



# CITY OF WINTER GARDEN

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## CITY COMMISSION REGULAR MEETING MINUTES

July 27, 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 Lisa Bennett, Bob Buchanan and Colin Sharman

**Absent:** Commissioner Mark A. Maciel

**Also Present:** City Manager Mike Bollhoefer, Acting City Attorney Richard Geller, City Clerk Kathy Golden, Assistant City Manager of Public Services Eric Guth, 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 Buchanan to approve the regular meeting minutes of July 13, 2017 as submitted. Seconded by Commissioner Sharman and carried unanimously 4-0.**

### 2. **SECOND 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

Acting City Attorney Geller 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 trees on the property as possible. Staff recommends approval of Ordinance 17-13.

Mayor Rees asked about the staff report provided in the agenda packet under Approval Criteria number 11 (page 5) references the open space and that any deficit would require a fee in lieu of land dedication. Does staff anticipate that instead of dedicating the land, they will pay a fee and is the fee to be paid substantial enough to encourage them to create the green space? Mr. Pash replied there is a minor deficit and the fee is based on the cost of land so it is a substantial amount of money that they would pay.

Mayor Rees also asked about staff report provided in the agenda packet under Approval Criteria number 15 (page 6) that every effort will be made to save the canopy of trees; he assumes staff will work with them to ensure as many oak trees as possible are saved. Mr. Pash responded that staff walks the property with the developer and identifies where the homes will be so every tree possible can be saved. City Manager Bollhoefer shared that the developer, Michael Morrissey, appreciates the value of trees and will make every attempt to try and save the trees.

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

**Motion by Commissioner Buchanan to adopt Ordinance 17-13. Seconded by Commissioner Bennett 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

Acting City Attorney Geller read Ordinance 17-16 by title only. Community Development Director Pash stated that the owner is requesting a rezoning from C-2 to Planned Commercial Development (PCD). He described the proposed development to include up to five buildings. He described the proposed uses of the property by the owner. Staff recommends approval of Ordinance 17-16.

Commissioner Sharman inquired about discussions with the surrounding property owners on this item. Mr. Pash described the community meeting held on June 21, 2017 and the concerns of the attendees about the plants they think are invasive grasses that they want to make sure do not spread. They were good with the proposed plans.

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

**Motion by Commissioner Sharman to adopt Ordinance 17-16 with DRC recommendations. Seconded by Commissioner Buchanan and carried unanimously 4-0.**

- C. **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

Acting City Attorney Geller read Ordinance 17-24 by title only. Community Development Director Pash stated that this ordinance is an amendment to the City Code to prohibit medical marijuana treatment center dispensing facilities within the boundaries of the City. Staff recommends approval.

City Manager Bollhoefer clarified staff's position on this recommendation as being based on the State of Florida taking away the City's right to zone a business within our City limits. Staff believes that we should fight to maintain these rights for this and any project that wants to be developed in the City of Winter Garden. He fully expects that the State, in the future, will readdress this and give us our right to zone a business where we believe it would be appropriately zoned. Currently, we would have to zone it anywhere a pharmacy is allowed. He gave further examples and reasons for supporting the ban.

Commissioner Bennett clarified that medically necessary marijuana can be mailed to patients. Mr. Bollhoefer responded yes and they [patients] can go to other locations in Central Florida to obtain it.

Mayor Rees opened the public hearing.

William (Billie) M. Roberson, 12100 Marshall Farms Road, Winter Garden, Florida, stated he handed out an information packet about what the City of Oviedo recently decided. He asked the City Commission to listen to the will of the people. He asked that at the very least, a moratorium be implemented until such time as both sides can come to an agreement.

Tim Grosshans, 741 Lake Cove Pointe Circle, Winter Garden, Florida, pointed out that there are but two choices on the ban of marijuana dispensaries within our city limits; you can fail to ban dispensaries and surrender your authority to control and supervise a very controversial business that could very possibly bring harm to Winter Garden and its citizens. You could also choose to maintain your authority to oversee our city and vote yes to ban dispensaries and reject the lies that somehow dispensaries are not pharmacies where we obtain medicine. He read a prepared statement and cited various organizations questioning the proliferation of using marijuana and he urged the Commission to approve the ban.

Tara Tedrow, Attorney with Lowndes and Drosdick, 215 N. Lake Eola Drive, Orlando, Florida, stated that she is speaking on behalf of Knox Medical. The operations at Knox located at 940 Avalon Road, are not contravening anything that would happen if this ordinance passes; they are in compliance with Florida statutory law. She handed out a packet of information regarding the misconceptions with statutory law and the operations of dispensaries and elaborated on each of them. She addressed her research of the City's

Code for zonings related to drug stores and found drug and sundries as being in C4 (Commercial) and PD (Planned Development) or shopping centers. It is hard for her to determine where these dispensaries could even be allowed if permitted. She suggested a moratorium to analyze how many dispensaries could the City have under C4 and PD zoning along with the other restrictions. She questions a full ban without understanding what the realistic impact would be. She addressed the types of dispensaries around the State of Florida as being state of the art.

Bruce Knox, 940 Avalon Road, Winter Garden, Florida, he shared his background and his discussion with his 94-year-old father who believes cannabis should not be illegal just as is alcohol. He shared his experiences with people who are in need of this option. He stated he has three locations. His Gainesville location has been open for two months with no crime, no seediness, no incidents, no law enforcement calls, which is the same for his Orlando location. He asked the Commission to consider not placing a full ban but continue a moratorium and allow him to work with staff to craft reasonable regulations.

City Manager Bollhoefer stated he wanted to correct some of the statements made. Our zoning regulations allow pharmacies in C1 (commercial), C2 (commercial), PCD (planned commercial development), which has been historically done. Without a ban, they could literally put a dispensary in our downtown area, on Dillard Street, on Highway 50; pretty much in every shopping center. There is no reason for a moratorium because staff has all the facts. The question becomes does the City Commission want to allow medical dispensaries in their C1, C2, or downtown. Until the legislature allows the City to zone appropriately, he feels the ban should be established. If at any time the Commission wants to change it, it can be changed very easily.

Mayor Rees closed the public hearing.

**Motion by Commissioner Bennett to adopt Ordinance 17-24. Seconded by Commissioner Buchanan and carried unanimously 4-0.**

3. **REGULAR BUSINESS**

A. **Recommendation to approve Final Plat for Waterside on Johns Lake Phase 2B**

Community Development Director Pash described the project as 52 single-family lots that are 55 feet wide by 125 feet deep and are consistent with the UVPUD (urban village planned unit development) zoning ordinance. This item has been reviewed and approved by the Development Review Committee. Staff recommends approval of this Final Plat.

**Motion by Commissioner Sharman to approve the final plat for Waterside on Johns Lake Phase 2B. Seconded by Commissioner Bennett and carried unanimously 4-0.**

B. **Recommendation to approve bids and award contract for Stormwater Capture and Reuse Project to L7 Construction for a maximum amount of \$3,696,001.98 that includes a 10% contingency**

Assistant City Manager of Public Services Guth stated that the purpose of this project is to collect stormwater at Bradford Park that will eliminate direct outfall into the lake. The water will be pumped over to the treatment plant. There will also be a collection pond built there as well. The water will then be treated at the plant and be put into our reuse system. This project is partnered with the St. Johns River Water Management District and the Department of Environmental Protection who are contributing about 47% of this project or \$1.5 million in grants. The low bidder was L7 Construction with a 10 percent contingency at \$3,696,000.

Mayor Rees noted that the bid extensions submitted were not correct and have been corrected. Mayor Rees clarified that L7 Construction and the other bid submitters have all agreed that their bids reflected on the summary sheet are accurate and will be honored. Mr. Guth replied yes.

**Motion by Commissioner Buchanan to approve bids and award contract for Stormwater Capture and Reuse Project to L7 Construction for a maximum amount of \$3,696,001.98 that includes a 10% contingency. Seconded by Commissioner Sharman and carried unanimously 4-0.**

4. **MATTERS FROM PUBLIC** – There were no items.

5. **MATTERS FROM ACTING CITY ATTORNEY** – There were no items.

6. **MATTERS FROM CITY MANAGER**

Announced a tentative groundbreaking ceremony on Wednesday, September 27, 2017 at 9 a.m. at Bradford Park and asked the Commissioners to check their schedules for availability.

7. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Sharman shared that a few people are excited about our upcoming road projects. Staff is doing a good job getting them lined up.

The meeting adjourned at 7:03 p.m.

APPROVED:

\_\_\_\_\_/S/\_\_\_\_\_  
Mayor John Rees

ATTEST:

\_\_\_\_\_/S/\_\_\_\_\_  
City Clerk Kathy Golden, CMC