

REGULAR MEETING MINUTES

CITY COMMISSION

October 25, 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, Assistant to the City Manager Marshall Robertson, Utilities Director Charlie Tinch, Planning Director Mark Cechman, Finance Director Mike Bollhoefer, Public Works Director Dan Ryan, Police Chief Jimmie Yawn, Recreation Supervisor Jay Conn, Human Resource Director Victoria Ward, Assistant Fire Chief John Williamson, Trailer City Manager Hughlan Martin and Michael Laval of The West Orange Times

APPROVAL OF MINUTES:

1. Regular Meeting Minutes of October 11, 2001

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

PRESENTATION

Mayor Quesinberry presented a plaque of appreciation to Reverend Ray Minger for his 15 years of volunteer service as a Planning and Zoning Board member.

REGULAR BUSINESS

1. **Request by Taquitos Jalisco to conduct an anniversary celebration in the parking lot of the Tri-City Shopping Center located at 1041 S. Dillard on November 11, 2001 from 1 p.m. until 7 p.m.**

Mr. Servando Lupercio stated that he is requesting approval to conduct his 7th anniversary celebration in front of his business with live entertainment. Commissioner Graham asked about the fees to be charged for two police officers for 6 hours. Police Chief Yawn stated that he would work out those details with Mr. Lupercio. Mayor Quesinberry asked if alcohol would be served in the parking lot? Mr. Lupercio answered

no. **Motion by Commissioner Graham to approve the event request as submitted. Seconded by Commissioner Rees and carried 5-0.**

2. **Appointment to the Planning and Zoning Board due the resignation of Reverend Ray Minger**

City Planner Cechman stated that there has been two requests received to serve on this Board. City Manager Holden stated that Mr. Bob Buchanan, who is currently on the Code Enforcement Board, has had his request in for appointment to the P & Z Board for about 5-6 years and is willing to serve on both boards at the same time. **Motion by Commissioner Graham to appoint Bob Buchanan to the Planning and Zoning Board to fill the unexpired term of Ray Minger (until October 2004). Seconded by Commissioner Rees and carried 5-0.**

3. **Appointment of the Resident Trustee Member to the General Employees Pension Board for a term of 1 year**

Pension Board Chairman Robertson stated that this seat is set to expire on November 11, 2001 and Commissioner Graham has indicated his desire to continue serving on the Board. Next year, the Board will be requesting that this seat be appointed for a 2-year term, in order to keep the seats from expiring at the same time. **Motion by Commissioner Rees to reappoint Commissioner Graham for a 1-year term to the General Employees Pension Board. Seconded by Commissioner Harriman and carried 5-0.**

4. **Recommendation to accept a settlement offer for unpaid Code Enforcement fines levied against the Village Grove Homeowner's Association (HOA) for not maintaining their retention pond area**

City Manager Holden stated that the fines have accumulated to \$57,150.00. The HOA has since cleaned up the retention pond and are in compliance. The new HOA President, Kay Fremgen, has indicated that they will continue to keep the retention pond maintained. Staff recommends accepting \$100 as full payment of the lien, which covers the administrative expenses incurred by the City. Commissioner Graham asked if the City performed any of the clean up? Mr. Holden stated that the City did not clean up the site. **Motion by Commissioner Graham to accept \$100 to satisfy the lien levied against the Village Grove Homeowner's Association. Seconded by Commissioner Harriman and carried 5-0.**

5. **Recommendation to accept a settlement offer for unpaid Code Enforcement fines and Special Assessment Liens against 911 West Bay Street**

City Manager Holden stated that the property owners abandoned the property and never responded to the City's requests to correct the code violations, which caused the City to fill the stagnant swimming pool with sand, board up the burned house and routinely mow the property, which has generated fines and special assessments in excess of \$96,000.

Recently, investors have approached the City regarding purchasing the property and bringing it into compliance. Therefore, staff is recommending that the City require payment of \$10,000 from the investor to recoup the City's expenses and repair the damaged structure to the Building Official's satisfaction, no later than April 25, 2002. Mr. Dennis Gaynor, 137 West York Court, Longwood, Florida, stated that the property would be in compliance by April 25, 2002. **Motion by Commissioner Rees to accept the settlement offer of a \$10,000 cashier's check for unpaid Code Enforcement fines and liens against 911 West Bay Street, Winter Garden, Florida, subject to the property being brought into compliance with the Code to the Building Official's satisfaction and that the pool is filled with water and functional by April 25, 2002. Seconded by Commissioner Graham and carried 5-0.** Mr. Gaynor indicated that the \$10,000 would be held in escrow until the Certificate of Occupancy is issued and would be given to the City at that time.

6. **Recommendation to approve the Jurisdictional Transfer Agreement of SR 438 and SR 545 from the State Department of Transportation to the City of Winter Garden**

City Manager Holden stated that the long acquisition process is nearing the end. The area the City would be acquiring is Plant Street from Dillard Street west to SR 545. Commissioner Graham asked if the question regarding the right-of-way at the intersection of 438 and 545 about a year ago has been answered? Mr. Holden stated that those issues were resolved as part of the Brandy Creek Development. Commissioner Graham stated that Montverde has had 455 designated a Scenic Route and he would like to see what would be involved in having SR 438 west of SR 545 designated a Scenic Route because of the Oak trees. Mr. Holden stated he would get that information and provide it to the City Commission. **Motion by Commissioner Harriman to approve the Jurisdictional Transfer Agreement for the intersection of SR 438 and SR 545 from the State to the City of Winter Garden. Seconded by Commissioner Dixon and carried 5-0.**

7. **Recommendation to approve Britt Business Park North Phase I Final Plat**

City Planner Cechman stated that the property is currently under contract to be sold to Progress Energy who will build their training site on the location. The Planning and Zoning Board has reviewed the plat and recommends approval. Staff is also recommending approval with a provision that the financial security (bond or letter of credit) be provided within 30 days, in a form acceptable to both the City Attorney and City Engineer, for the required infrastructure. Applicant, Mr. James Clark, 630 Butler Street, Windermere, Florida, stated that they accept all the terms and conditions being recommended by staff. They are in the process of obtaining the Letter of Credit. Commissioner Graham noted that the plat has an incorrect post office box number listed for Thomas C. Britt because it needs 770 added to the number. The plat's survey notes indicate vehicular access between lots 5 and 6, but it is actually north of lot 6, which lines up with Palm. City Manager Holden stated that there will be an access between lots 5 and 6, which only appears on the construction plans, not on the plat. **Motion by Commissioner Dixon to approve the Final Plat for Britt Business Park North Phase I, which is conditioned expressly upon the receipt of a financial performance through either a bond or a letter of credit within 30 days. Commissioner Harriman seconded the motion and carried 5-0.**

8. Appointment of a Municipal Representative to the West Orange Chamber of Commerce

Commissioner Harriman's term is expiring December 31, 2001. Commissioner Rees asked Commissioner Harriman if he would like to continue serving as the representative and he stated he would. **Motion by Commissioner Rees to reappoint Commissioner Harriman as the Municipal Representative of the West Orange Chamber of Commerce. Seconded by Commissioner Graham and carried 5-0.**

9. FIRST READING OF PROPOSED ORDINANCES:

A. Ordinance 01-77: Small Comprehensive Plan Amendment of Britt Business Park North – Phase II from Commercial to industrial

City Attorney Everett read Ordinance 01-77 by title only. **Motion by Commissioner Harriman to adopt Ordinance 01-77 with the second reading and public hearing being scheduled for December 13, 2001. Seconded by Commissioner Dixon and carried 5-0.**

B. Ordinance 01-78: Rezoning of Britt Business Park North – Phase II from Commercial to Industrial

City Attorney Everett read Ordinance 01-78 by title only. **Motion by Commissioner Graham to adopt Ordinance 01-78 with the second reading and public hearing being scheduled for December 13, 2001. Seconded by Commissioner Rees and carried 5-0.**

10. FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCE:

A. Ordinance 01-76: Redrawing of Commissioner District boundaries based upon the 2000 Census

City Attorney Everett read Ordinance 01-76 by title only. City Manager Holden displayed the proposed new district boundaries on a projector screen. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Commissioner Dixon stated that she accepts all the work done to create the proposal for the new boundaries however, she needs information regarding the legal requirements for single-member districts and whether or not future Commissioners would be required to live within their districts. City Manager Holden stated that the research he has done, has revealed that persons running for single-member districts are only required to declare the district for which they are running and are not required to reside within the

district. There is no state or federal law residency requirement, except for School Board members. Residency requirements are determined by a "home rule" decision. City Attorney Everett will provide the legal information to the Commission before the next public hearing. **Motion by Commissioner Rees to adopt Ordinance 01-76 with the second reading and public hearing being scheduled for November 8, 2001. Seconded by Commissioner Graham and carried 5-0.**

11. MATTERS OF CONCERN FROM CITIZENS - None

12. MATTERS FROM CITY ATTORNEY - None

13. MATTERS FROM CITY MANAGER

A. Financial Statement for September 2001

Stated that the City has finished the fiscal year exceptionally well. Budget activity for the year included a loan to the Community Redevelopment Agency (CRA) for \$1.1 million, which is a receivable from the CRA, and a stormwater loan of \$300,000, which is another receivable. Staff has identified that Code fines have been listed as a receivable, but the likelihood of the City receiving all of the fines imposed is poor. Therefore, Finance is exploring alternative reporting methods. After taking out the \$612,000 receivable, the City is left with \$276,209 after the \$1.4 million transferred into property. Mr. Holden congratulated Mr. Tinch for catching up on some ongoing utility projects and stated that some projects will have to be carried over because they remain as work in progress. If there are any questions, please see him or the Finance Director.

B. Recommendation to cancel the November 22, 2001 meeting due to the holiday

Motion by Commissioner Graham to cancel the November 22, 2001 regular meeting due to the holiday. Seconded by Commissioner Harriman and carried 5-0.

C. Approval to advertise in the West Orange Chamber Discover Magazine

Motion by Commissioner Harriman to maintain the back cover advertisement in the West Orange Chamber of Commerce 2002 Directory. Seconded by Commissioner Rees and carried 5-0.

- Reminded the Commission about the special Commission meeting scheduled for November 29, 2001 at 6:30 p.m. to conduct the first of two public hearings for two proposed annexations.
- Stated that the meeting today with the Battaglia's, Orange County Library staff and the architect went well. The approval is targeted for the December Library Board meeting. It has been a long and difficult negotiation process. The building's design looks to be unique for the Winter Garden Library as opposed to other recently designed libraries and it should open by late 2003.
- Stated he has received the tickets for the table of 10 tickets for the Community Action Board Annual Scholarship and Volunteer Awards Dinner. Commissioner Dixon took a ticket for Charlie Mae Wilder and 4 were to be given to Police Officers and 5 were to be given to the Fire Department.
- Announced that City Hall renovations are coming along well and he anticipates that the first Commission meeting in the new chambers will be on December 13, 2001.
- Advised that the lease agreement and extensions for 214 Center Street has since expired. The lessee's have failed to comply with what they said they would do and they have failed to pay their water bill of over \$300. Mr. Siplin's attorney, John Rhodes, sent a letter on October 22, 2001, stating that the lease partners are in conflict and are not cooperating and "It appears that the City will need to reconsider its position with respect to this lease." Staff is requesting approval to commence with eviction proceedings. **Motion by Commissioner Rees to allow staff to either work something out with the Lessors or begin eviction proceedings for 214 Center Street. Seconded by Commissioner Graham and carried 5-0.**
- Stated that he has received the proposed agreement between the Town of Oakland and City of Winter Garden for the Charter School, which has been reviewed in great detail by staff and staff advisors. He has received the proforma, budget and audits for the Town of Oakland and after very careful review of the documentation, there is no way that staff can recommend that Winter Garden commit to the Charter School project. Staff has met with Oakland's representatives and Winter Garden has

conveyed this recommendation to them. He does not know what Oakland may request in the future, but he will prepare a report and provide the documentation if Oakland submits a request to come before the Commission. Mr. Holden stated that the Commission only approved the agreement in "concept", which requires Oakland to come back for approval. Winter Garden was lead to believe that its only obligation would be \$400,000 when in actuality, it would have been \$2.5 million. No action is required at this time.

- Advised that the Finance Director has verified with the State that the sales tax revenue figures are expected to decrease by 6%, which is \$176,000 and will not present a problem for what is budgeted. The gas tax revenue is not known at this time. All revenues are being closely tracked.

14. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Rees: None

Commissioner Graham:

- Advised that he recently noticed near the museum that a street cap over the water line has dropped creating a hazard. Utility Director Tinch stated that it was repaired today.
- Stated his concerns with his church's driveway on Vineland Road being used as a bypass while children are present on Wednesday and Sunday. City Manager Holden stated that he would look into the situation.

Commissioner Dixon:

- Reported that the Boy's and Girl's Club is trying to lease the Mildred Dixon Center in order to expand their services and that the County is going to start working on the basketball courts.
- Stated that the City needs to look at trying to get a Community Development Grant for housing and recreation. Representative Keller gave a workshop on grant writing and it would be nice for the City to also conduct a grant writing workshop. Representative Johnson will be conducting community awareness meetings throughout the County. There are also going to be Make a Difference Days scheduled. The Maxey Center is in need of some computers, if anyone knows of any to be donated.

- Stated she is looking forward to the Community Action Board presentations with Winter Garden's police and fire present.

Commissioner Harriman:

- Thanked Police Officer Stiles for his Neighborhood Watch presentation at Hyde Park, which was well attended.
- Stated he has regrettably received a letter from Mr. Peter Tibbs regarding the relocation of his appliance business from Winter Garden to Montverde.

Mayor Quesinberry:

- Introduced Michael Laval the new reporter for the West Orange Times.
- Asked Commissioner Dixon, on behalf of the City Commission, to speak with kinder words regarding the City Commissioners when she addresses the public. Her recent comments during a televised Community Action Board meeting, regarding donations by the Commission, were unnecessary. Commissioner Dixon stated that what she said was, she would get the City to give \$500 to CAB because other events have been given up to as much as \$1,000.

ADJOURNMENT: The meeting was adjourned at 7:48 p.m.