

REGULAR MEETING MINUTES

CITY COMMISSION

October 11, 2001

A REGULAR MEETING of the Winter Garden City Commission was called to order by Mayor Jack Quesinberry at 6:30 p.m. at Tanner Hall and the Invocation and Pledge of Allegiance were given.

PRESENT: Mayor Jack Quesinberry, Commissioners; John Harriman, Theo Graham, Mildred Dixon and John Rees; City Attorney Dykes Everett, City Clerk Kathy Montoya, Utilities Director Charlie Tinch, Planning Director Mark Cechman, Finance Director Mike Bollhoefer, Public Works Director Dan Ryan, Police Chief Jimmie Yawn, Recreation Director Larry Caskey, Human Resource Director Victoria Ward, Assistant Fire Chief John Williamson, Trailer City Manager Hughlan Martin and City Engineer Art Miller

At this time, Human Resource Director Victoria Ward introduced the new Public Works Director, Dan Ryan, who is from Ohio and brings with him extensive experience in engineering and business management. The Mayor and Commissioners welcomed Mr. Ryan.

APPROVAL OF MINUTES:

1. Budget Hearing Minutes of September 13, 2001; Regular Meeting Minutes of September 13, 2001; Regular Meeting Minutes of September 27, 2001; and Final Budget Hearing Minutes of September 25, 2001 recessed to October 1, 2001

Motion by Commissioner Rees **to approve** the minutes as submitted. Seconded by Commissioner Harriman and **carried 5-0.**

REGULAR BUSINESS

At this time, the order of business was changed and agenda item 3 was moved to 1.

1. **Recommendation for approval of the Final Plat for Stone Creek Unit 2, Parcel 21**

City Planner Cechman stated that staff and the Planning and Zoning Board are recommending approval. Commissioner Graham stated he would like to see a minimum of 50-foot frontages within Planned Unit Developments (PUD). There is no lot over 4500 square feet on this plat, and lot 185 works out to only have a 40-foot frontage.

Commissioner Rees stated he agrees with a 50-foot minimum frontage. Mr. Bruce Lawson of U.S. Homes stated there are two more plats to come to the Commission for final approval that have some frontages less than 50 feet. Mr. Cechman stated that staff hears and echoes the concerns of the Commission and doubts that another 40-foot lot will come before the Commission on future proposed development. **Motion by Commissioner Harriman to approve the final plat for Stone Creek Unit 2, Parcel 21. Seconded by Commissioner Dixon and carried 4-1. Commissioner Graham was opposed.**

2. **Request for an open-air furniture sale by Classic Furniture at 624 S. Dillard Street from October 18 – 21, 2001**

Mr. Randy Shuster, General Manager, stated that this request is for his second annual clearance sale and he is requesting a waiver of the open-air occupational license fee because he has an occupational license and the sale will be in the parking lot directly in front of his business. **Motion by Commissioner Rees to approve the requested open-air furniture sale as requested, with a waiver of open-air vendor fee. Seconded by Commissioner Dixon and carried 5-0.**

3. **Resident request for approval of trees planted within the City's right-of-way at 2134 Wintermere Point Drive**

Ms. Debbie Schieffelin stated that the agenda package contains her request for approval of trees she and her husband planted on the City's right-of-way before they knew they needed permission. The trees were planted for beautification purposes. Mayor Quesinberry stated that the City has concerns about what the trees will do to the sidewalks. Commissioner Graham stated that there is also a concern about what the trees will do to the utility line. Commissioner Rees stated that trees still create a problem when planted in the yard side of the sidewalk. He favors trees and understands the problems that exist throughout the City. Utility Director Tinch stated staff is in favor of beautifying the City, however, they do not recommend approval in the right-of-way because of the future damage and expense they cause. This particular location has a 12-inch transmission main, not a 2 inch main, located 36 inches down, that serves subdivisions farther to the south. He stated that in some cases, the roots had to be cut. There are also problems when the tree grows and creates a canopy because they interfere with street sweepers and the claw the garbage truck uses. Ms. Schieffelin stated that she was confused because Stoneybrook has Oak trees in the City's right-of-way. Mr. Tinch stated that Stoneybrook's trees were planted as allowed by the PUD. Commissioner Graham stated that Stoneybrook is a privately owned community and asked if they would be responsible for any damage done by the trees they planted. City Attorney Everett stated that Stoneybrook is a Community Development District (CDD) and has the primary responsibility, with the City having secondary responsibility. Only a portion of Stoneybrook is private and gated. They may also seek to turn over the streets to the City in the future. The funding by the CDD was to put in the trees and infrastructure, not for the City to maintain them. City Planner Cechman stated that staff is looking at which trees may be acceptable within the right-of-ways. Commissioner Dixon asked staff to educate the Commission on PUD's regarding what they can and can't do. Mr. Everett stated that staff is currently working on this issue with M/I Homes on their PUD project. Mayor Quesinberry stated it there should be a stipulation that the property owner keeps the trees trimmed and accessible by City vehicles. Mr. Tinch stated that trees within City's right-of-way must be maintained by the City, except in PUD's. Commissioner Graham noted that whenever tree roots are trimmed, they die as they have on Boyd Street. **Motion by Commissioner Harriman to approve the trees in the right-of-way located at 2134 Wintermere Point Drive, with no City responsibility for the trees. Seconded by Commissioner Dixon and carried 5-0.**

4. **Recommendation of a design consultant for Daniels Road bridge and roadway**

Public Works Director Ryan stated that Professional Engineering Consultants, Inc. (PEC) was approved to design the bridge and roadway, which has been completed. PEC has now presented a project proposal in the amount of \$454,236 for which staff is requesting approval. Commissioner Graham asked if the City has obtained the ROW from Beard south to Roper? Mr. Ryan stated the City does not have the ROW yet. **Motion by Commissioner Harriman to authorize entering into an agreement with PEC (see attached). Seconded by Commissioner Graham and carried 5-0.**

5. **Recommendation for awarding a contract for city-wide landscaping services**

Finance Director Bollhoefer stated that the lowest bidder, White's Lawn Service, was rejected because they did not complete all the required paperwork. The second lowest bidder, Omega Landscaping was rejected because they had poor references. That left the third lowest bidder, The Bon Terre Group, who staff is recommending, be awarded the contract for \$124,648 annually. Commissioner Graham noted that the agreement states that \$124,648 is an "estimated" amount. Mr. Bollhoefer stated that after the agreement is signed, the estimated amount becomes the agreed amount. Motion by Commissioner Rees to approve the contract for landscaping services with The Bon Terre Group. Seconded by Commissioner Harriman and carried 5-0.

6. **Request for a sponsorship contribution to the Orange County Community Action Board (CAB) Annual Scholarship and Volunteer Awards event**

Commissioner Dixon stated this event is to honor volunteers. She would like to have some firefighters and police officers from Winter Garden attend the event. Therefore, she is recommending that the City purchase two tables of 10 at the bronze level. Mayor Quesinberry stated that the CAB, which is appointed by the County, receives a budget of \$150,000 a year and he would like to know where that money goes? Commissioner Dixon stated she would be able to provide that information tomorrow. She stated that CAB approves CDBG funds being spent for street improvements before they go to the County. Commissioner Rees stated that the money would be better spent here in Winter Garden on our own volunteers. Commissioner Graham stated that street paving comes from Federal grants through the Community Development Board, on which he previously served, in the County, which is a different board from the CAB. Commissioner Dixon stated that the City benefits from the CAB, who speaks for projects in the Winter Garden area. **Motion by Commissioner Harriman to approve one Bronze sponsorship for \$500. Seconded by Commissioner Graham and carried 5-0.**

7. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES:**

- A. **Ordinance 01-64:** Annexation of 1278 Edgeway Drive (Morss)

City Attorney Everett read Ordinance 01-64 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to adopt Ordinance 01-64. Seconded by Commissioner Dixon.** Commissioner Graham stated that the draft minutes from the August 6th Planning and Zoning Board meeting include a statement by the City Manager that the City "needs to start stating on the summary sheets when there is an existing structure that is non-conforming to the requested zoning category" has that process been implemented? City Planner Cechman stated that while that process has not been instituted, the City does include a survey whenever possible. In the future, the City will issue compliance rules and identify those non-conforming structures and the variances needed. Commissioner Graham stated that he just wants to make sure the property owners are made aware of our requirements as part of any annexation request or requests for repairing or rebuilding a non-conforming structure. City Planner Cechman stated an additional letter could be provided. Commissioner Dixon stated that if County area residents in East Winter Garden desiring to annex are told they are not in compliance and they must get a variance, they would probably not annex. **Motion carried 5-0.**

B. **Ordinance 01-65:** Small Comprehensive Plan Amendment of 1278 Edgeway Drive (Morss)

City Attorney Everett read Ordinance 01-65 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Rees to adopt Ordinance 01-65. Seconded by Commissioner Harriman and carried 5-0. City Planner Cechman

C. **Ordinance 01-66:** Rezoning of 1278 Edgeway Drive R-1B (Morss)

City Attorney Everett read Ordinance 01-66 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Rees to adopt Ordinance 01-66. Seconded by Commissioner Graham and carried 5-0. City Planner Cechman

D. **Ordinance 01-67:** Annexation of 384 Railroad (Reynolds)

City Attorney Everett read Ordinance 01-67 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to adopt Ordinance 01-67. Seconded by Commissioner Graham and carried 5-0.** City Planner Cechman

E. **Ordinance 01-68:** Small Comprehensive Plan Amendment of 384 Railroad (Reynolds)

City Attorney Everett read Ordinance 01-68 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Dixon to adopt Ordinance 01-68. Seconded by Commissioner Harriman and carried 5-0.** City Planner Cechman

F. **Ordinance 01-69:** Rezoning of 384 Railroad to R-1B (Reynolds)

City Attorney Everett read Ordinance 01-69 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 01-69. Seconded by Commissioner Harriman and carried 5-0.** City Planner Cechman

Commissioner Rees left at 7:23 p.m.

8. MATTERS OF CONCERN FROM CITIZENS

Ms. Jacquelyn Lillie, co-owner of the property located at 364 W. Crown Point Road, Winter Garden, Florida stated her sister, Hattye A. Singletary, received a letter about annexing into the City. Mayor Quesinberry referred her to the City Planner regarding her questions.

Mr. Jerome Brown, Jr., 498 Maxey Avenue, Winter Garden, Florida stated he was representing his parents about annexing two houses in East Winter Garden into the City. Mayor Quesinberry also referred Mr. Brown to the City Planner for more information.

9. MATTERS FROM CITY ATTORNEY

City Attorney Dykes stated that Center Lake Properties, who is the seller of a previously approved contract to purchase 1.3 acres on Plant Street have asked if the sale could be structured in accordance with IRS Section 1031 Exchange for tax reasons. There would be no liability to the City and it would just be a matter of the Commission authorizing our cooperation in the structure of the sale to become an IRS 1031 intermediary. **Motion by Commissioner Dixon to approve the restructuring of the sale to allow for a 1031 Exchange. Seconded by Commissioner Graham and carried 4-0.**

10. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Graham: None

Commissioner Dixon:

- Stated she has received a letter of complaint concerning the Police Department. Mayor Quesinberry stated that the letter should be given to the Human Resources Director.
- Stated that something needs to be done about the open drug sales on the streets of her District and she will be discussing the possibility of additional after school programs for children with the Recreation Director.
- Invited all interested persons to attend the next CAB meeting at the Maxey Center on first Tuesday in November to see the board in action.

Mayor Quesinberry: None

Commissioner Harriman: None

10. **ADJOURNMENT:** The meeting was adjourned at 7:34 p.m.