

CITY COMMISSION

WORKSHOP MINUTES

November 29, 2001

A **WORKSHOP** of the Winter Garden City Commission was convened at 6:50 p.m. after the regular City Commission meeting was adjourned.

PRESENT: Mayor Jack Quesinberry, Commissioners Mildred Dixon and John Harriman; City Manager Hollis Holden, City Attorney Dykes Everett, Assistant City Attorney Lionel Rubio, City Planner Mark Cechman, City Clerk Kathy Montoya, Planner Kelly Randall, Assistant to the City Manager Marshall Robertson, Public Works Director Dan Ryan, Utility Director Charlie Tinch and Michael Laval of The West Orange Times

ABSENT: Commissioners; John Rees and Theo Graham

TREES IN PUBLIC RIGHT-OF-WAY:

City Manager Holden stated that staff is seeking the Commission's guidance regarding trees within the city's right-of-way (ROW). Staff is not anti-trees, but can not support planting of trees on top of 8 to 12 inch water mains that serve 3 to 4 thousand residents and will eventually disrupt that service. There are some examples of what kind of damage that is caused by the wrong tree in the wrong place throughout the city. The city remains liable for damages caused by trees that are planted in the ROW to the utility lines. Winter Garden has never had to boil water because of lost water pressure. The city should and does absorb the cost for repairing uplifted sidewalks and streets because of the liability. Some sidewalks have been in such bad condition that the city has had to get a temporary easement from the property owner just to fix the sidewalk. There are options available that would allow planting of trees in the ROW. One such option is moving the utility lines under the sidewalk to free up space in the ROW for trees and installing a deep root barrier system. Mr. Robertson drew an illustration on how the deep root barrier system works by directing the roots away from the utility lines that are only 36 inches deep (the specifications were provided in the agenda packages). Mr. Tinch stated that a 48-inch deep, 20-foot long, 10-panel barrier costs \$198, which would be paid for by the developer. The recommended trees to be approved for the ROW would not need a barrier system and would not need approval by the City Commission under the proposed ordinance. Mr. Holden stated that the draft ordinance submitted with the workshop agenda has been reviewed by Glatting-Jackson for the M/I Homes developer agreement and they have submitted 12 pages of comments that still have to be reviewed. Commissioner Harriman asked how residents know they need prior approval to plant in the ROW? Mr. Everett stated that knowledge is gained by educating the residents. Mr. Brent McAlister with Orange County Streetscape stated that they educate the public through their ROW Utilization Permit process. Police Chief Yawn stated that when the trees are considered, it would be helpful to also consider the spacing of trees because the trees on Newell are so close together they create a wall affect. In closing, Mr. Holden stated that the guidance provided would allow staff to bring back an ordinance that will permit trees in the ROW and protect the utility lines.

NON-CONFORMING LOTS

City Manager Holden stated that he first realized the issue of non-conforming lots back when the hurricane came through town and destroyed homes that could not be rebuilt under the current code. Also, there are annexations being proposed that have non-conforming lots because when they were built many years ago in another jurisdiction on 50 foot, or less, lots. Recently, smaller lot homes in the city have been renovated into very attractive buildings.

City Attorney Everett stated that the current code does not allow for single-family (R-1) dwellings on less than an 85-foot lot. However, there are many traditionally platted areas with lots less than 75 feet wide. There are ways to deal with these areas:

- 1) Consider each as an individual variance
- 2) Issue as specific non-conforming uses
- 3) Revise the zoning code through overlays or specific categories

Some lots that have always been vacant and someone may want to rebuild and staff needs direction.

Mayor Quesinberry stated that he favors not allowing a lot owner of multiple adjacent non-conforming vacant lots to build on less than 75 feet, but if someone else owns an individual lot the same size, they should be allowed to build. Mr. Everett pointed out that it would not be constitutional to approve one and not the other with respect to property ownership rights on platted properties. A variance could be requested. The code currently has no standard by which to govern approving a variance. Without a standard for granting variances, it can be legally challenged. Also driving the issue is the trend to build up-scale homes near the downtown areas. Mayor Quesinberry stated that when considering a house being built on a 50-foot or less lot, the required setbacks also become a problem. He is in favor fixing up existing non-conforming homes. Mr. Cechman stated that another issue that comes up is when someone wants to add onto a home on non-conforming lot that doesn't meet the current setback requirements. Mr. Everett stated there could be consideration made as to how the uses could be phased out and what the amortization table might be.

In conclusion, an outline will be brought back to the Commission to aid in drafting an ordinance to deal with these issues.

The workshop was adjourned at 9:03 p.m.