



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

March 14, 2013

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 Bob Buchanan, Kent Makin, Robert Olszewski and Colin Sharman

Also Present: City Manager Mike Bollhoefer, Assistant City Attorney Dan Langley, City Clerk Kathy Golden, Assistant City Manager – Public Services Don Cochran, Senior Planner Laura Smith, Finance Director Laura Zielonka, Fire Chief John Williamson, Police Chief George Brennan, Economic Development Director Tanja Gerhartz, Parks and Recreation Director Jay Conn, Network Specialist George Strobel, Building Official Skip Lukert, Orlando Sentinel Report Stephen Hudak and West Orange Times Reporter Kelsey Tressler

1. **APPROVAL OF MINUTES**

Motion by Commissioner Olszewski to approve regular meeting minutes of February 28, 2013 as submitted. Seconded by Commissioner Buchanan and carried unanimously 5-0.

2. **FIRST READING OF PROPOSED ORDINANCE**

A. **Ordinance 13-18:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE IV OF CHAPTER 38 OF THE WINTER GARDEN CITY CODE; PROVIDING FOR CLARIFICATIONS AND OBJECTIVE GUIDELINES TO ENFORCE THE NOISE ORDINANCE VIA AN ALTERNATIVE OBJECTIVE STANDARD OF REASONABLENESS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Langley read Ordinance 13-18 by title only. City Manager Bollhoefer stated that a decision by the State's Supreme Court prohibited the City from enforcing our noise ordinance on loud music coming from cars. There has since been clarification and municipalities are now able to enforce their ordinance and further clarifies how the City deals with noise complaints.

Commissioner Olszewski asked whether all cities are adopting an ordinance based on the Supreme Court of Florida ruling. **Mr. Bollhoefer** responded that he is not sure if all cities are but many are going through clarification. The original issue of the vehicle noise was some cities were differentiating between music, talk shows, and religious shows.

Because it was based on content it was considered unconstitutional. Therefore, we have no content based decision and will affect all types of noise.

Commissioner Olszewski noted that this is a slippery slope when dealing with the rights of others and wanted to be sure the ordinance is only to be enforced on the severe offenders. **Mayor Rees** noted that in his opinion, their rights stop when they start interfering with his rights. **Mr. Bollhoefer** noted that the City does not go looking for offenders but respond to complaints.

Motion by Commissioner Buchanan to approve Ordinance 13-18 with the second reading and public hearing being scheduled for April 11, 2013. Seconded by Commissioner Sharman and carried unanimously 5-0.

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

- A. **Ordinance 13-12:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING ARTICLE III, DIVISION 4 AND 5 OF CHAPTER 110 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING FINAL PLAT PROCEDURES AND REQUIREMENTS, AND HOA AND COMMUNITY SUBDIVISION INFRASTRUCTURE; RESPONSIBILITY; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Langley read Ordinance 13-12 by title only. Community Development Senior Planner Smith stated that the key provision of this ordinance is that the Planning and Zoning Board will no longer review final plats. The bonding period for maintaining improvements is extended to two years and the funding of reserve accounts for maintenance of infrastructure and common areas in homeowners association is further clarified. The Planning and Zoning Board and staff have reviewed this ordinance and recommend approval.

City Manager Bollhoefer noted that this was brought about when the state legislature passed the substantial infrastructure protection act. He explained that the state legislature said that residents should no longer expect that their infrastructure will work and there is no longer an implied warranty. He stated this will give us a longer period of time to ensure that the infrastructure works and was done correctly.

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

Motion by Commissioner Makin to adopt Ordinance 13-12. Seconded by Commissioner Olszewski and carried unanimously 5-0.

4. **REGULAR BUSINESS**

A. **Request by cycling festival organizer, Dennis Jones, to sell alcohol on the south side of the intersection of W. Plant Street and Lakeview Avenue on Saturday, April 6th, from 12 noon until 9 p.m.**

Parks and Recreation Director Conn stated that Mr. Jones has approached the City to add to his initial request for the bike fest to sell alcohol. It is in a limited area and Mr. Jones has complied with the request by City staff to limit the area. He will zone off an area located in front of the intersection of Lakeview Avenue and Plant Street. This is for a 501 (c) (3) non-profit organization.

Mayor Rees asked if there were any issues last year. **Mr. Conn** responded no and noted that the alcohol zone was further down the street.

City Manager Bollhoefer noted that the City has started doing things differently with the sale of alcohol and we are now using barricades to segregate the area for more control.

Mayor Rees stated that he received an e-mail from one of the businesses that said they were not notified and wanted to voice their opinion on this issue. **City Manager Bollhoefer** responded that the merchant in question was notified but he believes the merchant felt he did not have enough input into this process. This was clearly vetted through the merchant's association; they voted on it, and he thinks the merchant was upset that they did not vote in his favor. The City is coming up with ideas to do what it can to mitigate issues with this business. Mr. Bollhoefer noted that the one last year was the City's first learning experience and is looking at different ways to ensure that he does not have the same issues as he had last year.

Motion by Commissioner Buchanan to approve the request by cycling festival organizer, Dennis Jones, to sell alcohol on the south side of the intersection of West Plant Street and Lakeview Avenue on Saturday, April 6th, from 12 noon until 9:00 p.m. Seconded by Commissioner Sharman and carried unanimously 5-0.

5. **MATTERS FROM CITIZENS**

David Kassander, 15155 Ovation Drive in Belle Meade Subdivision, Winter Garden, Florida, and representative of the homeowner's association noted that he came before the City Commission in October or November requesting that a sidewalk be completed along Avalon Drive. The sidewalk was completed very quickly in January. He wanted to be sure to thank the City for their prompt response for safety and convenience for the hundreds of residents that live in this area.

He noted that there was another issue about getting rid of a damaged abandoned parked car. He stated that he spoke with Stephen Pash in Code Enforcement and thanked him for his willingness to address the issue. He noted that having a responsive government is really awesome.

6. **MATTERS FROM ASSISTANT CITY ATTORNEY**

Assistant City Attorney Langley recognized the City Manager to address the commercial gaming ordinance passed by the City.

City Manager Bollhoefer shared that the Assistant City Attorney informed him of a recent police bust. He noted that about a year and a half or so ago the City Commission passed an ordinance outlawing commercial gaming. At the time, local governments realized it was organized crime and a sham on veterans groups. Local governments were way ahead of the State on this issue and took immediate action. Now that there have been arrests, the State may soon pass legislation outlawing these sham veteran's organizations and organized controlled gambling.

Assistant City Attorney Langley pointed out that the City of Winter Garden was the first City in the State of Florida to pass this ordinance that banned these sorts of devices used by recently busted outfits such as Allied Vets and Enterprise. This action prevented these operations from starting up in the City before they could grow and thrive as they have in other communities. This was visionary to be in the forefront of something like this. The City of Winter Garden was only second to Seminole County in passing such an ordinance. **Mr. Langley** noted that there was over \$300 million dollars in funds in this organization that is being called racketeering, money laundering and illegal gambling. **Mr. Bollhoefer** added that there was almost a million dollars in contributions made to politicians and union leaders.

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

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Sharman stated that it is always nice to have compliments from constituents and he thanked David Kassander for his prior compliment. City Manager Bollhoefer thanked Assistant City Manager for Public Services Cochran and his staff for doing all of the work in getting the sidewalk done in a timely fashion.

Commissioner Olszewski thanked City staff for an outstanding 2nd Annual Blues and Bar-B-Q event.

Commissioner Buchanan shared that the Blues and Bar-B-Q event is drawing people from all over.

Commissioner Makin shared how wonderful it is to grow up in this City and know a lot of people, then go to an event and see so many faces of people you do not know enjoying our City. People he did know expressed how great the Blues and Bar-B-Q event was.

Mayor Rees thanked staff for all they do. Mayor Rees asked the Boy Scout present to introduce himself. A. J. Ortiz shared that he is completing his merit badge on citizenship. Mayor Rees thanked him for attending the meeting.

The meeting adjourned at 6:50 p.m.

APPROVED:

____/S/_____
Mayor Pro-Tem Bob Buchanan

ATTEST:

____/S/_____
City Clerk Kathy Golden, CMC