

**REGULAR MEETING MINUTES  
CITY COMMISSION  
March 22, 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 Rees, Theo Graham and John Harriman; City Manager Hollis Holden, City Attorney Dykes Everett, City Clerk Kathy Montoya, Utilities Director Charlie Tinch, Trailer City Manager Hughlan Martin, Planning Director Mark Cechman, Finance Director Mike Bollhoefer, Public Works Director Marshall Robertson, Police Chief Jimmie Yawn, Recreation Director Larry Caskey, Human Resource Director Victoria Ward and John Maloney of The West Orange Times

**ABSENT:** Commissioner Howard Marbury

**APPROVAL OF MINUTES:**

Regular Meeting Minutes of March 8, 2001 and the Canvassing Board Minutes of March 12, 2001 approval were postponed.

**ELECTION RESULTS:**

Mayor Quesinberry declared the March 13, 2001 election results as follows:

Theo Graham, Commissioner of District 2 won by virtue of no opposition

John Harriman, Commissioner of District 4 won by virtue of no opposition

Commission District 3: Johnnie Mae Anderson received 55 votes

Mildred L. Dixon received 32 votes

Howard Marbury received 27 votes

With no majority vote receiver, a run-off Election was declared for April 10, 2001 between the two candidates receiving the most votes; Johnnie Mae Anderson and Mildred L. Dixon.

**OATH OF OFFICE TO COMMISSIONERS**

City Clerk Montoya administered the Oath of Office to unopposed Commissioners Theo Graham, District 2 and John Harriman, District 4.

**REGULAR BUSINESS:**

**1. Audit Report for Fiscal Year ending September 2000**

Auditor Hank Sines stated that they completed the City's audit for the year ending September 30, 2000. They finished their work on December 22, 2000 and have been waiting, as normal, a couple of months for the Pension Plan actuarial report. Apparently, that report should be received earlier next year. He doesn't know how that works, but the City of Winter Garden always seems to get the report towards the end. All the funds for the year, as of September 30<sup>th</sup>, were in the black. The general fund had the largest excess revenue over expenditures it has ever had. The City has a very healthy reserve account. As he reported last year, the books are in great shape and after talking with the Finance Director, he expects the books to be even better. He is very encouraged about this. As was last year, they didn't issue any audit comments. If comments are not significant enough to be disclosed in the financial report, he gave them orally. As in other years, Mr. Sines stated he was present to answer any questions the City Commission might have. If they have more complex questions, his office is always open to go over the file. Motion by Commissioner Harriman to approve the audit report for Fiscal Year ending September 2000. Seconded by Commissioner Graham. City Manager Holden stated that he would be making a staff report on City finances, by department, at the next City Commission meeting. Motion carried 4-0. Commissioner Graham stated that the City is as much as three times out of the hole as compared to the end of 1999. Mr. Sines stated the City has never had a deficit and the books are the best he has seen since he's been auditing the City. Mr. Holden stated that during his tenure, the City has never had a deficit.

**2. FIRST READING OF PROPOSED ORDINANCES:**

A. **Ordinance 01-15:** Revising the Occupational License Tax Classifications and Fee Schedule

City Attorney Everett read Ordinance 01-15 by title only. Motion by Commissioner Rees to approve Ordinance 01-15 with the second reading and public hearing to be scheduled for April 26, 2001. Seconded by Commissioner Harriman and carried 4-0.

B. **Ordinance 01-16:** Annexation of the section of the West Orange Trail that is within the City's Reserve Area.

City Attorney Everett read Ordinance 01-16 by title only. Motion by Commissioner Harriman to approve Ordinance 01-16 with the second reading and public hearing to be scheduled for April 26, 2001. Seconded by Commissioner Rees and carried 4-0.

C. **Ordinance 01-17:** Comprehensive Plan Amendment from Industrial to Commercial for the southwest corner of 9<sup>th</sup> Street and Plant Street (Greyline)

City Attorney Everett read Ordinance 01-17 by title only. Motion by Commissioner Rees to approve Ordinance 01-17 with the second reading and public hearing to be scheduled for April 26, 2001. Seconded by Commissioner Harriman and carried 4-0.

D. **Ordinance 01-18:** Rezoning of the southwest corner of 9<sup>th</sup> Street and Plant Street from I-1 to C-2 (Greyline)

City Attorney Everett read Ordinance 01-18 by title only. Motion by Commissioner Harriman to approve Ordinance 01-18 with the second reading and public hearing to be scheduled for April 26, 2001. Seconded by Commissioner Rees and carried 4-0.

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

A. **ORDINANCE 01-13:** Amending the Citation Ordinance 00-15 to remove any reference to the Orange County Sheriff's Office

City Attorney Everett read Ordinance 01-13 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Graham to adopt Ordinance 01-13 and seconded by Commissioner Harriman. Motion carried 4-0.

B. **ORDINANCE 01-14:** Amending the Solid Waste Ordinance to allow for rate changes by Resolution

City Attorney Everett read Ordinance 01-14 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Harriman to adopt Ordinance 01-14 and seconded by Commissioner Rees. Commissioner Graham stated that the fees should be left in the Ordinance because whenever a change is proposed for a service fee or tax, the City should allow for public comment at a public hearing. A Resolution does not require a public hearing and will not be advertised. He stated these fees should remain in the Ordinance because doing otherwise would be a form of taxation without representation. City Manager Holden stated that this is not a tax, but a user fee and that all other cities canvassed have indicated that they amend their fees by Resolution, which can only be changed by the approval of the City Commission. The City Commission has the power to advertise a proposed rate change by Resolution and even hold workshops to receive public comments. Public Works Director Robertson stated that the rates for commercial accounts change every year based on Consumer Price Index (CPI) increases and that is the reason an increase by Resolution is being recommended. Mr. Holden stated that if the commercial rate increase were not approved, the residential rates would bear the cost of the commercial rate increase. Commissioner Rees stated that one fund would have to subsidize the other. Commissioner Graham also stated that there should be discussion at the first reading of any Ordinance because if after discussion there were significant changes, the Ordinance

would have to be re-advertised adding unnecessary expense. Therefore, he will be discussing the Ordinance at the first reading in the future and that will be his only opportunity to discuss the issue with all of the Commissioners. Mr. Holden stated that if any Commissioner has an issue on a proposed Ordinance, they normally come to him first and then he goes to the other Commissioners. If a Commissioner wants a Resolution advertised, staff needs to know ahead of time. The first reading has not been advertised and having discussion at that time, would create a situation where a Commissioner could convey their position before the public input has been received. Commissioner Rees stated that a proposed Ordinance could be denied at first reading without public input and that if a Commissioner has a point to be made, it should be brought up with staff or Mr. Holden. Any Commissioner that needs to discuss an Ordinance at first or second reading can. Mr. Holden stated that if a Commissioner came to him to stop the Ordinance, he would bring it up for discussion and avoid the extra cost. Motion carried 3-1, with Commissioner Graham opposed.

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C. ORDINANCE 00-55: Annexation of the Winter Garden First Baptist Church Property located South of Tilden Road (Bradford)

City Attorney Everett read Ordinance 00-55 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Planning Director Cechman stated that the City is only allowed to do two Large Scale Comprehensive Plan Amendments a year, which are done on a cycle. There are three annexations Ordinances (Burch, Philips and First Baptist Church) that the County has agreed to a Joint Planning Agreement (JPA) amendment because they are in the County. At the last minute, the County had some issues with two of the annexations (Burch/Philips) dealing specifically with schools. The Church intends to build a school so that wasn't an issue for them. Staff recommends allowing the JPA to be amended and eliminate Burch and Philips Ordinances. Mr. Cechman stated he believes the JPA amendment can be accomplished by the April 26, 2001 City Commission meeting and requested postponement of this item. Mayor Quesinberry asked why does the Church want to annex? Mr. Cechman stated they need utilities. City Manager Holden stated there are also problems when trying to provide services when there is a dividing line down the middle of a principle road. What will probably happen is the City boundary will cross over Tilden Road and square off past to Tilden Road, which is best for providing Police and Fire services. Commissioner Graham asked if the Burch property owners had been notified? Mr. Cechman stated that Kendall Keith is doing both Philips and Burch and has been notified. Motion by Commissioner Rees to table Ordinance 00-55 until April 26, 2001 and seconded by Commissioner Graham. Motion carried 4-0.

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D. ORDINANCE 00-56: Comprehensive Plan Amendment for the Winter Garden First Baptist Church Property located South of Tilden Road to Suburban Density (Bradford)

City Attorney Everett read Ordinance 00-56 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Rees to table Ordinance 00-56 until April 26, 2001 and seconded by Commissioner Graham. Motion carried 4-0.

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E. ORDINANCE 00-57: Rezoning to R-1 of the Winter Garden First Baptist Church Property located South of Tilden Road (Bradford)

City Attorney Everett read Ordinance 00-57 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Graham to table Ordinance 00-57 until April 26, 2001 and seconded by Commissioner Harriman. Motion carried 4-0.

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F. ORDINANCE 00-61: Annexation of Burch's Property located West of CR545 and Southwest of Johns Lake (Burch)

City Attorney Everett read Ordinance 00-61 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Planning Director Cechman stated that this Ordinance and the next Ordinance have had issues raised by Orange County. Staff recommends denial at this time and that the applicant be asked to return with the annexation requests after resolving Orange County's issues. The applicant has already paid the fees and staff recommended that they not be charged again. City Manager Holden stated the applicant has been made aware of staff's recommendations and is in agreement. Motion by Commissioner Rees to deny Ordinance 00-61 and seconded by Commissioner Harriman. Motion carried 4-0.

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- G. ORDINANCE 00-62: Comprehensive Plan Amendment for Burch's Property located West of CR545 and Southwest of Johns Lake to Suburban Density and Conservation Overlay (Burch)

City Attorney Everett read Ordinance 00-62 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Graham to deny Ordinance 00-62 and seconded by Commissioner Rees. Motion carried 4-0.

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- H. ORDINANCE 00-58: Annexation of Philips Property located West of CR545 and North of Tilden Road (Philips)

City Attorney Everett read Ordinance 00-58 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Harriman to deny Ordinance 00-58 and seconded by Commissioner Rees. Motion carried 4-0.

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- I. ORDINANCE 00-59: Comprehensive Plan Amendment for Philip's Property located West of CR545 and North of Tilden Road to Suburban Density, Medium Density, Commercial, and Conservation Overlay (Philips)

City Attorney Everett read Ordinance 00-59 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Rees to deny Ordinance 00-59 and seconded by Commissioner Harriman. Motion carried 4-0.

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- J. ORDINANCE 00-64: Comprehensive Plan Amendment of the Recreation Element

City Attorney Everett read Ordinance 00-64 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Rees to table Ordinance 00-64 until April 26, 2001 and seconded by Commissioner Graham. Motion carried 4-0.

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- K. ORDINANCE 00-65: Comprehensive Plan Amendment of the Interlocal Coordination Element

City Attorney Everett read Ordinance 00-65 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Graham to table Ordinance 00-65 until April 26, 2001 and seconded by Commissioner Rees. Motion carried 4-0.

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- L. ORDINANCE 00-66: Comprehensive Plan Amendment of the Public Facility Element

City Attorney Everett read Ordinance 00-66 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Harriman to table Ordinance 00-66 until April 26, 2001 and seconded by Commissioner Rees. Motion carried 4-0.

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- M. ORDINANCE 00-67: Comprehensive Plan Amendment of the Capital Improvement Element

City Attorney Everett read Ordinance 00-67 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Rees to table Ordinance 00-67 until April 26, 2001 and seconded by Commissioner Graham. Motion carried 4-0.

**N. ORDINANCE 00-68: Comprehensive Plan Amendment of the Conservation Element**

City Attorney Everett read Ordinance 00-68 by title only and Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Motion by Commissioner Graham to table Ordinance 00-68 until April 26, 2001 and seconded by Commissioner Harriman. Motion carried 4-0.

**4. RESOLUTION 01-03: Adoption of a revised fee schedule for the collection of Solid Waste and Recycling**

City Attorney Everett read Resolution 01-03 by title only. Motion by Commissioner Harriman to adopt Resolution 01-03 and seconded by Commissioner Rees. Motion carried 3-1. Commissioner Graham opposed.

**5. MATTERS OF CONCERN FROM CITIZENS**

Mr. Chuck Simikian, Victoria Way, Winter Garden, Florida, (Tuscany Subdivision) stated that about 2 weeks ago his neighborhood had a block party. Police Sgt. Buddy Nash arranged for helmet inspections, a fire and safety unit to be present for the children, which was great. He wanted to thank Sgt. Nash and let the City know what a great job Sgt. Nash did.

**6. MATTERS FROM CITY ATTORNEY - None**

**7. MATTERS FROM CITY MANAGER**

- A. Stated the Financial Statement for February 2001 were distributed and the City is 41.67% through the fiscal year. Any comments or questions please see him or the Finance Director. Things are going very well with revenues well exceeding expenses and projects are moving along.
- B. The Chamber Gala is coming up and in the past the City has purchased a table and he recommended purchasing two tables. Motion by Commissioner Rees to purchase two tables for the Chamber Gala. Seconded by Commissioner Harriman and carried 4-0.
- C. Stated the second Charter School workshop with Chancellor Academies for the educational component can be scheduled after the regular meeting of April 12, 2001, if the City Commissioners would like to have it then. There was City Commission consensus to schedule the workshop as proposed.
- D. He and the Police Chief have completed the Code Enforcement Citation training this afternoon. The forms are due back by the end of next week. The next City Newsletter should be mailed out the first of next week and will include an article describing this program.
- E. When the prior City Engineer, John Kirby, recommended expanding the sewer plant as a design/build, there were concerns expressed by staff and the City Commission, but it also had its advantages and we were proceeding. At that time, he only brought the engineering contract to the City Commission for approval. Staff had also looked into the State Revolving Loan Fund (SRF), but at that time it was a difficult program to work through. Since then, the SRF program has changed drastically and the City is a perfect candidate for the funds with low interest rates. We have also found out that doing a design/build expansion would make the City ineligible for SRF funds. Last week he sent a letter to the design/build contractor that stated, because of the changes to the SRF and the advantages to the City, the City would be withdrawing all commitments to the design/build with that firm. When the engineering study is done, the City will be sending the project out to bid

in the traditional way, as required by the SRF, and that will save the City \$11 million in interest. He will be bringing back to the Commission a request for SRF loan submission approval of an \$8-9 Million loan over 30 years.

- F. He and the City Clerk met with Bill Cowles, Orange County Supervisor of Elections regarding redistricting the City using the 2000 Census figures. Mr. Cechman will be downloading the Census tracts and overlaying them with the new population figures that is due out by April 1. There are different ways to redraw the districts; one of which is to have staff submit their ideas or, as other cities are doing, or passing an Ordinance to create an advisory committee. If a committee is created, decisions need to be made on how the appointments will be made. The City must also consider the 1985 judgment that created the single member districts. Within the judgment, there is a requirement that the five plaintiffs are to be made aware of the redistricting and the Commissioners must determine how much involvement they would need to have. Mayor Quesinberry stated an Advisory Committee is a good idea and Commissioner Rees stated that it would be good to have citizen involvement. Commissioner Graham stated that the plaintiff's attorney might also have to be notified. Mr. Holden stated the City Attorney would review the documents and advise us any applicable changes to the Voter Rights Act. The next agenda will include an Ordinance to create a Redistricting Advisory Committee.
- G. He and the Mayor will be meeting on May 1 with the Orange County School Superintendent and four board/staff members. There is still no answer to the Dillard Street Elementary School improvements.

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

**Commissioner Rees:**

Asked Police Chief Yawn how John Gardner is doing? Chief Yawn stated he is doing real well. Commissioner Rees wishes him well.

**Commissioner Graham:** None

**Commissioner Harriman:**

Stated he had the pleasure of attending the grand opening festivities at Advanced Drainage Systems (ADS) and they offer tours, which he recommended taking, which is well worth seeing.

**Mayor Quesinberry:**

Stated ADS is located all over the United States and make a pipe up to 60" in diameter. It is a clean operation that doesn't let anything go to waste. They even reuse what drops on the floor when they cut the pipe.

Meeting was adjourned at 7:52 p.m.