



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

May 9, 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, Fire Chief Matt McGrew and Police Chief Stephen Graham

1. **APPROVAL OF MINUTES**

Motion by Commissioner Buchanan to approve regular meeting minutes of April 25, 2019 as submitted. Seconded by Commissioner Maciel and carried unanimously 5-0.

2. **PRESENTATIONS**

A. **OATH OF OFFICE – NEW OFFICERS**

Police Chief Graham introduced and gave the oath of office to new officers Christopher Addington, Jacob Gilzen, and Cameron Peterson.

B. PROCLAMATION 19-05: Proclaiming Drinking Water Week was read and presented by Mayor Rees and the City Commission.

C. PROCLAMATION 19-07: Proclaiming Apraxia Awareness Day was read and presented by Mayor Rees and the City Commission.

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

A. Ordinance 19-19: 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 3.70 +/- ACRES OF LAND GENERALLY LOCATED AT 1061, 1063, AND 1065 TILDENVILLE SCHOOL ROAD ON THE SOUTHEAST CORNER OF TILDENVILLE SCHOOL ROAD AND THE WEST ORANGE TRAIL FROM LOW DENSITY RESIDENTIAL TO COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

B. Ordinance 19-20: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS APPROXIMATELY 3.70 +/- ACRES OF LAND GENERALLY LOCATED AT 1061, 1063, AND 1065 TILDENVILLE SCHOOL ROAD ON THE SOUTHEAST CORNER OF TILDENVILLE SCHOOL ROAD AND THE

WEST ORANGE TRAIL, FROM R-1 (SINGLE-FAMILY RESIDENTIAL) TO PCD (PLANNED COMMERCIAL DEVELOPMENT); PROVIDING FOR CERTAIN PCD REQUIREMENTS AND DESCRIBING THE DEVELOPMENT AS THE PACKING PLANT PCD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

- C. **Ordinance 19-21:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS APPROXIMATELY 0.58 +/- ACRES OF LAND GENERALLY LOCATED AT 8 N HIGHLAND AVENUE ON THE NORTHWEST CORNER OF N HIGHLAND AVENUE AND W PLANT STREET, FROM R-2 (RESIDENTIAL) TO PCD (PLANNED COMMERCIAL DEVELOPMENT); PROVIDING FOR CERTAIN PCD REQUIREMENTS AND DESCRIBING THE DEVELOPMENT AS THE WINTER GARDEN HOTEL PCD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinances 19-19, 19-20, and 19-21 by title only. Staff requested postponement of these items to a date uncertain.

Motion by Commissioner Buchanan to postpone Ordinances 19-19, 19-20, and 19-21 to a date uncertain. Seconded by Commissioner Bennett and carried unanimously 5-0.

- D. **Ordinance 19-22:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA VACATING A PORTION OF THE PLAT DEDICATED DRAINAGE AND UTILITY EASEMENTS OVER LOTS 11 AND 12, WINTER GARDEN COMMERCE CENTER PHASE 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 72, PAGE 133 OF THE PUBLIC RECORDS OF ORANGE COUNTY (LOCATED AT 710 AND 720 GARDEN COMMERCE PARKWAY, WINTER GARDEN, FLORIDA) OWNED BY MM & M PM, LLC AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE AND RECORDING (*Maddox Electric*)

City Attorney Ardaman read Ordinance 19-22 by title only. Community Development Director Pash stated that this is a request to vacate the five-foot drainage and utility easement. It is located along the side yard between lots 11 and 12 of the Winter Garden Commerce Center. The owners are requesting vacation of these easements so they can combine the two lots and build one building on the combined property. He noted that this has been submitted for a site plan review which is currently being reviewed by the Development Review Committee (DRC). This item will come before the City Commission when it is ready. Staff recommends approval of Ordinance 19-22.

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

Motion by Commissioner Maciel to approve Ordinance 19-22 with a second reading and public hearing May 23, 2019. Seconded by Commissioner Buchanan and carried unanimously 5-0.

4. **REGULAR BUSINESS**

- A. Recommendation to approve RFP rankings and award contract to T-N-T Metal Buildings Inc. for the construction of a Metal Storage Building for the Public Services Complex in the amount of \$67,925.00

Fleet and Facilities Division Manager Caines stated that this year's budget includes the funding for a metal storage building for the Public Services Complex. He noted that at the completion of the Request for Proposal (RFP) bid process, three proposals had been received for this building. Staff has reviewed the proposals and ranked them on the basis of criteria contained in the RFP. He noted that T-N-T Metal Buildings, Inc. received the highest ranking and was also the low bidder at \$67,925. Staff recommends approval of the rankings and awarding the contract to T-N-T Metal Buildings, Inc.

Motion by Commissioner Buchanan to approve RFP rankings and award contract to T-N-T Metal Buildings, Inc. for the construction of a Metal Storage Building for the Public Services Complex in the amount of \$67,925.00. Seconded by Commissioner Bennett and carried unanimously 5-0.

- B. Recommendation to approve final plat and Right-of-Way Maintenance Agreement for Sanctuary at Twin Waters located at 16846, 17000, 17166 Marsh Road

Community Development Director Pash stated that this is the final plat and right-of-way maintenance agreement for the Sanctuary at Twin Waters subdivision. He noted that the final plat establishes 108 single-family lots. These are consistent with the UVPUD ordinance. He stated that the right-of-way maintenance agreement allows for landscaping as well as irrigation within the right-of-ways and requires it be maintained by the homeowner's association. Staff recommends approval of the final plat as well as the right-of-way maintenance agreement.

Motion by Commissioner Maciel to approve final plat and right-of-way maintenance agreement for Sanctuary at Twin Waters located at 16846, 17000, 17166 Marsh Road. Seconded by Commissioner Sharman and carried unanimously 5-0.

- C. Recommendation to approve site plan for 43 1st Street (VMGC Office), subject to conditions

Community Development Director Pash stated that this is a site plan review for property located at 43 1st Street. The owners are requesting to build a new 3,200 square foot office building with associated site improvements. He noted that the proposed development is consistent with the City's comprehensive plan and the approved PCD zoning ordinance. This has been reviewed and approved by the Development Review Committee. Staff recommends approval, subject to conditions as stated in the DRC report.

Mayor Rees noted that this is a nice building that will be great for that area.

Motion by Commissioner Sharman to approve site plan for 43 1st Street (VMGC Office), subject to conditions. Seconded by Commissioner Bennett and carried unanimously 5-0.

D. Recommendation to approve site plan for 1200 E. Plant Street (West Orange Healthcare District), subject to conditions

Community Development Director Pash stated that this is a site plan review for property located at 1200 E. Plant Street. He noted that the applicant is requesting approval to build a 13,661 square foot office building. This building will house the West Orange Healthcare District and other offices. He noted that this development is consistent with the approved zoning ordinance as well as the Plant Street Overlay. These plans have been reviewed and approved by the Development Review Committee (DRC). Staff recommends approval, subject to conditions as attached in the DRC report.

Mayor Rees noted that he had concerns with and inquired about the building setback from the street. Mr. Pash responded that on Plant Street there is a 12-foot sidewalk and this building has been pushed up to the road on purpose as required through this development. There is a landscape easement along the front as well, and then the sidewalk is directly in front; it was noted as being 19 and one half.

Motion by Commissioner Maciel to approve site plan for 1200 E. Plant Street (West Orange Healthcare District), subject to conditions. Seconded by Commissioner Buchanan and Sharman, simultaneously, and carried unanimously 5-0.

City Manager Bollhoefer recognized the designer of the building for a great job and noted that this is the beginning of the redevelopment of East Plant Street.

E. Recommendation to approve Eighth Amendment to Agreement for Emergency Ambulance Transportation Services with American Medical Response (AMR)

City Manager Bollhoefer stated that this is the standard transport that the City has for ambulance service. He noted that the City is getting prepared to take over the service. This contract provides for a 90-day notification when the City is ready to take over this function. He also noted that the City is in the process of completing an RFP for the building of the fire station. Staff recommends approval.

Commissioner Sharman noted that this is a much needed fire station which is off of Marsh Road.

City Manager Bollhoefer confirmed with Fire Chief McGrew that this service will be provided before the station is ready.

Motion by Commissioner Sharman to approve Eighth Amendment to Agreement for Emergency Ambulance Transportation Services with American Medical Response (AMR). Seconded by Commissioner Buchanan and carried unanimously 5-0.

- F. **Resolution 19-03:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, REGARDING CITY COMMISSIONER OFFERING OF A CEREMONIAL, OPENING INVOCATION OR THE OBSERVANCE OF A MOMENT OF SILENCE AND RECITATION OF THE PLEDGE OF ALLEGIANCE AT COMMISSION MEETINGS PRIOR TO OFFICIAL POLICYMAKING OR LEGISLATIVE FUNCTIONS ON A ROTATING BASIS; ADOPTING A POLICY OF NON-COMPULSION AND NON-EXCLUSION OF THOSE IN ATTENDANCE; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE

City Manager Bollhoefer gave a brief history of the City's prayer [*invocation*] policy and noted that this issue started with the Town of Greece versus Galloway [*United States Supreme Court*] decision. He noted that the decision had been misinterpreted and informed that the decision actually defended the right for the legislative bodies to have prayer before meetings. He shared that staff and the City's Attorney reviewed the policy for modification. Mr. Bollhoefer gave a brief five-point description of the Greece versus Galloway decision; expressing that it upheld the right of legislative bodies to have prayer. He also shared that America has a long history of prayers before meetings, including all of the Constitutional meetings as well as Congressional meetings. Mr. Bollhoefer then recognized City Attorney Ardaman to describe some of the modifications made for the City's policy.

City Attorney Ardaman stated that this resolution presents an alternative to the City Commission; noting that the existing resolution is constitutional. This proposed resolution also being constitutional, provides a slightly different framework. He noted that there are some constraints imposed by the United States Supreme Court with respect to opening ceremonies. He first noted that prayer should be at the opening of the meeting and prior to the conduct of business. Secondly, he noted that the invocation should not denigrate nonbelievers or religious minorities. Thirdly, he noted it should not threaten damnation, should not preach conversion, and the invocation should reflect ideals relating to peace for the nation, wisdom for the lawmakers, and justice for the people. It must not direct the public to participate in the prayer, single out dissidents for opprobrium, or indicate that their decisions might be influenced by a person's acquiescence in the prayer opportunity. He reiterated a previously cited statement made by City Manager Bollhoefer that states just because one may be offended by the prayer does not in and of itself events coercion. Mr. Ardaman noted that the current and proposed resolutions for opening ceremony both meet these criteria.

City Manager Bollhoefer noted the alternatives offered to the City Commission with this resolution of doing a prayer, a moment of silence, or offering their turn for prayer over

to another City Commissioner. He stated that this is also fair to all the City Commissioners who may have different beliefs.

Mayor Rees noted that this is not a public hearing but offered the opportunity to the public for comment.

The following people addressed the City Commission by reading statements and/or expressing their viewpoints on this issue:

Jocelyn Williamson	Post Office Box Provided	Oviedo, Florida
	<i>(Ms. Williamson submitted petitions to the City Clerk)</i>	
Choice Edwards	2062 Dobson Circle	Clermont, Florida
Marilyn Sprechman	2251 Wolf Road	Orlando, Florida
Michael Farese	516 N. Main Street	Winter Garden, Florida
Chris Ogden	8000 Canyon Lake Circle	Orlando, Florida
Kathleen Richardson	220 N. Highland Avenue	Winter Garden, Florida
David Williamson	Post Office Box Provided	Oviedo, Florida
Tim Grosshans	741 Lake Cove Pointe Circle	Winter Garden, Florida
Lindsey Bridges	106 Shady Oak Lane	Oviedo, Florida
Tracy Dugger	159 Lakeview Reserve Blvd	Winter Garden, Florida
James L. Hall	375 Grove Court	Winter Garden, Florida
Rusty Belcher	315 W. Tilden Street	Winter Garden, Florida

Mayor Rees closed the hearing of public comment.

Mayor Rees noted that he will always view the invocation as being for the City Commission. It is a request for guidance, wisdom, and knowledge to make the decisions that are in the best interest of our community. He expressed that his thought is that all of the City Commissioners have this in their heart. He emphasized that we are not excluding anyone and reiterated that they are wanting to make the best decisions for the City.

Commissioner Buchanan noted that he was glad to hear Mayor Rees' comments. He stated that he has struggled with the definition of prayer and shared some of his past experiences and his journey as it relates to religion and prayer. He reminded that he initially voted for a moment of silence at the onset of this entire issue. He expressed that he still thinks that this is a personal matter.

Commissioner Sharman inquired as to why the policy was now being changed; noting that the current policy works. He shared that he has been struggling with the timing of this issue and noted long conversations he had with Mr. Richardson and Pastor Tim of First Baptist Church. He expressed that inclusivity of everyone is needed and making our current policy more inclusive even adds the City Commissioners. He feels that this

item should be postponed and indicated that he would vote in opposition if it goes forward in tonight's meeting. He emphasized that he thinks our current policy is fine. Commissioner Sharman addressed past statements he had made regarding allowing everyone an opportunity. He expressed that this has gotten out of character for Winter Garden and we need to be inclusive of everyone that is here. He stated that it may be true that 80 percent of the invocators will be Christian as this is our population and there will be others that give other denominational prayers; that's fair and inclusive. He stated that these are his thoughts on this; either postpone this item or vote it down.

Commissioner Bennett stated that this could be postponed if there is the thought that more discussion is needed, but she feels that the way this resolution is written is more inclusive because it offers the choice for a moment of silence. She expressed that we should uphold our tradition as in the Greece versus Galloway decision as decided by the Supreme Court.

Commissioner Maciel inquired of City Attorney Ardaman as to where the inclusiveness comes into play in this issue; whether it reflects the demographics in the City or whether a constitutional inclusiveness that should be considered. **City Attorney Ardaman** responded that the Supreme Court opinions addressed a lot of it from different factors as he had mentioned earlier. He stated that the Mayor rightly stated that the purpose of the prayer is for the City Commission; the elected officials for the rest of the City of Winter Garden. The primary purpose is for guidance for yourself, not for those in attendance and not for the public. He noted that depending upon what mechanism is chosen for an opening ceremony will dictate what you should and should not do. Mr. Ardaman stated that the policy to be considered tonight in the resolution meets those constitutional requirements. He expounded on some of the Supreme Court opinions and there was discussion on those cases.

Commissioner Maciel noted that he echoes the comments of some of the other Commissioners and would prefer to postpone this item for additional discussion.

Motion by Commissioner Sharman to postpone. Motion failed for lack of a second.

Motion by Commissioner Bennett to approve Resolution 19-03. Seconded by Commissioner Buchanan and carried 4-1; Commissioner Sharman opposed.

G. CHARTER REVIEW COMMITTEE DISCUSSION

Mayor Rees and the City Commissioners named their (2) appointments as follows:

Mayor Rees	District 5 – Ed McKinney	Phil Cross
Commissioner Sharman	District 4 – Steve Ambielli	Doug Bartow
Commissioner Maciel	District 3 – Mildred Lord	Ron Mueller
Commissioner Buchanan	District 2 – Christopher Lee	Larry Cappleman
Commissioner Bennett	District 1 – Derek Blakeslee	Andrea "Andy" Davis

Motion by Commissioner Buchanan to approve the Charter Review Committee appointments. Seconded by Commissioner Bennett and carried unanimously 5-0.

5. MATTERS FROM PUBLIC

David Williamson, P.O. Box 621123, Oviedo, Florida voiced concerns regarding the adopted invocation policy and suggested changes.

Randa Black, 241 W Sybelia Avenue, Maitland, Florida spoke in favor of a moment of silence and suggested changes regarding invocations.

Joan Cleary, 15842 Citrus Grove Loop, Winter Garden, Florida expressed her appreciation for the City Commission's leadership and thanked them for her being allowed to give a secular invocation. Ms. Clearly voiced her concerns regarding inclusivity for people of Winter Garden.

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

7. MATTERS FROM CITY MANAGER

Traffic Light – at CR 535 Stoneybrook and State Road 429

City Manager Bollhoefer noted an issue at the traffic light at County Road 535 in the Stoneybrook area near State Road 429. He informed that someone jammed the pedestrian button and it stuck; thus altering the traffic light. He shared information on the repairs as well as manual adjustments made to the lights. He stated that the study may still be brought back to the City Commission, but at this point the \$38,000 would need to be justified and as of right now it is not needed.

Commissioner Sharman shared his appreciation regarding this issue and noted that it is also on the behalf of the citizens who are also glad that this light is now working.

City Manager Bollhoefer also noted that directional signs would be added near the roundabout at Windermere Roberson.

8. MATTERS FROM MAYOR AND COMMISSIONERS – There were no items.

The meeting adjourned at 7:56 p.m.

ATTEST:

APPROVED:

 /S/
City Clerk Angee Grimmage, CMC

 /S/
Mayor John Rees