



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

March 12, 2015

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. A Moment of Silence 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, City Attorney Kurt Ardaman, City Clerk Kathy Golden, Assistant City Manager - Administrative Services Frank Gilbert, Community Development Director Ed Williams, Economic Development Director Tanja Gerhartz, Finance Director Laura Zielonka, Deputy Fire Chief Jose P. Gainza, Jr., and Police Chief George Brennan

1. **APPROVAL OF MINUTES**

Motion by Commissioner Buchanan to approve the regular meeting minutes of February 26, as submitted. Seconded by Commissioner Sharman and carried unanimously 5-0.

2. **GENERAL ELECTION RESULTS**

A. **Resolution 15-02:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, DECLARING THE RESULTS OF THE ELECTION HELD ON MARCH 10, 2015 FOR COMMISSIONERS OF DISTRICTS 2, 3 AND 4, AND AUTHORIZING THE ISSUANCE OF CERTIFICATES

City Attorney Ardaman read Resolution 15-02 by title only.

Motion by Commissioner Olszewski to adopt Resolution 15-02. Seconded by Commissioner Makin and carried unanimously 5-0.

3. **OATH OF OFFICE**

A. City Clerk Golden administered the Oath of Office to re-elected Commissioners of District 2 - Bob Buchanan, District 3 - Bobby Olszewski, and District 4 - Colin Sharman as elected on March 10, 2015.

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

A. **Ordinance 15-22:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.504 ± ACRES

LOCATED AT 447 SOUTH STREET ON THE NORTHEAST CORNER OF 5TH STREET AND SOUTH 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

- B. **Ordinance 15-23:** 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 0.504 ± ACRES LOCATED AT 447 SOUTH STREET ON THE NORTHEAST CORNER OF 5TH STREET AND SOUTH STREET FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
- C. **Ordinance 15-24:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.504 ± ACRES LOCATED AT 447 SOUTH STREET ON THE NORTHEAST CORNER OF 5TH STREET AND SOUTH STREET FROM ORANGE COUNTY A-1 RURAL DISTRICT TO CITY R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 15-22, 15-23 and 15-24 by title only. Community Development Director Williams stated that this is a request for a voluntary annexation for south of State Road 50 located in an enclave of Orange County. Staff recommends approval of all three ordinances.

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

Motion by Commissioner Buchanan to approve Ordinances 15-22, 15-23 and 15-24 with a second reading being scheduled for March 26, 2015. Seconded by Commissioner Shaman and carried unanimously 5-0.

- D. **Ordinance 15-25:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.989 ± ACRES LOCATED AT 483 SOUTH STREET ON THE NORTH SIDE OF SOUTH STREET, EAST OF 5TH STREET AND SOUTH OF PALM 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
- E. **Ordinance 15-26:** 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 0.989 ± ACRES LOCATED AT 483 SOUTH STREET ON THE NORTH SIDE OF SOUTH STREET, EAST OF 5TH

STREET AND SOUTH OF PALM STREET FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

- F. **Ordinance 15-27:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.989 ± ACRES LOCATED AT 483 SOUTH STREET ON THE NORTH SIDE OF SOUTH STREET, EAST OF 5TH STREET AND SOUTH OF PALM STREET FROM ORANGE COUNTY A-1 RURAL DISTRICT TO CITY R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 15-25, 15-26 and 15-27 by title only. Community Development Director Williams stated this is a voluntary annexation of an enclave just east of the property in the prior public hearing. It has been reviewed by the Planning and Zoning Board and staff whom both recommend approval.

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

Motion by Commissioner Sharman to approve Ordinances 15-25, 15-26 and 15-27 with the second reading being scheduled for March 26, 2015. Seconded by Commissioner Makin and carried unanimously 5-0.

5. **PUBLIC HEARING MATTER**

- A. Consider condemning property located at 160 East Plant Street, Winter Garden, Florida; **Owner:** Winter Garden Gateway Corporation – Code Enforcement Manager Pash

Community Development Director Williams stated the property owners received notice and are putting together a proposal to bring the building up to standards. Staff feels that it is appropriate to give the owners 30 to 60 days to work out a plan with their contractor and engineers to see if they can restore the building to a safe condition.

Motion by Commissioner Sharman to continue this hearing until April 23, 2015 at 6:30 p.m. or as soon thereafter as possible. Seconded by Commissioner Olszewski and carried unanimously 5-0.

6. **REGULAR BUSINESS**

- A. **Resolution 15-03:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, ELECTING A MAYOR PRO-TEM

City Attorney Ardaman shared that this action can be done either by motion or by resolution. He distributed his recommended (red-lined) version of a resolution to be used instead of the one provided in the agenda packet.

It was the **consensus** of the City Commission to make their election by motion.

Mayor Rees asked Commissioner Buchanan if he would like to continue serving as Mayor Pro-Tem, who indicated yes.

Mayor Rees asked if anyone else wanted to be considered.

Commissioner Olszewski commended Commissioner/Mayor Pro-Tem Buchanan for his service. He referenced how other cities rotate the Mayor Pro-Tem position and he would like to open this up for discussion for others who might be interested. Commissioner Olszewski stated he is very interested in becoming Mayor Pro-Tem because he works hard to represent his district and City in many different facets throughout Central Florida.

Mayor Rees stated that the City Commission has interest from both Commissioner Buchanan and Commissioner Olszewski and asked for anyone else. Hearing none, he asked for a motion.

Motion by Commissioner Sharman to elect Commissioner Buchanan as Mayor Pro-Tem. Seconded by Commissioner Makin. Commissioner Olszewski withdrew his nomination to be Mayor Pro-Tem and asked that the rotation option be considered in the future. Mayor Rees indicated he has no issue with that matter being discussed. Mayor Rees called for the vote. **Motion carried unanimously 5-0.**

7. MATTERS FROM PUBLIC

Willie Fulmore, 740 9th Street, Winter Garden, Florida, addressed the hardship the sewer and road construction on 9th Street caused his businesses while the street was closed for three months. He addressed the poor air quality, which would cost around \$1,000 to be checked due to the backing up of sewer fumes. He was led to believe it was only his property having the problem; only to find out, so did the Elks Lodge next door. He asked the City Commission to have his air quality checked, other buildings, and to review his financial losses caused by the construction. He asked that he be treated like the City would want to be treated.

City Manager Bollhoefer stated the work was primarily done for the sewer gases and he would be glad to test for fumes. He shared that 68 area homes had the clean out caps removed that was contributing to the odor and have been replaced by the City. Staff will meet with Mr. Fulmore on this matter. Mayor Rees also stated that staff would be out to check on it.

Joseph Richardson, 220 N. Highland Avenue, Winter Garden, Florida, addressed the agenda item on opening ceremonies. He stated options 3, 4 and 5 allow for inclusion of fire and police chaplains, which could be interpreted as government official offering a prayer and might be prohibited. None of the proposals specify how the City will verify religious diversity of speakers reflects the religious diversity of the City. Nor is there an estimate as to the cost of city employees to administer the proposals. The real question is why invocations are being brought back. A reasonable decision has already been made. He described some

situations that could occur with changing back to allowing invocations and who they may be led by. He urged the rejection of all proposals.

Edward Lynch, 660 Home Grove Drive, Winter Garden, Florida, stated he wanted to share some items that may not have been considered. City Hall is not a house of God but a house of democracy and serves all fairly and justly. He shared his past experiences. He thought the last decision was a great decision. If it is changed it will be more work for someone. The decision matters to him because if someone comes to a meeting and hears a prayer that is not representative of how they believe, it sets them up to believe they will not be treated fairly. There are many other opportunities for someone to pray. Once the meeting starts, it is a government meeting and is not fair to open it with a prayer. He favors keeping it silent the way it is.

Paul Tjaden, 209 Hidden View Drive, Groveland, FL, stated that it was great when the decision was made to remove the invocation and opted for a moment of silence. All the prior points made by the previous speakers were excellent. He is a firm believer of the separation of church and state. The reason the City Commissioners are here is to conduct business, not to have a religious ceremony.

Warren Geltch, 2078 Derby Glen Drive, Orlando, Florida, stated that the City Commission actually has two choices. Keep things the way they are now; professional and dignified. Or, allow every religious and non-religious person equal access to provide the invocation through a rotating list which can create more problems than it will solve. He gave three reasons why the City Commission should continue as they are being done now. He urged the City Commission to keep the current practice.

David Williamson, on behalf of Central Florida Freethought Community, P.O. Box 621123, Oviedo, Florida, addressed the court's decision. He asked if it is better, necessary, or wise to take back the gift of the moment of silence given to all and giving it to one person to pray on behalf of all the rest. Prayer is on unifying for the people who agree with it. Absent the prayer, we have no reason to disagree as we start these meetings. Before considering the options on how to bring divisive sectarian prayers back into these meetings, he respectfully asked the City Commission to debate and vote as to whether or not it should be done.

Theo Graham, 213 W. Tilden Street, Winter Garden, Florida, addressed residents from elsewhere telling Winter Garden how to conduct their business. He stated the whole question is about the First Amendment to the United States Constitution as framed by those who believed in Christ. Mr. Graham read from the Supreme Court ruling. The oaths taken tonight include so help me God. The President of the United States was sworn in with his hand on the Bible and said so help me God.

Marilyn Sprechman, 2251 Wolf Road, Orlando, Florida, stated she doesn't believe anywhere in the Declaration of Independence does it mention Christ. She shared her own personal experience that made her uncomfortable. She asked why cause the citizens to be uncomfortable.

8. MATTERS FROM CITY ATTORNEY

A. Discussion and possible action regarding opening ceremonies

Mr. Ardaman explained the options available as included in the agenda packet. He shared that he did like the comment made earlier about striking the police and fire chaplains.

Mayor Rees shared that traditionally the prayer has been said more for the City Commission than the general public because it has included giving them the wisdom and knowledge to do what is in the best interest of our citizens in Winter Garden. That is how he has always viewed that event. If he had to pick one, he would pick number 3 and opened the matter up for discussion.

Commissioner Buchanan stated that everyone who has spoken has talked about how they were raised and how they got to where they are today on their opinion. While he does agree with what some of the speakers have said because he has chosen to believe a different way. However, he does believe in their right to believe the way they do. That is what our whole Constitution, in his opinion, was based on; giving people independent authority to be able to choose what they wanted to do. He understands that in a public government building they would not like to listen to what he would like to get up and say about his Christian beliefs. Nor would he like to hear them talk about theirs. That is why he favored the moment of silence and will remain in favor of that practice.

Commissioner Olszewski shared that when this issue first came up he took an oath to defend the Constitution of the United States very seriously; that gives us the freedom of religion or from religion if we so choose. He stated that Winter Garden is diverse and it is not our place to dictate to anyone when the Constitution allows us the freedom of religion and to be inclusive is important. The option he is looking at is option #4 so we can show we are a diverse community and embrace ideas and all religions. We need a rotation of many willing to give the invocation scheduled through the City Manager.

Commissioner Sharman stated that for every argument the speakers made for keeping the moment of silence, he had those same discussion points with those who wanted to keep the prayer. They came back to him stating they would rather be diverse and show diverseness in our opening ceremonies. They want to show they are open-minded and our country is full of diverse people of all races, sexual orientation, and religion. He believes in diversity. It could work and be very successful. He is leaning towards option #3.

Commissioner Makin the First Amendment gives us the right to believe the way we want. After talking with residents in his District they believe in diversity. He also supports option #3.

Commissioner Olszewski asked for and received clarification from the City Attorney on option #3. Mr. Ardaman shared there would be a comprehensive data base for either option.

Motion by Commissioner Olszewski to adopt option #3 deleting the provision that allows the City of Winter Garden fire and police chaplains. Seconded by Commissioner Sharman.

City Attorney Ardaman read Resolution 15-04 by title only "A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, REGARDING A CEREMONIAL, OPENING INVOCATION AND RECITATION OF THE PLEDGE OF ALLEGIANCE AT COMMISSION MEETINGS PRIOR TO OFFICIAL POLICYMAKING AND LEGISLATIVE FUNCTIONS; ADOPTING A POLICY OF NON-EXCLUSION AND SELECTION OF VOLUNTEER INVOCATION SPEAKERS AND A DIVERISTY OF VIEWPOINTS AND NON-EXCLUSION OF THOSE IN ATTENDANCE; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE".

Mayor Rees called for the vote. **Motion carried 4-1; Commissioner Buchanan opposed.**

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

10. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Sharman thanked the District 4 voters and stated it was nice to get out and meet people.

The meeting adjourned at 7:35 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC