



# CITY OF WINTER GARDEN

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## CITY COMMISSION REGULAR MEETING MINUTES

February 23, 2017

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. An Opening Invocation and Pledge of Allegiance were given.

**Present:** Mayor John Rees, Commissioners, Kent Makin, Mark A. Maciel, and Colin Sharman

**Absent:** Commissioner Bob Buchanan

**Also Present:** City Manager Mike Bollhoefer, City Attorney A. Kurt Ardaman, City Clerk Kathy Golden, Assistant City Manager of Administrative Services Frank Gilbert, Community Development Director Steve Pash, Economic Development Director Tanja Gerhartz, Finance Director Laura Zielonka, Fire Chief Matt McGrew, Information Technology Director Chad Morrill, and Police Chief George Brennan

At this time, Mayor Rees read **Proclamation 17-01** supporting the City's participation in the Healthiest Weight Florida campaign which was presented, with the City Commission, to Dr. Kevin Sherin, M.D., Director of Florida Department of Health in Orange County.

### 1. **APPROVAL OF MINUTES**

**Motion by Commissioner Maciel to approve the regular meeting minutes of February 9, 2017 as submitted. Seconded by Commissioner Sharman and carried unanimously 4-0.**

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

A. **Ordinance 17-01:** AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE II, PENSION PLAN FOR GENERAL EMPLOYEES, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-26, DEFINITIONS; AMENDING SECTION 54-27, MEMBERSHIP; AMENDING SECTION 54-29, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 54-31, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 54-32, PRE-RETIREMENT DEATH BENEFITS; AMENDING SECTION 54-33, DISABILITY; AMENDING SECTION 54-35, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 54-39, MAXIMUM PENSION; ADDING SECTION 54-49, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 54-51, PRIOR GOVERNMENT SERVICE; AMENDING SECTION 54-52, RE-EMPLOYMENT AFTER RETIREMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 17-01 by title only. City Manager Bollhoefer requested postponement of this item to a date uncertain and stated that there are still more issues to be addressed.

**Motion by Commissioner Sharman to POSTPONE Ordinance 17-01 to a date uncertain. Seconded by Commissioner Makin and carried unanimously 4-0.**

- B. **Ordinance 17-04**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 2.29 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED NORTH OF EAST DIVISION STREET, EAST OF NORTH DILLARD STREET, AND WEST OF SURPRISE DRIVE AT 555 NORTH DILLARD STREET BEING LOTS 135 THROUGH 146 OF THE WINTER GARDEN SHORES REPLAT ACCORDING TO PLAT THEREOF RECORDED AT PLAT BOOK M, PAGES 76-77, FROM R-1 (SINGLE-FAMILY RESIDENTIAL) TO PUD (PLANNED UNIT DEVELOPMENT); PROVIDING FOR CERTAIN PUD REQUIREMENTS AND DESCRIBING THE DEVELOPMENT AS THE DILLARD POINTE PUD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Dillard Pointe)

City Attorney Ardaman read Ordinance 17-04 by title only. Community Development Director Pash stated that the applicant is working on some final exhibits that are to be included with this item but they have not yet been completed. The applicant is requesting postponement until the March 9<sup>th</sup> City Commission meeting.

**Motion by Commissioner Makin to POSTPONE Ordinance 17-04 until March 9, 2017 at 6:30 p.m. Seconded by Commissioner Maciel and carried unanimously 4-0.**

3. **REGULAR BUSINESS**

- A. **Resolution 17-04**: AN RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA, EXTENDING BY 60 DAYS (UNTIL APRIL 28, 2017) THE TEMPORARY MORATORIUM ESTABLISHED IN ORDINANCE 16-21 AND EXTENDED BY RESOLUTION 16-07 ON THE ACCEPTANCE, PROCESSING AND CONSIDERATION OF APPLICATIONS FOR DEVELOPMENT ORDERS AND BUILDING PERMITS FOR PROPERTIES ADJACENT TO EAST PLANT STREET BETWEEN DILLARD STREET AND STATE ROAD 429 (WESTERN BELTWAY); PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Resolution 17-04 by title only. City Manager Bollhoefer gave a brief history of how we got to where we are tonight. He explained that this matter has a long history and has involved a lot of public input. The reason the extension is being requested is because of all the work, the many years, and the funding; staff wants to make sure this is done right. He stated that staff thinks an additional 60 days would be needed and explained that it takes 30 days to complete and submit, then 30 days to go through the actual process. However, he noted that he spoke with Mr. Laman this

morning and was later convinced that a total of 90 days would be needed due to the need to meet with some of the local business owners to be sure everyone's input was included.

He pointed out to the City Commission that staff is not seeking to debate or discuss the actual ordinance or the overlay. The debate tonight is to give staff an extension to complete this work that has been going on for 25 years. This will be the next major phase of the Community Redevelopment Agency (CRA) and the redevelopment of the City of Winter Garden.

Mr. Bollhoefer handed out a copy of a flyer that was distributed the day of this meeting and addressed the misstatements, mischaracterizations, and lies. Because it was so egregious, he had to bring it up and staff wants a full 90 days to undo the damage done by this flyer. He addressed and disputed the items listed on the flyer.

Mr. Bollhoefer stressed that the master plan has not been completed and staff would like to meet with everyone to hear their concerns before they make a decision or come to some type of judgement. He expressed that he did not want them to base their decisions on falsehoods.

Mr. Bollhoefer addressed a question he anticipates will come up later; what would happen if the City did not grant this extension. He explained that the whole idea of this moratorium is to ensure that the development of East Plant Street meets the goals set forth in the original CRA document, which was further confirmed by the City's Economic Development Plan, and later confirmed by the master planning done by our planners. In moving forward, those developing would do so within the criteria established in this new plan, which will have to be approved by the City Commission. He went on to explain the consequences of not taking more time on developing the criteria.

Commissioner Sharman stated that this is only affecting new construction because it is a moratorium on future development. It does not affect any current businesses. It has a positive effect on current businesses and properties because if the City builds nice quality developments, it will increase the value of properties. Mr. Bollhoefer agreed and stated that any existing buildings are to be grandfathered in and will not be required to make any changes. He also noted that there is no drive to make anyone close down an existing building. He shared that based on the unofficial plan not yet submitted for approval, there will be some new criteria should someone wish to develop in the future develop by tearing down a building; this also holds true for any green space in this area.

Mayor Rees expressed that this is one of those projects in which you have one shot. As a City Commission who live here, plan to stay here, raise our kids and grandkids here, we want to make sure that what we do is right for our community. In the scheme of things in a life, he thinks 90 days is a short time to get it right.

Mayor Rees opened the matter to public comment.

Scott Baker, 315 E. Robinson Street, Orlando, Florida 32801, stated that he is an attorney with Zimmerman, Kiser & Sutcliffe, P.A. law firm representing his client Hanlex Winter Garden, LLC who is under contract to purchase 111 11<sup>th</sup> Street which is the corner parcel where a Dollar General is proposed. He shared that was the only development with plans already submitted when the City Commission voted on February 11, 2017 to declare there was an ordinance pending to change development regulations. They are in a special circumstance and have been uniquely harmed by the delay. They have attended five DRC meetings and at the final DRC meeting his clients were given a proposal of what the City would like to see. Not of what was on the books today and his client agreed to do that. He wanted to make it clear that his client supports and is willing to meet the intent of the new guidelines. This delay has been very damaging to their ability to do a successful project and has damaged their reputation with their client; Dollar General. He shared that they do not understand the necessity of another 90 days and requested that the City Commission go back to the original 60 days. He also asked if staff could be given authority to continue processing and reviewing their application. He noted that on September 25, 2015 the City accepted their plans and fees for their development. He stated that under the pending ordinance doctrine, the City Commission did not declare legislatively until February 11, 2016. He stated that they feel like that is the date that everyone had notice that there was a new ordinance coming and would need to follow it. He stated that they are waiting for it and are not questioning the City's ability to impose a moratorium. They would like to proceed under a code with all due speed and be ready to develop as soon as the moratorium is over.

Peter Palermo, owner of 280 and 288 E. Plant Street, Winter Garden, Florida, stated that he submitted a hand drawn plan to put an addition on his building and tear down some other places; back building. He expressed that the City should have come to the owners on that street and informed them of their plans. He noted that he only heard about this last week. He is not in favor of an additional 90 days and requested that everyone be informed of exactly what is happening.

Jeremy Anderson, representative of Hanlex Development, stated he is here to speak on behalf of their project located at 111 11<sup>th</sup> Street. He gave a brief history of their work with the City on their project that began with their submittal on June 5, 2015. He noted the expenses they have incurred while progressing through the approval process. They have submitted four different architectural building designs on this project. Most recently they have been asked to put the building on the street corner. He stressed that this request was made over a year from their submittal on September 25, 2015 for the formal DRC. He shared that these numerous revisions have necessitated that they go back to their tenant numerous times to extend or renegotiate their lease. Despite all this, they have been willing participant because they want Winter Garden to be as excited about their project as they are. He shared that it has cost them and their tenants lost revenues for a store being severely delayed, excessive expenditures related to redesigns of the site and building numerous times, and concerns related to their reputation as a developer with their tenant. He asked that they be given the same treatment that would be given to any responsible developer, which is in part the right to rely on the diligence.

He shared that he wanted the City Commission to be aware of the events that occurred leading up to this moment approaching two years later. He asked for their help to reach their rights as a responsible developer doing business in the City of Winter Garden.

George Douglas Laman, 1150 E. Plant Street, Winter Garden, Florida, addressed the letter he distributed as being based on his review of the State Road 429 Master Plan. The plan the City Commission passed extends the downtown look and feel to State Road 429. He concluded that the successful downtown buildings have been bars and restaurants. He explained that street closings have occurred on a regular basis for festivals and outside music. If the City Commission passes something that states they want to make all of Plant Street like downtown, then to make it like downtown you must emulate what is downtown. He explained various business types that he feels will and won't work. It is amazing to him, that after he made it public what the City is trying to do to property owners, now more time is needed.

Mr. Laman apologized for possibly impugning the integrity of Mr. Pash or Mr. Williams publicly. He now realizes that their actions were not directed at him personally but instead they were following the guidance of the City Manager and possibly direction from the City Commission.

Mr. Laman expressed that he feels the City Commission may have been intentionally mislead into passing the original moratorium on February 25, 2016 and its extension on August 25, 2016. He believes this deception was intentional. He emphasized that he and Hanlex were scheduled for a DRC meeting on March 2, 2016 with the moratorium being passed on February 25, 2016. Nobody, even though they were in constant contact with staff, decided to mention they were proposing a moratorium to people with active projects.

Mr. Laman shared details of his meeting with the City Manager today. In closing, Mr. Laman commented that the City has had long enough for planning Plant Street and he was not in favor of any extension.

City Manager Bollhoefer disputed statements made by Mr. Laman regarding the tearing down of all buildings in that area.

Scott Holder, 1165 Plant Street, Winter Garden, Florida, agreed with Mayor Rees in making this right the first time. He mentioned the need to address the traffic issues and advised that if 90 days are needed then we need to approve 90 days.

Jose Morales, 496 E. Plant Street, Winter Garden, Florida, asked what would happen to his property which is his residence. Mr. Bollhoefer indicated that he would meet with him personally after the meeting.

Commissioner Sharman noted that the City has done a similar overlay on State Road 50 and referenced the fact that there are some buildings that have been grandfathered in that

have not had to make any changes. He noted that new buildings on State Road 50 have come in and had to meet the new standards. He expressed that this has the similar intent of design going forward. He attempted to alleviate the fears of those thinking that the intent is to make their buildings go away.

Commissioner Sharman asked if this could be accomplished in 60 days and if not, staff can bring it back if needed. Mr. Bollhoefer explained he prefers 90 days and noted the possibility of it being completed earlier. He explained that it gives staff 30 days to draft it, gives the Commission time to review it, and gives staff time to meet with constituents to get everyone's concerns addressed. The last 30 days is for going through the legal process relating to the ordinance.

City Attorney Ardaman noted that if it can be done sooner, the City Commission has the option to cut the moratorium shorter.

**Motion by Commissioner Sharman to approve Resolution 17-04 with an 80 day extension. Motion DIED for the lack of a second.**

**Motion by Commissioner Maciel to approve Resolution 17-04 with a 90 day extension. Seconded by Commissioner Makin and carried unanimously 4-0.**

**B. Recommendation to approve Site Plan for 2000 Fowler Groves Boulevard (Florida Hospital Phase B Medical Office Building)**

Community Development Director Pash stated that this is the site plan review for the Florida Hospital property which is part of the Planned Commercial Development (PCD). He noted that they are requesting permission to build a 72,000 square foot medical office building. He described the items included in the site plan. He stated that the proposed development is consistent with the approved PCD. It has been reviewed by the Development Review Committee (DRC) and staff; both recommend approval.

**Motion by Commissioner Sharman to approve site plan for 2000 Fowlers Groves Boulevard (Florida Hospital Phase B Medical Office Building). Seconded by Commissioner Maciel and carried unanimously 4-0.**

**C. Recommendation to approve Site Plan for 1991 Daniels Road, subject to conditions (Daniels Professional Park)**

Community Development Director Pash stated that this is the site plan for the property located at the northeast corner of Daniels Road and Roper Road. He described items included in the site plan. He stated that the proposed development is consistent with the approved PCD. It has been reviewed by the Development Review Committee (DRC) and staff; both recommend approval.

**Motion by Commissioner Makin to approve site plan for 1991 Daniels Road, subject to conditions. Seconded by Commissioner Maciel and carried unanimously 4-0.**

4. **MATTERS FROM PUBLIC**

Joseph Richardson, 220 N Highland Avenue, Winter Garden, Florida, voiced his concerns regarding invocations.

5. **MATTERS FROM CITY ATTORNEY**

City Attorney Ardaman addressed legislative efforts in Tallahassee with respect to the Advanced Wireless Infrastructure Deployment Act. He explained that the proposal would take away local government's ability to regulate the installation and maintenance of wireless facilities and its equipment in the City's public right-of-way. This item is being opposed by the Florida League of Cities and Florida Municipal Electric Association. It affects all cities and counties throughout the state. If this is passed, it eviscerates the City's ability to regulate our right-of-ways. He described a list of primary reasons that this is a bad idea and shared that right now there is a big push by lobbyists to take away home rule power of cities and counties.

Mr. Ardaman also shared information regarding another proposed act that he has become aware of that is an attempt to preempt all new regulations on businesses, professions and occupations to the State. He urged the City Commission to use the information he has provided as they see fit. There was discussion on methods of communicating with our legislators on these issues by letters, emails, and/or phone calls.

6. **MATTERS FROM CITY MANAGER**

City Manager Bollhoefer addressed the issue of the City Attorney's rates that have not increased in 11 years. He stated he has discussed this with the City Attorney and reviewed the rates charged by other firms. Mr. Bollhoefer recommended that the City Commission increase their rates. City Attorney Ardaman shared the current rates and proposed changes.

Mayor Rees requested that the City Commission receive this material and compare the rates. Mr. Bollhoefer replied that he would provide the comparison by email and bring this back to the next Commission meeting.

7. **MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Sharman** thanked City staff for getting construction started near State Road 429. He described some of the efforts in this project and asked the City Manager to give a brief overview on the work will be coordinated with the Expressway Authority. Mr. Bollhoefer complied.

**Commissioner Maciel** thanked everyone for their service.

**Commissioner Makin** thanked staff for another great event.

The meeting adjourned at 7:26 p.m.

