



# CITY OF WINTER GARDEN

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## City Commission and Community Redevelopment Agency REGULAR MEETING MINUTES

July 22, 2021

**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 L. Bennett – District 1

Ron Mueller – District 2

Mark A. Maciel – District 3

Colin Sharman – District 4

**Also Present:** City Manager Mike Bollhoefer, City Attorney 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 Jose P. Gainza, Jr., Information Technology Director Chad Morrill, Parks and Recreation Director Laura Coar, Police Captain Anthony Dawkins and Urban Designer Kelly Carson

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

**Motion by Commissioner Mueller to approve regular meeting minutes of July 8, 2021 as submitted. Seconded by Commissioner Bennett and carried unanimously 5-0.**

### 2. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

A. **Ordinance 21-15:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PERTAINING TO CERTAIN CITY BOARDS; AMENDING SECTION 2-61 GOVERNING THE CODE ENFORCEMENT BOARD WITH RESPECT TO ITS CREATION, COMPOSITION, TERMS, REMOVAL, AND ORGANIZATION; SECTIONS 98-26 AND 98-29 OF THE CITY CODE OF ORDINANCES GOVERNING PLANNING AND ZONING BOARD CREATION, COMPOSITION, APPOINTMENT, TERMS, REMOVAL, COMPENSATION OF MEMBERS, FILLING OF VACANCIES, QUORUM; AMENDING SECTION 98-189 OF THE CITY CODE OF ORDINANCES GOVERNING THE ARCHITECTURAL REVIEW AND HISTORIC PRESERVATION BOARD WITH RESPECT TO APPOINTMENT, REMOVAL, AND TERMS OF MEMBERS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 21-15 by title only. Community Development Director Pash stated that this Ordinance addresses terms for the Code Enforcement Board, Planning and Zoning Board, and the Architectural Review Historic Preservation Board. He spoke of current limitations on the board terms and stated that this ordinance eliminated the term limits and the board members would serve at the will of

the City Commission. He noted that with reference to the Planning and Zoning Board, the members that are present can be counted for the purpose of establishing the presence of a quorum regardless of whether they recuse themselves from any voting. Staff recommends approval.

Commissioner Bennett sought confirmation that the City Commission could still remove members on the boards with or without cause. Community Development Director Pash responded yes.

Commissioner Mueller noted having sent questions relating to this ordinance that he wanted to discuss with the City Manager, but had not had an opportunity and wished to delay this item. There was discussion on delaying this item and how the delay would affect the boards.

Commissioner Sharman addressed his thoughts on the Planning and Zoning Board; explaining how and why the term limits were established. He shared history of many wanting to serve this board while the City struggled to fill other boards. He opposes term-limiting for life and feels good citizens should be able to come back and serve again.

Mayor Rees noted that he feels term limits were made easier for the City Commission and has no problem with not having term limits. He feels that they need to be the same with all boards and focus on a different way of advertising. He suggested advertising just before the appointments so that it is fresh in everyone's mind. He also noted that the members could be removed with or without cause. He noted delaying the issue would not be a problem for him.

Commissioner Bennett expressed that she feels that experience is most important relating to the boards, not necessarily everyone getting a chance to serve. She noted that there is the evidence of someone doing a good job and our City is doing great, and she would rather keep the experience, especially on the Planning and Zoning Board.

Commissioner Sharman addressed the issue of member representation from each district and it was noted that this issue was already addressed in the Code.

Commissioner Bennett noted that people appointed to committees also makes for a pool of people from which to draw from regarding interest for the boards.

Commissioner Maciel introduced the use of a verbal agreement with the individuals as an option to term limits. Discussion ensued on this option.

Commissioner Mueller noted some of the ordinance changes, mentioned City Commission terms of office moving to four-years. He spoke of the board appointments, their terms and differences for Code Enforcement as covered in Florida State Statutes.

Mayor Rees expressed that one should remember the purpose is the appointment of the best people to do the best job for the City of Winter Garden. He noted that the decisions they make are seen for the next 20, 30, or 40 years. The number one priority is getting good and qualified people.

City Manager Bollhoefer noted his agreement to the Mayor's comments on this issue and restated the importance of the Planning and Zoning Board as their decisions may affect the future for many years. He noted strategies for better advertisement would be considered and getting the word out for bringing a more diverse pool of candidates would make decision making for appointments easier for the City Commission.

Commissioner Sharman noted that someone who is more engaged and attends the City Commission meeting would be more apt to be one he would appoint to a board as opposed to someone who merely fills out an application.

Motion by Commissioner Mueller to POSTPONE Ordinance 21-15 to August 12, 2021.  
**Motion failed due to lack of a second.**

**Motion by Commissioner Bennett to approve Ordinance 21-15 with a second reading and public hearing August 12, 2021 at 6:30 p.m. Seconded by Commissioner Maciel.**

Mayor Rees opened the public hearing.

Norine Dworkin, Editor of Vox Populi, thanked City Manager Bollhoefer for bringing up the question of diversity and read statistics regarding the currently seated board members. She reminded some of the City Commissioners of their interviews during their campaigns where seeking out more diversity for the boards was discussed.

Phil Baker, 125 W. Smith Street, Winter Garden Florida sought clarification on the changes regarding the Architectural Review and Historic Preservation Board as noted in the Ordinance. He questioned whose determination is it that those members are qualified. He spoke of term limits for elected officials versus those for the boards and possibilities of board members becoming permanently placed on boards. He further noted the effects of limited opportunities for new board members effecting the potentiality of diversity for the boards.

Mayor Rees, after hearing and seeing no additional comments, closed the public hearing.

**Motion carried unanimously 5-0.**

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

- A. **Ordinance 21-18:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE CITY OF WINTER GARDEN FISCAL YEAR 2020-2021 BUDGET; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 21-18 by title only. City Manager Bollhoefer noted that this is the second reading and offered his availability for any questions. He reminded that this is to amend for any changes made throughout the year.

Commissioner Sharman noted that staff has done a good job.

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

**Motion by Commissioner Mueller to ADOPT Ordinance 21-18. Seconded by Commissioner Maciel and carried unanimously 5-0.**

**4. REGULAR BUSINESS**

- A. Recommendation to approve Participation Agreement for construction services with Johnson-Laux Construction, LLC

Assistant City Manager of Public Services Williams noted the City Manager's earlier mention of challenges in completing some projects on time; especially in areas of contractor availability and materials. To help mitigate this issue, staff requests adding an option utilizing cooperative purchasing agreements for various construction services, equipment purchases and supplies that have been competitively solicited. Delivery of construction services in this instance would be done by job order contracting (JOC), which include a catalog of contractors. Benefits of using this approach for construction services include expedited procurement and cost savings resulting from larger contract awards than the City would be able to achieve on its own. This agreement, if approved is non-exclusive, does not guarantee a certain amount work, and will require separate approval of any projects. Staff recommends approval of the Participation Agreement for construction services with Johnson-Laux Construction, LLC.

There was discussion on the use of this contract, its help with the smaller jobs, and the expense of the bid process. Also noted was the expense of a larger project versus that of the smaller project, approvals for costs under \$50,000 and this cost saving option.

**Motion by Commissioner Sharman to approve the Participation Agreement for construction services with Johnson-Laux Construction, LLC. Seconded by Commissioner Mueller and carried unanimously 5-0.**

B. Recommendation to approve SITE PLAN for 32 East Story Road (Cedar Bay Veterinary Hospital), subject to conditions

Community Development Director Pash stated that this is the site plan review for property located at 32 East Story Road. He noted that the applicant is proposing to develop the site with an approximately 3000 square foot veterinary office, parking area, stormwater facility and landscaping. The Planning and Zoning Board approved of an eight foot setback variance to the front yard. The plans have been reviewed and approved by the Development Review Committee. Staff recommends approval, subject to conditions.

City Manager Bollhoefer noted that the issue of economic incentives was raised in relation to this item. He explained that there are no incentives for these types of projects and it has never been done. Mr. Bollhoefer explained two instances where economic incentives are offered. He noted that impact fees are waived in the downtown area because of the City's high architectural demand. Other times an economic incentive is offered is in cases of low-income housing in an effort to keep costs down. He explained about the Community Redevelopment Agency (CRA) plan and it having different requirements and criteria.

Commissioner Mueller indicated appreciating the comments, but expressed that he feels that this is clearly a business owner, who is also a resident, with continued interest in investing in our community. He noted that it is a sizeable investment for a single proprietor. He spoke of being in favor of approval and of also waiving the impact fees.

City Manager Bollhoefer noted that the City Attorney has reviewed this issue and a waiver without a set plan and a set policy jeopardizes all impact fees for every other business.

City Attorney Ardaman expounded on this issue noting that it has come up in the past. He noted that with respect to impact fees there are criteria in the City Code as to when a waiver could be done; also noting the Florida State Statutes provision for brownfield issues. He noted that doing this outside of these criteria is problematic; the City would need to be able to document why the waiver would be appropriate.

City Manager Bollhoefer noted that a policy with set criteria would need to be in place in order to waiver. The problematic areas it could produce should also be analyzed. He noted that in this instance there is no benefit to shifting those costs to the citizens.

Commissioner Mueller voiced strong disagreement and expressed that he feels everything is being lumped together. He does not agree that if we do it for one that we have to do it for everybody and voiced again his strong disagreement. He stated that working with equity we do what is right and support the growth of our businesses on a case by case basis. He thinks that this is one that merits that consideration.

Motion by Commissioner Mueller to approve SITE PLAN for 32 East Story Road (Cedar Bay Veterinary Hospital), subject to conditions and waiver of impact fees. **Motion failed due to lack of a second.**

**Motion by Commissioner Mueller to approve SITE PLAN for 32 East Story Road (Cedar Bay Veterinary Hospital), subject to conditions. Seconded by Commissioner Sharman.**

Commissioner Sharman pointed out that the time to have the discussion would be earlier in the process.

**Motion carried unanimously 5-0.**

- C. Recommendation to approve SPECIAL EVENT – Annual Oktoberfest by the Crooked Can Brewery (Plant Street Market) - October 15, 16 and 17, 2021 – with street closure and subject to condition

Community Development Director noted that this is the special event application from Crooked Can to hold their annual Oktoberfest. The event is proposed for October 15 through 18. He described the times and related activities, correcting a start time to 11:00 a.m. as noted on one of the agenda documents. It is consistent with past events and staff recommends approval, subject to conditions.

**Motion by Commissioner Mueller to approve SPECIAL EVENT – Annual Oktoberfest by the Crooked Can Brewery (Plant Street Market) - October 15, 16 and 17, 2021 – with street closure and subject to condition. Seconded by Commissioner Sharman and carried unanimously 5-0.**

*Dispense as the City Commission and convene as the Community Redevelopment Agency (CRA) at 7:03 p.m.*

**Present:** CRA Chairman John Rees and CRA Members Lisa Bennett, Ron Mueller, Mark A. Maciel, Colin Sharman, and CRAAB Member Larry Cappleman

**Absent:** Orange County Representative Jeff Sedloff

- D. Recommendation by Community Redevelopment Agency Advisory Board to approve Façade Matching Grant up to \$6,150 for 100 W. Plant Street (Winter Garden Investments LLC/Wildflower Beauty), with conditions and authorize the City Manager execute the agreement

CRA Member Cappleman noted that there are two items for the CRA to consider, the first being presented by Economic Development Director Gerhartz whom he recognized to present this item.

Economic Development Director Gerhartz stated that this item is a façade matching grant for the business located at 100 West Plant Street called the Wildflower Beauty by Jessica, who is the business owner. The application has been reviewed and approved by staff and the Community Redevelopment Agency Advisory Board (CRAAB). The Board recommended a matching grant of \$6,150 for improvements, which she described. She noted conditions placed on this grant and explained the requirement to properly maintain storefronts and that they should match the other two storefronts along Boyd Street. She noted that this item requires the CRA to approve and authorize the City Manager execute a contract. She announced that this business is celebrating its 6<sup>th</sup> Anniversary and relayed the owners invitation for all to come and participate.

CRA Member Cappleman noted that this is the third façade matching grant for this building and applauded staff for working out contingencies whereby these would be maintained correctly or the funding would be withdrawn. He noted that the CRA Advisory Board voted unanimously to approve.

**Motion by CRA Member Cappleman to approve Façade Matching Grant up to \$6,150 for 100 W. Plant Street (Winter Garden Investments LLC/Wildflower Beauty), with conditions and authorize the City Manager execute the agreement. Seconded by CRA Member Sharman and carried unanimously 6-0.**

- E. Recommendation to approve Historic Residential Property Improvement Grant up to \$31,887.11 for 104 N. Lakeview Avenue (Lee Grimes), with conditions and authorize the City Manager execute the agreement

CRA Member Cappleman noted that the second request is for residential property and recognized Urban Designer Kelly Carson to present the item.

Urban Designer Carson stated that the house located at 104 N. Lakeview Avenue is a contributing structure in the downtown historic district. She described some of its architectural design elements, one of which includes a sloped metal shingle roof. She noted that because of this architecture, the City's architectural consultant recommends placing this house on the National Register of Historic Places. She indicated that the structure's roof is in poor condition and the owner applied to replace it with an asphalt shingle roof. The City's opinion is that this change would completely change the character of this important historic structure. In light of this issue, the Community Redevelopment Agency Advisory Board (CRAAB) recommends approval of \$31,887.11 for a Historic Residential Property Improvement Grant to pay for the cost difference of installation of a metal shingle roof versus that of an asphalt roof. Staff recommends approval, subject to conditions. The noted conditions were that the owner would work with the City to place this property on the National Register of Historic Places. Also, they cannot sell the property within a seven-year timeframe or funds would have to be repaid to the City. Ms. Carson noted conditions for the requirements not having been met after the seven-year timeframe would include refund stipulations.

CRA Member Cappleman noted how this request created some lively discussion among the CRAAB members as it was not a normal request for a grant and residential in nature. He noted some of the previously stated considerations and noted its uniqueness in nature. The CRA Advisory Board recommends approval, subject to conditions. He noted that the CRA Advisory Board did vote unanimously to approve the \$31,887.11.

Urban Designer Carson noted only one other home in the City that has gone through this process. She indicated that this would be a learning curb for staff working to get this home on the National Register.

**Motion by CRA Member Cappleman to approve Historic Residential Property Improvement Grant up to \$31,887.11 for 104 N. Lakeview Avenue (Lee Grimes), with conditions and authorize the City Manager execute the agreement. Seconded by CRA Member Sharman.**

Commissioner Mueller questioned the method of funding, suggesting payment directly to the contractor. There was discussion that this is done by reimbursement of the invoices.

**Motion carried unanimously 6-0.**

*Adjourn as the Community Redevelopment Agency and reconvene as the City Commission at 7:11 p.m.*

#### 5. **MATTERS FROM PUBLIC**

Phil Baker, 125 W. Smith Street, Winter Garden, Florida, questioned whether there would be live music at the Crooked Can special event and inquired if the decibel level for the band could be set as last time. City Manager Bollhoefer responded yes.

#### 6. **MATTERS FROM CITY ATTORNEY**

##### Stoneybrook West Golf Course

City Attorney Ardaman addressed the City working with the community of Stoneybrook West regarding the golf course. He noted that there was the purchase closing and the City purchased the property out of bankruptcy for \$2 million dollars. The City now has title and the homeowners Association (HOA) is now prepared to purchase the golf course property from the City for the \$2 million, which the City expended. He noted that the HOA is in strong favor of this agreement. He explained reimbursement of the funds back to the City would be accomplished through imposition of special assessment on all of the residents in the Stoneybrook West community. An agreement has been crafted and the HOA has a potential agreement to lease the property to a golf course entity that would refurbish and infuse funding into the golf course and its improvements to bring it back to viable use and condition. He noted that they have a deadline of August 1 and in order to assist the HOA in

meeting their deadline of entering into their agreement with the golf course management firm, an agreement with the City must first be completed. He noted that the agreement is for the City to sell the golf course property to the HOA.

Mr. Ardaman read and highlighted certain sections of the agreement; explaining some portions he felt were important. He stressed the requirement of providing public purpose to legally reserve the easement rights. He addressed issues of title insurance, taxes, closing and noted provisions that were meant to survive closing on the property. He expressed that anything in the agreement that could be considered unlawful makes the entire agreement null and void.

There was discussion on the contract, challenges, circumstances which would void the contract, potentiality of contamination at the property, and exemption of future taxes via ad valorem.

City Manager Bollhoefer noted that there would need be clarification of two options, one being to schedule another meeting before the August 1 deadline, or give the City Manager and City Attorney authorization to do any fine tuning of this items as needed.

Mayor Rees noted that this agreement is in line with all prior discussions he has heard on this issue. City Attorney Ardaman agreed and advised that the HOA president and public be heard before making a determination. Mayor Rees recognized the HOA President to come and address this issue before the City Commission.

Dennis Armstrong, HOA President for Stoneybrook West, recognized that some board members and residents were in attendance. He shared some history of the golf course issue and work of by City Attorney Ardaman to get this accomplished and noted that the residents are in favor. He addressed HOA approval of the lease agreement with KemperSports and shared benefits of working with them and what it would mean for the City. He shared statistics of the resident votes, stating out of 1225 residents, voter turnout was 792, which was 65 percent. Out of those that voted, 94 percent were in favor. He requested the City Commission give him and City staff authorization to fine tune the agreement, noting that their HOA attorney did not have an opportunity to review it.

**Motion by Commissioner Sharman to approve the Agreement for Sale and Purchase (*the contract*) as written with the authority of the City Manager and City Attorney to make any needed changes to meet the intent as expressed by the City Commission and to actually close the transaction and give the City Manager the authority to execute all documents necessary to close the transaction in accordance with the contract. Seconded by Commissioner Mueller and carried unanimously 5-0.**

## 7. **MATTERS FROM CITY MANAGER**

- Update on Pavement work for Golf Carts

City Manager Bollhoefer informed of pavement work beginning for golf carts on Plant Street in front of Winter Oaks on July 28, 2021.

- Stormwater Issues

City Manager Bollhoefer informed of stormwater issues in three City locations: Westside Townhomes, Hyde Park and Valencia Shores.

Mr. Bollhoefer addressed the potential use of a company that utilizes Lidar, which uses lasers to review all of the topography in these areas. He shared about past failed efforts used by the City to address the issues. He informed that this would be done at a cost of \$15,000 for those three areas and also provide insight on potential future use. He shared some of the past history and issues with Westside Townhomes.

**Motion by Commissioner Mueller to approve \$15,000 for the aircraft Lidar ground sensing and measuring expenditures. Seconded by Commissioner Sharman and carried unanimously 5-0.**

A. Presentation on proposed downtown ordinances

City Manager Bollhoefer gave a status update of the downtown, noting no slowdown in the summertime and no more weak days for businesses as in the past. He spoke of an increase in vandalism crimes, and prosecution in process for some vandals that were caught. He expressed keeping the marketing of Winter Garden's downtown as a family friendly atmosphere. He described the City of Orlando and current issues they are experiencing, noting that as the reason the City of Winter Garden would like to address issues and reign in controls before they get out of hand. He noted that this is the purpose of the draft ordinance and highlighted key points such as final close times, last call times for alcohol consumption, and some controls through the permitting process.

Mayor Rees requested the City Commission review this item and see the City Manager with any questions.

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

**Commissioner Maciel** gave an update on happenings in East Winter Garden. He noted that there is a meeting scheduled next week regarding annexations, then following would be a big push for the CRA. He addressed a delay with a building for downtown due to an issue of not being able to get windows; due to the supply chain interference due to COVID. He informed that the Habitat for Humanity homes are in process. He stated that his last item is recognition of the community event which is coming together quite nicely; of which Commissioner Maciel and City Manager Bollhoefer both commended the event coordinator Wendell R. Coates, Jr. and also acknowledged Police Captain Dawkins for his efforts. It was noted as being instrumental in bridging the gap.

