



# CITY OF WINTER GARDEN

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## City Commission and Community Redevelopment Agency REGULAR MEETING MINUTES

February 28, 2019

**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 and Commissioners

Lisa Bennett – District 1

Bob Buchanan – District 2

Mark A. Maciel – District 3

Colin Sharman – District 4

**Also Present:** City Manager Mike Bollhoefer, City Attorney A. Kurt Ardaman, City Clerk Angee Grimmage, Assistant City Manager of Administrative Services Frank Gilbert, Assistant City Manager of Public Services Jon Williams, Community Development Director Stephen Pash, Economic Development Director Tanja Gerhartz, Finance Director Laura Zielonka, Information Technology Director Chad Morrill, Fire Chief Matt McGrew and Police Chief Stephen Graham

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

**Motion by Commissioner Buchanan to approve regular meeting minutes of February 14, 2019 as submitted. Seconded by Commissioner Bennett and carried unanimously 5-0.**

### • **RETIREMENT RECOGNITION - HIRAM “Benny” BLEDSOE**

**City Manager Bollhoefer** recognized and expressed the City’s appreciation to Hiram “Benny” Beldsoe for a little over 33 years of service to the citizens and the City of Winter Garden.

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

A. **Ordinance 19-10:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 18-32, THE CITY OF WINTER GARDEN FISCAL YEAR 2018-2019 BUDGET TO CARRY FORWARD PRIOR YEAR APPROPRIATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 19-10 by title only. Finance Director Zielonka stated that this ordinance amends the current year budget. It carries forward the prior year appropriations for projects budgeted in the last fiscal year but not completed by the year end. Ms. Zielonka noted the agenda packet lists the projects in Exhibit 1.

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

**Motion by Commissioner Buchanan to approve Ordinance 19-10 with second reading and public hearing March 14, 2019. Seconded by Commissioner Bennett and carried unanimously 5-0.**

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

- A. **Ordinance 19-11:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING CHAPTER 38, ARTICLE II, DIVISION III OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN REGARDING LOT CLEARING TO CREATE PROVISIONS RELATING TO LOT MAINTENANCE REQUIREMENTS FOR RECREATIONAL FACILITIES, INCLUDING, WITHOUT LIMITATION, GOLF COURSES AND OPEN SPACE; PROVIDING FOR STANDARDIZED UPKEEP AND PROPERTY RELATED NUISANCE ABATEMENT REQUIREMENTS FOR RECREATIONAL FACILITIES, INCLUDING, WITHOUT LIMITATION, GOLF COURSES AND OPEN SPACE; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

City Attorney Ardaman read Ordinance 19-11 by title only. Community Development Director Pash stated that this is an amendment to Chapter 38 of Division III concerning lot clearing. He noted that it adds definitions for excessive growth, and adds requirements related to shrubs. Staff recommends approval of Ordinance 19-11.

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

**Motion by Commissioner Sharman to adopt Ordinance 19-11. Seconded by Commissioner Maciel and carried unanimously 5-0.**

**4. REGULAR BUSINESS**

- A. **Recommendation to deny a Site Plan for 1200 Daniels Road (Daniels Road Business Park) which did not meet all code requirements**

**City Attorney Ardaman** informed the City Commission that this is a matter continued from the last hearing. All evidence and testimony heard at the last meeting should be considered in their decision after the hearing is completed. He advised that anyone who may have had any related communication outside of the hearing should disclose that information at this point in the meeting. Mr. Ardaman also noted the proposed order of the proceedings.

**Mayor Rees** stated that after reading the distributed materials, he had a few questions and asked the City Manager. **Commissioner Buchanan** disclosed that he also did the same.

**Planning Consultant Ed Williams** stated that this is an appeal of a denial of a site plan. He noted that after reviewing the applicant's submittal packet from the last meeting, staff felt it important to bring a couple of issues to the attention of the City Commission.

**Mr. Williams** stated that the property involved in the site plan is two parcels by two different corporations. This is important as the City requirement on the application is that all property owners be identified and become responsible parties. Mr. Williams noted that this application only includes one property owner, which is the northern property. The business park association that owns Tract A, a platted parcel, were not included on the applications. He indicated that Tract A is dedicated as stormwater retention for the benefit of all lots within the Daniels Road Business Park. He noted that the applicant representative, Mr. Roberts, is in both of those corporations, but there are other properties and users involved.

**Mr. Williams** stated that the City also has a drainage easement. He displayed a dedication of the plat which states that it is for the rights of the business park owners, the two banks along the frontage and the City has drainage and an access easement through this property around the perimeter of the site plan. Mr. Williams noted that the applicant has not submitted anything from the other members of the property owner's association, lots one and two. He described the location and access to drainage easements. He shared the reason for concern being that if the applicant were to develop as the site plan has been submitted, it goes over the drainage and access easements as provided in the plat; requiring an amendment to the plat. It would require agreement of the other property owners, as well as the City giving up its rights. He noted that there has not been a review by staff to determine which of those easements the City can or cannot surrender. He noted that all of this would need to be addressed before completing this process with the site plan.

**Mayor Rees** opened a public hearing.

**Joan Cleary**, 15842 Citrus Grove Loop, Winter Garden, Florida shared general information in terms of wetlands. She shared her experience being adjacent to wetlands, noting that they live in the Hickory Hammock Subdivision. She stated that Hickory Hammock is adjacent to a very large conservation area and shared that upon moving in, four years ago, there were many bees, butterflies, and frogs. She shared how a company was given the task to remove invasive plants from the conservation area on their property, the process, and the effects of the changes. She informed how frogs give indications about the health of the local environment; which she states is no longer healthy. She shared about the decline of insects and how important scientist across the globe are warning about their decimation. She expressed that we protect our wetlands because our lives ultimately depend on them. Ms. Cleary thanked the City Commission for protecting our wetlands and our welfare.

**Mayor Rees** closed the public hearing.

**Dan Roberts**, 25613 Hawks Run Lane, Sorrento, Florida, thanked the City Commission for the opportunity to make another presentation. He hopes he would be able to answer any questions the City Commission may have, as well as share additional information he thinks is important to this particular project. He noted he would review information he provided at the last meeting and would give a summary evaluation of the existing wetlands. **Mayor Rees** asked if he could address his comments as they related to the City's position on this issue.

**Mr. Roberts** noted two points he would like to discuss. One being a response to the memo presented to the City Commission at the end of their last presentation; to Ed Williams from a biologist, Amy Daly, from CPH, Inc. Mr. Roberts noted that the memo included an acknowledgement that they did obtain the permit from the St. Johns River Water Management District (SJRWMD); it provides a blueprint for the type of construction we are to put into the project. Mr. Roberts read an excerpt from the memo, indicating that the important part is a rainfall of 2.33 inches, an almost record in January. He stated that this particular biologist walked the property within 48 hours of this rainfall. He indicated that he is sure that the City had flooding in various parts as a result. This depression on their property would naturally have some water in it as a result of nearly two and a half inches of stormwater. His concerns are that a good extent of the report, particularly discussing the health of the wetland, and the Uniform Mitigation Assessment Methodology (UMAM) scores the CPH biologist gave has been skewed because of this onetime event with the rainfall. For that fact alone, he feels that this particular report should be completely disregarded.

**Mr. Roberts** addressed comments made by Mr. Williams regarding easements. He shared history of the property he owned at the Fairwinds and SunTrust locations. He noted that he developed those sites in 2004 and 2005. The City required that he plat the property, as there were more than two parcels in the parent tract. In doing so, they were required to show stormwater easements, which he states were intended to be temporary. Both parcels were included in their permit application with the St. John River Water Management District. He noted that it was an oversight not to have the second parcel in the application for site plan approval. He indicated that because the voting rights of the property is based on acreage, he is the President of the business park association and controls that Limited Liability Corporation (LLC). He expressed that they would re-route their stormwater easements to meet the plan. It was always their intention to do this, post site plan approval. He noted having a friendly relationship with SunTrust and Fairwinds and this would not be a problem and feels this is not an issue of concern for the City Commission.

**Mr. Roberts** noted that they are willing to work with the City, not trying to skirt anything and are trying to develop a fine product for the City. He shared his history of development projects. He then shared history of changes that the City requested. He

indicated that they have done everything they could possibly do to accommodate the Development Review Committee (DRC).

**Mr. Roberts** referred to a document he distributed that summarizes each of the reports they have in their permits; noting that the full reports and studies have also been provided. He read report excerpts from GAI Consultants, Austin Environmental, US Army Corps of Engineers, and the St. John River Water Management District. He stated that he has done everything he could possibly do to meet the requirements for this wetlands situation.

**Mr. Roberts** described projects where he states the City has approved the eradication of wetlands and listed them. He stated that they are not reinventing the process, they are following it. He asked the City Commission if they do not agree with the reports that he has provided, then they should deny him. However, if it is thought that he has given un-redacted, sound views and studies supporting their position, then he requests approval for this project.

**Commissioner Sharman** asked Mr. Roberts, in that he is stating they have done everything possible to help mitigate this wetland, have they considered just building on the non-wetland portion of the property; and considered submitting a site plan for that. Mr. Roberts responded that the way the wetland comes into Daniels Road; the jurisdictional line is not straight. He explained that from a practical standpoint it is impossible to come up with a design that would not impact the wetlands.

**Commissioner Maciel** noted that he is a property rights person, and in reviewing the materials given, he thought meetings would have taken place to see if there could be some compromise; to see if something could be worked out with staff. He asked if there was any discussion about rearranging or re-doing the site plan to make it a different project, one that the City and they could accept. **Commissioner Maciel** stated that he would like to hear Mr. Robert's, as well as staff's, position on this issue. **Mr. Roberts** stated that they never had any serious discussions over that. **Commissioner Maciel** asked if it was Mr. Roberts' position that it would be all or nothing. **Mr. Roberts** responded that it was told that the City would oppose anything he does on this property. He noted a number of iterations over the years that have been turned away. Mr. Roberts addressed the wetlands issue and history of removal in the area. **Commissioner Sharman** asked if those were his developments that he worked with the City to complete. **Mr. Roberts** explained that he sold the properties to Fairwinds and to SunTrust and was not part of the building. **Commissioner Maciel** asked Mr. Roberts if the answer to the question is that it is all or nothing. **Mr. Roberts** stated that he does not know how it can be partial. He then shared that he was going to be here, that he is not making any threats, looking at the best interest of this project, would like the right to develop his property. He noted that a denial would be sending him to court, which he does not want to do. He then shared history of purchasing the property and listed the

benefits of the project; stating that the benefits far outweigh any downside. Mr. Roberts referred to the property as having nothing left, no organics left, has already been mitigated, the wetland have been revised, and it is non-functional. He again asked for support for this project.

**Mayor Rees** asked if there were questions for staff.

**Commissioner Sharman** asked Planning Consultant Ed Williams if any kind of partial development or compromise had been considered over the years; or has it been kind of an all or nothing approach. **Mr. Williams** stated that it has not been an all or nothing approach, as it is not the way things are done in Winter Garden. He stated that in fact, as in his testimony in the first hearing, staff will continue to work with Mr. Roberts, no matter which way this decision goes; staff will try to get the development on the upland parcel. Mr. Williams indicated that it very well could allow for some small encroachment to square it off. Mr. Williams stated that staff would try an encourage him to improve the existing impacted wetlands from mitigation, but it is his choice to do that or go to a regional bank. Mr. Williams stated that he has never heard of staff stating that they would not allow Mr. Roberts' property to be developed. He explained that what has been said, by staff and himself, is that the City is not going to support development on the wetlands, but will support plenty of development on the uplands. **Commissioner Sharman** clarified that there is an opportunity to come in and square off the property, work with staff on this, and also work on an access road. **Mr. Williams** noting this would be for fire protection and utilities. Mr. Williams stated that the church to the south has submitted site plans; staying out of the wetland area. **Commissioner Sharman** asked if the City's own expert evaluated the value of the wetlands. **Mr. Williams** responded yes, she rated under the same systems and has a slightly different value. Mr. Williams explained amendments to the wetland ordinance provide for outside consultants when there may be differences between the applicant and staff. These consultants verify staff's position so as not to have unfair treatment of a piece of property.

**Commissioner Maciel** noted that this is not a property rights issue, as it is not a right to fill in the wetland and asked that Mr. Williams expound on the changes and the ordinances regarding mitigation. **Mr. Williams** explained how the City periodically goes through its regulations and review for potential problems and issues. One being a reference to the St. Johns River Water Management District (SJRWMD) in the core of the City's policy regarding wetlands; the City mistakenly included those provisions. It is the City that approves uses; the SJRWMD has no rights on the use of the property. If the local government approves the use of the property, then the permit to impact the wetland can be relied on.

**Motion by Commissioner Sharman to deny a Site Plan for 1200 Daniels Road (Daniels Road Business Park) which did not meet all code requirements.**

**Commissioner Sharman** noted that it is of his personal opinion is that we try to preserve as much as we can and come to some kind of compromise down the road.

**Motion seconded by Commissioner Maciel and carried unanimously 5-0.**

**Mayor Rees** thanked Mr. Roberts and stated that he thinks it is agreed, by all, that something would get worked out.

- B. Recommendation to approve retirement of Canine Mack, award custody to Mathew Griffin, and approve purchase of replacement canine through existing budgeted funds  
Police Chief Graham explained that Canine Officer Mack has reached a point where he needs to be medically retired. He shared that Canine Officer Mack has been with the City on the street for almost four years. He shared that Officer Griffin is requesting to maintain ownership. Staff recommends retirement of Canine Officer Mack and awarding custody to Officer Griffin.

Commissioner Sharman shared information about the breed and their common medical issues. Police Chief Graham also noted that the frequent training can be stressful as it is quite physical.

There was discussion on the City having two dogs that serve a dual purpose of patrol operations and both are narcotics certified for drug searches. Officer Mathew Griffin and Canine Officer Mack made an appearance at this point in the meeting.

**Motion by Commissioner Sharman to approve retirement of Canine Mack, award custody to Mathew Griffin, and approve purchase of replacement canine through existing budgeted funds. Seconded by Commissioner Bennett and carried unanimously 5-0.**

*Dispensed as the City Commission and convened as the Community Redevelopment Agency at 7:25 p.m.*

**Present:** Chairman John Rees, Members Lisa Bennett, Bob Buchanan, Mark A. Maciel, Colin Sharman, Orange County Representative Jeff Sedloff, and CRAAB Member Larry Cappleman

- C. Recommendation to approve a façade matching grant of up to \$10,000 for 4 E. Plant Street (Plantation Jewelers) and authorize the City Manager to execute an agreement, subject to conditions  
Economic Development Director Gerhartz stated that for consideration is a façade matching grant for Plantation Jewelers located at 4 East Plant Street. She noted that the application has been reviewed and approved by City staff, the Architectural Review and Historic Preservation Board and the CRA Advisory Board (CRAAB). The CRA Advisory

Board has recommended approval of a matching grant of up to \$10,000 for improvements. Those improvements include a new brick façade, a new aluminum awning and a new commercial store front. She noted that the total exterior improvements are valued at \$60,000. Actions requested are the approval of a façade matching grant not to exceed \$10,000, all City conditions to be met, and authorize the City Manager to execute an agreement with the property owner and the applicant. CRA Member Cappleman confirmed the CRAAB's approval, stating that it was unanimous.

**Motion by CRA Member Cappleman to approve a façade matching grant of up to \$10,000 for 4 E. Plant Street (Plantation Jewelers) and authorize the City Manager to execute an agreement, subject to conditions. Seconded by CRA Member Sedloff and carried unanimously 7-0**

D. BOARD APPOINTMENT: Community Redevelopment Agency Advisory Board

Community Development Director Pash stated that there is one vacancy on this board and at the last Community Redevelopment Agency Advisory Board (CRAAB) applications were reviewed and the board recommended Daniel Welsh for appointment to this board. Staff recommends approval.

City Manager Bollhoefer indicated postponement of this item is requested as additional research is needed; staff will speak with CRAAB.

**Motion by CRA Member Sharman to POSTPONE appointment to the CRA Advisory Board to a date and time uncertain. Seconded by CRA Member Sedloff and carried unanimously 7-0.**

*Adjourned as the Community Redevelopment Agency and reconvened as the City Commission at 7:29 p.m.*

**5. MATTERS FROM PUBLIC**

Charlie Mae Wilder, 813 East Bay Street, Winter Garden, Florida, stated that on behalf of the East Winter Garden Neighborhood Alliance she extends their thanks for more inclusiveness and for the incredible Martin Luther King Parade and festival. She gave a special thanks to Commissioner Colin Sharman for representing the entire City Commission at the MLK event. She thanked staff members Laura Coar, Jackie Mathis, and the entire Parks and Recreation for their dedication and planning, stating that this made these events incredibly successful and fun. Ms. Wilder stated that they are also grateful for the incredible hard work of Commissioner Mark Maciel in prioritizing the contributions of the African American community in Winter Garden through the Winter Garden Heritage display featured earlier that evening. She expressed that they are beginning to see their dreams of one Winter Garden coming to life.

Ms. Wilder also announced the work days for the Community Garden and invited everyone to come and participate.

Channa Lloyd, Partnership Specialist and Representative for the United States Census Bureau, introduced herself and noted that they will soon be working in the Winter Garden area. She shared information about the importance of the census and how it effects the State of Florida and the City of Winter Garden. She noted that this will take place in April of 2020. She also noted items such as an education phase, State of Florida representation in the Senate due to population, redistricting due to population, Federal funds based on population, and expressed that funding effects everything. Ms. Lloyd listed a number of items that these funds will affect. She spoke of hard to count areas and noted some of those indicators and how complete count committees are formed to reach residents.

Ms. Lloyd noted that this is one of the largest peacetime operatives that brings jobs to the areas it serves by use of people that live in the area. She also noted that there will be differences in how the census will be completed, such as online, and also a 1-800 number for assistance will be available over the phone.

Commissioner Maciel inquired as to if there would be work with some of the non-profit organizations to get the word out. Ms. Lloyd responded that there are the State, County, as well as local cities complete count committees. These committees may be gathered from faith-based, school-based, and small business based committees such as partnering with the Chamber of Commerce as they get closer they will go down to community level.

Commissioner Maciel inquired how this works with the City Liaison. Ms. Lloyd stated that the City Liaison is appointed by the highest elected officials. That person is the go to person for the complete count committee. She noted that the City Liaison works with her to ensure that the committees are not crossing each other with an event. In those cases, they would make suggestions for partners in the community.

Joseph Richardson, 220 N. Highland Avenue, Winter Garden, Florida responded to statements made by Charlie Mae Wilder and made the City Commission aware of an ongoing workshop sponsored by the Oasis Church and the Valencia Community College of Peace and Justice on race and relations.

Mr. Richardson addressed comments of the City Manager as noted from the last meeting, and he voiced appreciation to Commissioner Sharman for comments related to including everyone on the invocators list. He also spoke of the process the City uses to choose invocators.

**6. MATTERS FROM CITY ATTORNEY –** There were no items.

**7. MATTERS FROM CITY MANAGER**

- MetroPlan Advisory Board Representation

City Manager Bollhoefer stated that the City has not recently had anyone as a representative on the MetroPlan. He noted speaking with Commissioner Bennett and also with Commissioner Maciel, with Commissioner Maciel volunteering. There was discussion about the board and its importance for the City of Winter Garden, and the board's meeting schedule.

**Motion by Commissioner Sharman to appoint Commissioner Mark Maciel as representative for the City of Winter Garden to the MetroPlan Advisory Board. Seconded by Commissioner Bennett and carried unanimously 5-0.**

**MATTERS FROM MAYOR AND COMMISSIONERS**

**Mayor Rees** thanked everyone for attending.

The meeting adjourned at 7:43 p.m.

APPROVED:

/S/

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Mayor John Rees

ATTEST:

/S/

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City Clerk Angee Grimmage, CMC