



# CITY OF WINTER GARDEN

## City Commission REGULAR MEETING MINUTES

May 11, 2023

**REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:32 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  
Commissioner District 1 - Lisa L. Bennett  
Commissioner District 2 - Ron Mueller  
Commissioner District 3 - Mark A. Maciel  
Commissioner District 4 - Colin Sharman

**Also Present:**

City Manager Jon C. Williams  
City Attorney A. Kurt Ardaman  
City Clerk Angee Grimmage

1. **APPROVAL OF MINUTES**

**Motion by Commissioner Maciel to approve regular meeting minutes of April 27, 2023 as submitted. Seconded by Commissioner Bennett and carried unanimously 3-0.**

2. **PRESENTATION:**

A. **Proclamation 23-03:** Proclaiming Public Service Recognition Month was read and presented by Mayor Rees and the City Commission

Mayor Rees voiced his appreciation for all the hardworking City employees.

*Commissioner Sharman arrived during the reading of Proclamation 23-03.*

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

A. **Ordinance 23-08:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS APPROXIMATELY 0.73 +/- ACRES OF LAND GENERALLY LOCATED AT 11 W SMITH STREET & 186 S MAIN STREET, ON THE NORTHWEST CORNER OF W SMITH STREET AND S MAIN STREET; FROM CITY C-1 (CENTRAL COMMERCIAL DISTRICT), CITY R-2 (RESIDENTIAL DISTRICT), TO PCD (PLANNED COMMERCIAL DEVELOPMENT) AS SET FORTH IN THIS ORDINANCE; PROVIDING FOR CERTAIN PCD REQUIREMENTS AND DESCRIBING THE DEVELOPMENT AS THE SMITH AND MAIN PCD; AND PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

City Attorney Ardaman read Ordinance 23-08 by title only. Planning Director Kelly Carson stated that this is a request to rezone a 0.73± acre property from C-1 (Central Commercial District and R-2 (Residential District) to PCD (Planned Commercial District). She described the proposed lot improvements such as a 38 parking space area, streetscape amenities, and green open space to preserve the existing large live oak tree. She informed that the design of the building has been reviewed and approved by the

Architectural and Historic Preservation Board. Staff recommends approval of Ordinance 23-08.

There was discussion on the building being designed to accommodate the tree, clarification on the number of parking spaces, and the setback being consistent with historic district guidelines. Also discussed, were some components shown in the renderings and a potential increase of traffic on Smith Street.

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

**Motion by Commissioner Bennett to approve Ordinance 23-08 with a second reading and public hearing May 25, 2023. Seconded by Commissioner Maciel and carried unanimously 4-0.**

*Commissioner Mueller arrived at this point during the meeting.*

#### 4. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

- A. **Ordinance 23-12:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, GRANTING TO DUKE ENERGY FLORIDA, LLC d/b/a DUKE ENERGY, AN ELECTRIC UTILITY RIGHTS OF WAY UTILIZATION FRANCHISE; PRESCRIBING THE TERMS AND CONDITIONS RELATED TO THE OCCUPANCY OF MUNICIPAL STREETS AND RIGHTS OF WAY IN THE CITY OF WINTER GARDEN, FLORIDA, FOR THE PURPOSE OF PROVIDING ELECTRIC SERVICE; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

City Attorney Ardaman read Ordinance 23-12 by title only. Senior Business Analyst Marc Hutchinson stated that within Ordinance 23-12 is a franchise agreement renewal between Duke Energy Florida, LLC and the City of Winter Garden. He noted that the term of this agreement is 10 years and replaces the 30-year Franchise Agreement, which expired on December 12, 2022. Ordinance 23-12 grants Duke Energy continued permission and authorization to use and occupy the rights of way. This is for the purposes of operating and distributing electric services to the City's residents and businesses. Mr. Hutchinson described the six percent franchise fee and the monthly payment. He informed that staff and the legal counsel for both parties reviewed this item and recommend approval.

Commissioner Mueller noted that he has the same concerns as he stated before, addressing concerns about redundant power systems, Duke Energy's service during the outages, and the butchering of trees. His opinion is that these items need to be reviewed before passing this Ordinance.

Mayor Rees inquired of the status with Duke Energy for allowing the City to trim its own trees. City Manager Williams responded that this is an item in the forefront of conversations with Duke Energy and is a little out of the norm for them. City Attorney

Ardaman noted that there is related language in the document, but the question is can the City wait to finalize those discussions; he questioned if incorporating this was needed now. City Manager Williams responded that a memorandum of understanding (MOU) with Duke Energy would be presented under the City Manager matters later in the meeting.

Commissioner Mueller noted that he would have liked to review the memorandum of understanding before approving this item.

Mayor Rees voiced his appreciation to Duke Energy for working with the City, but noted that these are voiced opinions and he realizes that Duke Energy has a job to do. He stressed that the two main issues are the trees and having service. Discussion ensued regarding underground service being the absolute preference.

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

**Motion by Commissioner Maciel to adopt Ordinance 23-12. Seconded by Commissioner Sharman and 4-1: Commissioner Mueller opposed.**

Mayor Rees thanked Senior Business Analyst Marc Hutchinson for all his efforts on this item.

## 5. **REGULAR BUSINESS**

### A. **Recommendation to approve First Amendment to the Amended and Restated Oakland Park Development Interlocal Agreement with the Town of Oakland**

Assistant City Manager of Public Services Stephen Pash stated that there have been delays in the last phase in Oakland Park on the Oakland side. Due to these delays, the developer and the Town of Oakland request an amendment to the agreement. The delay has slowed their progress and they were unable to complete the Catherine Ross Road (F.K.A. Mottamassek Road) improvements. The request is to amend the agreement, extending the completion date one year to December 31, 2024 and allowing a six-month extension to be signed by the City Manager, if good cause is shown. He noted some proposed changes such as the number of days for completion and the change to the name of the road from Mottamassek to Catherine Ross Road. Staff recommends approval.

There was discussion on the extension timeframe, drainage issues causing the delay and other agencies involved in the discussions.

**Motion by Commissioner Mueller to approve first amendment to the amended and restated Oakland Park Development Interlocal Agreement with the Town of Oakland. Seconded by Commissioner Bennett and carried unanimously 5-0.**

B. Recommendation to approve piggyback of the City of Clermont Continuing Services Agreement for Building Inspection Services and Plan Review

Assistant City Manager of Public Services Stephen Pash stated that due to all of the construction activities the City is currently facing, and the loss of some of the inspectors to retirement, staff requests permission to piggyback an agreement that the City of Clermont has with Willdan Engineering, Inc. for building inspection services. He noted that all fees are paid by the building department and this agreement is similar to those used in the past. Staff recommends approval.

**Motion by Commissioner Maciel to approve piggyback of the City of Clermont Continuing Services Agreement for building inspection services and plan review. Seconded by Commissioner Bennett and carried unanimously 5-0.**

C. Recommendation to approve change order to Southern Development & Construction, Inc. (SDC) for Marsh Road Improvement Project in the amount of \$798,200.28

City Engineer Jim Monahan stated that this request is for a change order to install the traffic calming measures along Marsh Road, which includes curbing between the roundabouts in both directions. Additionally, there are two (2) proposed pedestrian crossings, traffic separators and curbing proposed for the long stretch of Marsh Road between the intersections of Alamere Avenue and Sanctuary Drive. He noted that Southern Development & Construction, Inc. (SDC) is the contractor currently working on Marsh Road and he expressed confidence in them providing the same level of service for this project. Staff recommends approval of the change order to SDC in the amount of \$798,200.28 for traffic calming measures on Marsh Road.

Mayor Rees inquired as to whether, time wise, this would extend the work. Mr. Monahan responded that the time frame had not yet been discussed in this effort.

**Motion by Commissioner Sharman to approve change order to Southern Development & Construction, Inc. (SDC) for Marsh Road Improvement Project in the amount of \$798,200.28. Seconded by Commissioner Mueller and carried unanimously 5-0.**

D. Recommendation to waive formal procurement process and award installation and bypass pumping for two (2) Control Panels for Pump Stations 23 and 47 to RCM Utilities, LLC. In the amount of \$78,995.75

City Engineer Jim Monahan stated the control panels for both Pump Stations 23 and 47 have been fabricated and need installation. The pump stations will need setup with bypass pumps and the installation cost and bypass cost are separate quotes for both pump stations totaling four. Staff recommends waiving the formal procurement process and awarding the installation and bypass pumping for two (2) new control panels at Pump Stations 23 and 47 in the amount of \$78,995.75.

There was discussion on this item being budgeted, noting that the items were fabricated last year.

**Motion by Commissioner Sharman to approve waiving formal procurement process and awarding installation and bypass pumping for two (2) Control Panels for Pump Stations 23 and 47 to RCM Utilities, LLC. In the amount of \$78,995.75. Seconded by Commissioner Bennett and carried unanimously 5-0.**

- E. Recommendation to award purchase order to TD Thomson Construction Inc. for yard drain and piping for Westside Townhomes in the amount of \$65,012.65

City Engineer Jim Monahan stated that this request is to approve a purchase order for yard drain and piping for the Westside Townhomes community along Dolphin Drive. The properties along Dolphin Drive experience flooding during heavy rainfall events. The work would install inlets and piping and regrade the rear yards to collect the runoff and bring it to the collection system in the roadway. Staff recommends that the City award a purchase order to TD Thomson Construction Inc. in the amount of \$65,012.65

There was discussion on whether this would satisfy the problems that have plagued this community. It was noted that this is thought to be the best solution to collect all of the runoff and get it to the street. It was noted that future issues could arise after work starts, but today's rain is a good test for systems already in place.

**Motion by Commissioner Mueller to approve purchase order to TD Thomson Construction Inc. for yard drain and piping for Westside Townhomes in the amount of \$65,012.65. Seconded by Commissioner Bennett and carried unanimously 5-0.**

- F. Recommendation to approve Communications Tower Construction Contract with Tower Systems, Inc. for the Police Department Dispatch Center in the amount of \$69,364.75

Fleet and Facilities Division Manager Mike Caines stated that this is a request for approval of a construction contract with Tower Systems Inc. (TSI). This vendor would provide and construct a new communication tower for the Police Department Dispatch Center at a cost of \$69,364.75. He noted that this tower would replace an existing communications tower at the current Police Department building, which is nearly failing, which leaves no option for the City. He noted that TSI is the current Orange County vendor and the City would utilize their contract price for this project. Staff recommends approval of the construction contract with Tower Systems Inc. in the amount of \$69,364.75 plus a 10% contingency for total of \$76,301.22.

**Motion by Commissioner Sharman to approve Communications Tower Construction Contract with Tower Systems, Inc. for the Police Department Dispatch Center in the amount of \$76,301.22, which includes a ten percent contingency. Seconded by Commissioner Bennett and carried unanimously 5-0.**

G. Recommendation to approve special event for the American Legion - Memorial Day Special Event at Veteran's Park – Monday, May 29, 2023 - 8:30 a.m. to 9:30 a.m.

Planning Director Kelly Carson stated that this request is by the American Legion to hold their Memorial Day special event at Veteran's Park honoring those that gave their lives during wartime. She noted that the event would be on Monday, May 29, 2023 - 8:30 a.m. to 9:30 a.m. Staff recommends approval.

**Motion by Commissioner Sharman to approve special event for the American Legion Memorial Day Special Event at Veteran's Park on Monday, May 29, 2023 - 8:30 a.m. to 9:30 a.m. Seconded by Commissioner Maciel and carried unanimously 5-0.**

H. Recommendation to approve special event for the Winter Garden Choir Wine Walk on May 18, 2023 with event time 5:00 p.m. to 9:00 p.m.

Planning Director Kelly Carson stated that this request is by the Winter Garden Choir to hold their annual Wine Walk, through downtown, on Thursday, May 18, 2023. She noted that the patrons would be allowed to visit downtown merchants to taste the food and wine offerings. The Pavilion would be used for registration and for picking up the wine glasses. Restricted areas for consumption would be inside the shops and she described the event times as well as set up and break down times. She reminded that this event was originally approved by the City Commission to occur on November 10, 2022, but was cancelled due to Hurricane Nicole. Staff recommends approval.

**Motion by Commissioner Bennett to approve special event for the Winter Garden Choir Wine Walk on May 18, 2023 with event time 5:00 p.m. to 9:00 p.m. Seconded by Commissioner Sharman and carried unanimously 5-0.**

6. **MATTERS FROM PUBLIC** - There were no items.

7. **MATTERS FROM CITY ATTORNEY**

A. Ethics Workshop

City Attorney Ardaman noted that this item would be postponed to a later date.

8. **MATTERS FROM CITY MANAGER**

Slow Down Campaign

City Manager Jon C. Williams displayed a campaign created by staff to help educate drivers to slow down as they come through the City of Winter Garden. He indicated that this would be displayed on a Lamar billboard along State Road 50 and shared that free ad space was donated to the City. He informed that the first advertisement would appear in the City's Newsletter "News You Can Use" and commended staff for their creativity in this effort.

Duke Energy (MOU)

City Manager Jon C. Williams referred to the renewal of the franchise agreement addressed earlier in the meeting, noting previously discussed items as improved customer service from

Duke Energy after the hurricanes and responsiveness. He provided a brief PowerPoint presentation on the MOU and covered topics such as the safeguard of tree aesthetics, service reliability, defining roles and responsibilities in tree trimming management, undergrounding of distribution lines and other areas of mutual fiduciary interest. Also noted was the partnering on easement acquisition, residential meter conversion for overhead to underground conversions and other mutually beneficial interests.

**Motion by Commissioner Maciel to approve the Duke Energy Memorandum of Understanding (MOU). Seconded by Commissioner Sharman and carried unanimously 5-0.**

City Manager Jon C. Williams recognized Senior Business Analyst Marc Hutchinson for all the hard work he put into the Franchise Agreement with Duke Energy.

#### 9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Mueller first thanked Police Chief Steve Graham and staff for assistance in getting to this meeting during the storm. He then addressed a past CenturyLink 65 for Life plan, which offered assistance to seniors by locking in their rate. He shared that he had received calls related to increased bills and CenturyLink not honoring their agreement. He stated that he was not sure where to take this concern, but expressed that the City works hard for its businesses and expressed that it is equally important that they be good corporate citizens as well.

Commissioner Mueller also inquired of the status of work done at Lake View Reserve. City Manager Jon C. Williams informed that the residents seem to be very happy, indicating that he and staff met with residents and there were only a few punch list items left.

Commissioner Maciel wished all mothers attending the meeting a Happy Mother's Day.

Commissioner Sharman expressed that we have great staff, things got rained out today, but Winter Garden is still a great place to be. Mayor Rees jokingly stated that the parking garage was apparently the place to be.

The meeting adjourned at 7:09 p.m.

ATTEST:

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/S/  
City Clerk Angee Grimmage, CMC

APPROVED:

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/S/  
Mayor John Rees