



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

July 13, 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 Bob Buchanan, Mark A. Maciel, and Colin Sharman

Absent: Commissioner Lisa Bennett

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 Stephen Pash, Economic Development Director Tanja Gerhartz, Finance Director Laura Zielonka, Fire Chief Matt McGrew, Information Technology Director Chad Morrill and Police Chief George Brennan

1. **APPROVAL OF MINUTES**

Motion by Commissioner Maciel to approve the regular meeting minutes of June 22, 2017 as submitted. Seconded by Commissioner Sharman and carried unanimously 4-0.

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

A. **Ordinance 17-13:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 3.07 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTHEAST CORNER OF WEST PLANT STREET AND BRAYTON ROAD, AT 707 WEST PLANT STREET, FROM R-2 (RESIDENTIAL) TO PUD (PLANNED UNIT DEVELOPMENT); PROVIDING FOR CERTAIN PUD REQUIREMENTS AND DESCRIBING THE DEVELOPMENT AS THE GARDEN WEST PUD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 17-13 by title only. Community Development Director Pash described the location of the property and stated that the owner is requesting a rezoning from R-2 to Planned Unit Development (PUD). He noted that the development would have 11 single family homes, custom designed to save as many of the trees on the property as possible. Staff recommends approval of Ordinance 17-13.

Mayor Rees commented on the density of R-2 zoning and the saving of the trees.

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

Motion by Commissioner Buchanan to approve Ordinance 17-13 with the second reading and public hearing being scheduled for July 27, 2017. Seconded by Commissioner Sharman and carried unanimously 4-0.

- B. **Ordinance 17-16:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 12.54 ± ACRES LOCATED AT 1318 AND 1342 GREEN FOREST COURT GENERALLY LOCATED AT THE NORTHEAST CORNER OF BEULAH ROAD AND STAGG ROAD FROM C-2 (ARTERIAL COMMERCIAL DISTRICT) TO PCD (PLANNED COMMERCIAL DEVELOPMENT); PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 17-16 by title only. Community Development Director Pash described the location of the property and stated that the owner is requesting a rezoning from C-2 to Planned Commercial Development (PCD). He described the proposed development including its five buildings. He noted that it is consistent with the surrounding area and staff recommends approval of Ordinance 17-16. He referenced a correction that will be made before the final reading; there will not be two section threes.

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

Motion by Commissioner Maciel to approve Ordinance 17-16 with DRC recommendations and the second reading and public hearing being scheduled for July 27, 2017. Seconded by Commissioner Buchanan and carried unanimously 4-0.

- C. **Ordinance 17-21:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 118, "ZONING" OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES; AMENDING SECTION 118-1 "DEFINITIONS"; AMENDING CHAPTER 118 TO PROVIDE FOR URBAN FARMS AS PERMITTED AND SPECIAL EXCEPTION USES IN CERTAIN ZONING DISTRICTS; AMENDING SECTION 118-7 CONCERNING THE AMENDMENT PROCESS TO REFERENCE REZONING CRITERIA SET FORTH IN THE COMPREHENSIVE PLAN AND NOTICE REQUIREMENTS OF FLORIDA STATUTES; AMENDING SECTION 118-209 CONCERNING REQUIRED PROPERTY OWNER DISCLOSURES PRIOR TO VOLUNTARY ANNEXATION AND TO ADDRESS NO ZONING (NZ) DESIGNATIONS UPON ANNEXATION OF PARCELS; CREATING A NEW SECTION 118-226 TO ADDRESS RESTRICTIONS ON THE OCCUPANCY OF SINGLE-FAMILY DWELLING UNITS; CREATING SECTION 118-227 TO ADDRESS URBAN FARM OPERATIONS; AMENDING SECTION 118-858 GOVERNING PERMITTED USES OF PLANNED UNIT DEVELOPMENTS WITH PRIMARY INSTITUTIONAL USES; AMENDING THE SETBACK WAIVER PROVISIONS OF C-1 ZONING DISTRICT; AMENDING SECTION 118-1323(2)(d) TO PROHIBIT MORE THAN ONE-STORY BOAT DOCKS

AND WALKWAYS; PROVIDING FOR CODIFICATION, CONFLICTS, AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 17-21 by title only. Community Development Director Pash stated that the Planning and Zoning Board and staff recommends postponement of this item until the August 10, 2017 and August 24, 2017 meetings at 6:30 p.m.

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

Motion by Commissioner Buchanan POSTPONE Ordinance 17-21 to August 10, 2017 and a second hearing being scheduled for August 24, 2017 at 6:30 p.m. Seconded by Commissioner Maciel and carried unanimously 4-0.

- D. **Ordinance 17-22:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.85 ± ACRES LOCATED AT 304, 310, 314 W. BAY STREET AND 439 W. PLANT STREET ON THE NORTH SIDE OF W. PLANT STREET, WEST OF N. CENTRAL AVENUE AND SOUTH OF W. BAY STREET FROM R-2 RESIDENTIAL DISTRICT TO C-1 CENTRAL COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE
- E. **Ordinance 17-23:** 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 APPROXIMATELY 0.85 ± ACRES LOCATED AT 304, 310, 314 W. BAY STREET AND 439 W. PLANT STREET ON THE NORTH SIDE OF W. PLANT STREET, WEST OF N. CENTRAL AVENUE AND SOUTH OF W. BAY STREET FROM LOW DENSITY RESIDENTIAL TO TRADITIONAL DOWNTOWN AND EXPAND THE BOUNDARY OF THE TRADITIONAL DOWNTOWN ACTIVITY CENTER TO INCLUDE SUCH PROPERTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 17-22 and 17-23 by title only. Community Development Director Pash stated that community meetings were not held for these properties and since the Monday night Planning and Zoning Board meeting, a number of calls have been received. Therefore, staff recommends postponement of these items to a date uncertain.

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

Motion by Commissioner Sharman to POSTPONE Ordinances 17-22 and 17-23 to a date uncertain. Seconded by Commissioner Maciel and carried unanimously 4-0.

- F. **Ordinance 17-24**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING CHAPTER 118, ARTICLE XI OF THE CITY CODE OF ORDINANCES TO PROHIBIT MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES WITHIN THE BOUNDARIES OF THE CITY AS AUTHORIZED BY SECTION 381.986, FLORIDA STATUTES; PROVIDING LEGISLATIVE FINDINGS; PROVIDING FOR CODIFICATION, MORATORIUM CONTINGENCY; SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 17-24 by title only. Community Development Director Pash stated that this ordinance is an amendment to the City's Code prohibiting medical marijuana treatment center dispensing facilities within the boundaries of the City. The Planning and Zoning Board recommends changes to the "whereas" clauses and the revised ordinance has been distributed with those changes. The Planning and Zoning Board also recommend a two year sunset. Staff recommends approval of the revised ordinance as presented until such time as the State changes the statute to allow the City better control of these facility locations.

City Manager Bollhoefer stated that staff agrees with Planning and Zoning Board changes to the "whereas" clauses, but he does not think a sunset provision is necessary as the City Commission has the ability to change it at any time.

Mayor Rees opened the public hearing.

Sherri Allen, 1001 B J Brandy Cove, Winter Garden, Florida, shared some of her history as a resident, business owner, and now a retiree in the City of Winter Garden. She shared the benefits and potential benefits of medical marijuana. She expressed that the provision in the recent state law allowing municipalities to ban medical marijuana dispensaries merely provides a way to circumvent the will of the citizens of Florida who voted in favor of the legalization. She asked that Ordinance 17-24 not be passed.

Joseph Richardson, 220 N. Highland Avenue, Winter Garden, Florida, summarized a letter he sent to the City as to why this Ordinance should be voted down. He urged the City Commission to let the facts be the basis for voting no on this ordinance or letting this ordinance die for lack of a motion.

Tara Tedrow, Attorney with Lowndes and Drosdick, 215 N. Lake Eola Drive, Orlando, Florida, stated that she is speaking on behalf of Knox Medical operating at 940 Avalon Road. She shared that Knox Medical is one of the seven licensed dispensing organizations now called a Medical Marijuana Treatment Center (MMTC). They operate as a growth and processing facility here in Winter Garden. While they do not agree with bans on cannabis dispensaries around the State of Florida for purposes of patient

accessibility and the fulfilment of the will of the voters; they understand that State law preempts the right of local government to ban those dispensaries. MMTC's will be capped at 25 statewide. These facilities will be allocated by geographic region based on census data and would create a massive clustering of these facilities unless statutory law changes. She wanted it to be clear and on the record that Knox Medical current operations are not considered dispensing at retail and would not be prohibited under the terms of the current ordinance as written.

City Attorney Ardaman responded that this ordinance does not stop the home delivery operations to a prescribed patient properly requesting such from Knox Medical or anybody else.

Commissioner Maciel expressed that it is not his intention to deny accessibility but wanted to know where dispensaries fit in as a master plan of the City which he feels is the City Commission's responsibility.

City Manager Bollhoefer replied that the State did not give the City any leeway in terms of zoning; but that they need to be zoned the same as pharmacies. Until the state gives the City better clarification and have the zoning ability, it is best to implement a ban until the legislature corrections are made and he believe they will.

Commissioner Sharman addressed the City's requirement to comply if the legislature supersedes anything that the City has done. City Attorney Ardaman replied that it depends on whether the State grants the City the authority beyond what we have now.

Mayor Rees closed the public hearing.

Motion by Commissioner Buchanan to approve Ordinance 17-24 with the second reading and public hearing being scheduled for July 27, 2017. Seconded by Commissioner Maciel and carried unanimously 4-0.

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

A. **Ordinance 17-08**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE CITY OF WINTER GARDEN FISCAL YEAR 2016-2017 BUDGET; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 17-08 by title and an excerpt from Section 1: That the sum of \$11,347,205 to be appropriated as follows:

REVENUES	
General Fund	\$1,700,000
Community Redevelopment Agency Fund	35,250
Law Enforcement Trust Fund	13,729
Local Option Gas Tax Fund	22,000

Transportation Impact Fee-General Fund	480,000
Utility Operating Fund	6,403,556
Utility Renewal and Replacement Fund	2,477,892
Stormwater Fund	36,750
Solid Waste Fund	<u>178,028</u>
Total	\$11,347,205

City Attorney Ardaman noted that the expenditures were identical to that of the revenues.

Finance Director Zielonka stated that this Ordinance amends the current year budget and adjusts for changes made since the budget Ordinance was originally adopted. This is the second reading and staff recommends approval.

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

Motion by Commissioner Buchanan to adopt Ordinance 17-08. Seconded by Commissioner Sharman and carried unanimously 4-0.

- B. **Ordinance 17-20:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA VACATING A PLAT DEDICATED 30-FOOT DRAINAGE EASEMENT OVER PORTIONS OF TRACT O AND LOT 70 OF TWIN WATERS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 86, PAGES 27-34 OF THE PUBLIC RECORDS OF ORANGE COUNTY AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE AND RECORDING (Twin Waters)

City Attorney Ardaman read Ordinance 17-20 by title only. Community Development Director Pash stated that this is the second reading of an ordinance to vacate a platted easement which was placed in the wrong location; storm lines were installed a little north of this location. The new easement has already been recorded for the correct location. Staff recommends approval of Ordinance 17-20.

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

Motion by Commissioner Maciel to adopt Ordinance 17-20. Seconded by Commissioner Sharman and carried unanimously 4-0.

4. **REGULAR BUSINESS**

- A. **Appointment to the Code Enforcement Board for expiring seat of John Benoit III for a 3-year term**

Community Development Director Pash stated that there is one vacancy on the Code Enforcement Board due to term limits for John Benoit III. Staff recommends appointment from the applications submitted.

It was the **consensus** of the City Commission to **POSTPONE** this item until the next meeting.

B. **Recommendation to approve setting the proposed millage rate at 4.2500 mills for Fiscal Year 2017/2018 and schedule budget public hearing dates for September 14th and 28th, 2017 at 6:30 p.m.**

City Manager Bollhoefer stated that this is the same millage rate the City of Winter Garden has had for quite a few years and staff recommends keeping the millage rate the same.

Motion by Commissioner Buchanan to approve setting the proposed millage rate at 4.2500 mills for Fiscal Year 2017/2018 and to schedule the budget public hearing dates for September 14th and 28th, 2017 at 6:30 p.m. Seconded by Commissioner Maciel and carried unanimously 4-0.

C. **Recommendation to approve a Fifth Amendment to the Purchase and Sale Agreement for 109 S. Boyd Street, changes to Impact Fee Deferral and Forgiveness Agreement, Pedestrian Access and Joint Use Agreement, and authorize the City Manager to sign related agreements**

City Manager Bollhoefer stated that this will be a great project in downtown Winter Garden and staff recommends approval.

There was discussion on keeping the water tower, which will be viewed above the building, cleaned and repaired.

Motion by Commissioner Sharman to approve a Fifth Amendment to the Purchase and Sale Agreement for 109 S. Boyd Street and authorize the City Manager to sign related agreement. Seconded by Commissioner Buchanan and carried unanimously 4-0. (This motion was amended later in the meeting, under Item 6)

5. **MATTERS FROM PUBLIC**

Joseph Richardson, 220 N. Highland Avenue, Winter Garden, Florida, voiced his concerns regarding invocations and discrimination in relation to the invocators list.

6. **MATTERS FROM CITY ATTORNEY**

City Attorney Ardaman noted that items were omitted under item 4.C. The action should have included a total of four items. Action is also needed on the changes to the Impact Fee Deferral and the Forgiveness Agreement, Pedestrian Access and Joint Use Agreement, and the Brownfield Site Rehabilitation Agreement.

Motion by Commissioner Sharman to include the three agreements relating to 109 S. Boyd Street under agenda item 4.C; changes to Impact Fee Deferral and Forgiveness Agreement, Pedestrian Access and Joint Use Agreement, and the Brownfield Site

Rehabilitation agreement and authorize the City Manager to sign the related agreements. Seconded by Commissioner Buchanan and carried unanimously 4-0.

7. **MATTERS FROM CITY MANAGER**

City Manager Bollhoefer introduced the new Assistant City Manager of Public Services Eric Guth. The Mayor and Commissioners welcomed him.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Buchanan commended staff for a great fireworks show and expressed his pride in the City and what we have become. He shared that the downtown looked great and expressed how proud he is to see the new buildings going up and can't wait for one of the new businesses to open.

Commissioner Maciel commended City staff for everything that is going on in East Winter Garden. He especially thanked the City Manager Mike Bollhoefer and Economic Director Tanja Gerhartz. He invited everyone to the Maxey Center to see the plan.

Mayor Rees thanked City staff for all their time and effort in making our events happen.

The meeting adjourned at 7:12 p.m.

APPROVED:

_____/S/_____
Mayor John Rees

ATTEST:

_____/S/_____
City Clerk Kathy Golden, CMC