconded by Commissioner Sharman and carried unanimously 5-0.

B. **Discussion and possible action regarding sun shelters for downtown splash fountain**

City Manager Bollhoefer stated that pictures have been distributed at the last meeting and a handout that shows the elevations. These are suggested versions of shelters for the splash fountain. In the middle of the summer the hot sun can be overbearing and some of the users have requested some type of shelter. It seems that most would like to have partial shade as opposed to complete shade. This design submitted is the least obtrusive so it can blend in and not detract from the attractiveness of the fountain.

There was discussion on the choice of colors being subjective and the height of eight feet being chosen to keep the covering away from children who may climb on it.

It was the consensus of the City Commission that the shelters be installed. After surveying the Commissioners on using black or green, Mayor Rees noted that a majority of the City Commission selected black as the color for the sun shelters for the downtown splash fountain.

5. **MATTERS FROM CITIZENS** – There were no items.

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

7. **MATTERS FROM CITY MANAGER**

• **Use of Century Link Parking Lot**

City Manager Bollhoefer stated that staff has been working with Century Link to allow the City to use their parking lot adjacent to Bert Valdez's warehouse. The last issue was insurance and that has been resolved. The agreements are being forwarded for signature. He explained that the City will not be charged for use of the parking lot. The City would be responsible for the maintenance of this parking lot located between Boyd Street and Main Street. Staff would like to cut an extra egress so that there is an entrance and exit on both sides for better flow of traffic. The City would patch up the parking lot and put in additional lighting. This space will provide needed parking for the north side of the road and is a very good deal because there will be no charge to the City.

Mayor Rees asked if there was any idea on the cost of the lighting. Mr. Bollhoefer replied that he has no idea and will be bringing this back to the City Commission at the next meeting.

• **Hydrilla Planting**

City Manager Bollhoefer gave an update on a meeting held Tuesday night by the Wildlife Fish and Game Commission regarding the possibility of planting more Hydrilla in Lake Apopka. It was a clear consensus from Winter Garden residents and the surrounding areas that it was not wanted in Lake Apopka. Approximately 250 people or more were present and clearly opposed to these plantings except for one person. It was a clear message that this community does not want the planting of hydrilla.

When asked how we stay on top of this issue City Manager Bollhoefer noted that he is now on one of the committees to work on this issue going forward.

City Attorney Ardaman noted that the decision will not actually be made until sometime in May; public input can occur up until sometime in the middle of February. From a legal standpoint, prior to them actually having a vote, if it is voted to allow the expansion of hydrilla, the City will have either a 21 or 30 day period in which to file an administrative appeal. He noted that the information that was presented on Tuesday night is good information that can be used in the event of such an appeal.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Sharman shared that at his workplace, his company's legal department gave an opinion that selling Girl Scout cookies was inappropriate at work. Over 3,000 employees's blogged back in opposition of his opinion and the attorney then wrote a retraction. He found that to be very interesting and thought he would share it.

Commissioner Boulter shared that he participated in three different MLK celebrations since the last meeting and noted that although some may not agree with what Dr. King has done, it is still a celebration for everyone not just for African Americans. He hopes that as this

celebration continues that it will become all inclusive. The work that Dr. King did benefited us all.

Commissioner Makin noted that he was not in Winter Garden this past weekend but heard that the car show was a huge success and thanked City staff for all their efforts and Andy Bruns for all that he does in coordinating the event.

Mayor Rees noted that the Winter Garden Heritage Foundation is hosting Mr. King's family at City Hall on February 8th from 5:30 p.m. to 7:00 p.m. for the Art in Public Places exhibit as we celebrate Black History Month.

The meeting adjourned at 7:10 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC