

REGULAR MEETING MINUTES

CITY COMMISSION

April 12, 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, Howard Marbury 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, and Human Resource Director Victoria Ward

APPROVAL OF MINUTES:

1. Regular Meeting Minutes of March 8, 2001; Charter School Workshop Minutes of March 8, 2001; Canvassing Board Minutes of March 13, 2001; Regular Meeting Minutes of March 22, 2001

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

ELECTION RESULTS

1. Certification of the Run-off Election results for District 3 on April 10, 2001

Mayor Quesinberry read the results of the canvassed ballots as follows:

| | <u>Absentee</u> | <u>Precinct</u> | <u>Total</u> |
|-----------------------------|-----------------|-----------------|--------------|
| Johnnie Mae ANDERSON | 6 | 50 | 56 |
| Mildred L. DIXON | 17 | 40 | 57 |

Motion by Commissioner Graham to certify the election results and declare Mildred L. Dixon as the City Commissioner of District 3. Seconded by Commissioner Harriman and carried 5-0.

Mayor Quesinberry stated that as a result of apparent irregularities in some of the absentee ballots, a motion is in order to request that the Orange County Supervisor of Elections, Mr. Bill

Cowles, review the election material and take the proper action with the State Attorney's Office to investigate. **Motion by Commissioner Harriman to initiate an investigation as stated by the Mayor. Seconded by Commissioner Marbury and carried 5-0.**

2. Oath of Office administered to elected City Commissioner of District 3

City Clerk Montoya administered the Oath of Office to Mildred L. Dixon who was elected on April 10, 2001 in a run-off election for City Commissioner District 3.

REGULAR BUSINESS:

1. **Request for a public hearing for a special permit to have more than two domestic animals at 367 North Park Avenue, Winter Garden, Florida**

Planning Director Cechman stated that this item is to request the scheduling of a public hearing for the purpose of issuing a special permit. Staff suggested the public hearing be held the first meeting in May. City Manager Holden stated this action is required by the City Code of Ordinances. **Motion by Commissioner Rees to schedule the special permit public hearing for May 10, 2001. Seconded by Commissioner Harriman and carried 5-0.**

2. **Request to approve a religious tent program from May 5 – June 2, 2001 at the corner of 11th and East Plant Street, Winter Garden, Florida**

Rev. Charles Allen, Orlando, explained that the insurance policy has been pre-approved and will be issued after the event is approved. City Manager Holden stated staff recommends approval, subject to all the required documents being submitted. The event being requested is for longer period than previous years. Rev. Allen stated that the event would be daily, except Thursday, from 7:30 p.m. to 8:45 p.m. Commissioner Graham stated that the material submitted indicates they will inform and educate attendees about drugs, health and welfare. Rev. Allen stated they would be utilizing Florida Hospital to help educate and they would have assistance from a Spanish group to help the Hispanic population. Commissioner Rees stated that he does not object to the event, however, because the normal week long event has had no problems in the past and this request is for a month, he would like any approval to be subject to any problems or complaints to allow the City Manager to stop the event. **Motion by Commissioner Graham to grant the request subject to any problems or complaints, the City Manager will stop the event.** City Attorney Everett recommended the motion include; *approving the entire term of the event, subject to meeting the insurance requirements and allowing the City Manager to issue a cease and desist order in the event of any problems.* In the event there is a cease and desist order given, the applicant would be allowed to return to the City Commission to renew the approval. Rev. Allen stated there will be two tents and there will not be too much noise. **Commissioner Graham stated his motion includes the City Attorney's recommendations ; approving the entire term of the event, subject to meeting the insurance requirements and allowing the City Manager to issue a cease and desist order in the event of any problems Seconded by Commissioner Rees and carried 5-0.**

3. **Request to approve a Cinco de Mayo Festival at Veteran's Park on May 6, 2001 from 12 noon to 8 p.m. by the Mexican Chamber of Commerce**

Mr. Servando Lupercio, 3104 Avalon Road, Winter Garden, Florida, stated this event would be the 6th year in Winter Garden. City Manager Holden stated Mr. Lupercio has met with staff and they are working together on the requirements. This event has become large and therefore, we have had to address safety and health issues. Commissioner Rees asked which requirements have not been met. Human Resources Director, Ms. Ward stated that the insurance pre-approval is being submitted. Mayor Quesinberry stated parking needs be better controlled. Mr. Lupercio also asked for a waiver of the \$1,000 permit fee because of their non-profit status. City Manager Holden stated a waiver is warranted, however the Hispanic Chamber would have to pay for all city services provided. **Motion by Commissioner Rees to approve the Cinco de Mayo Festival as requested, with staff recommendations, and a waiver of the \$1,000 permit fee, subject to the City receiving the certificate of insurance. Seconded by Commissioner Harriman and carried 5-0.**

4. **Request for an open-air furniture sale in front of Classic Furniture at 624 S. Dillard Street from April 26 through 28, 2001**

Mr. Randy Shuster, General Manager, stated that the proposed tent sale would be for discontinued inventory, scratch and dent items, and inventory reduction. **Motion by Commissioner Harriman to approve the open-air furniture sale by Classic Furniture as requested. Seconded by Commissioner Dixon and carried 5-0.**

5. **Award of bid for the Windermere Road water line for the southeast area water interconnect Project #00105**

Utilities Director Tinch stated that two bids were received with T. D. Thompson Construction bid at \$209,014 and Gibbs and Register bid at \$331,840. The City's estimate was \$198,000 and therefore, staff recommends awarding the bid to T. D. Thompson. **Motion by Commissioner Graham to award Bid #00105 to T. D. Thompson Construction. Seconded by Commissioner Rees and carried 5-0.**

6. **Renewal of the Solid Waste Interlocal agreement with Orange County**

Public Works Director Robertson stated that this agreement began in 1989 and expired in 1999. They have been in negotiations for the past 10 months. The County originally asked for a 100% guarantee of all garbage hauled out of Winter Garden. Staff negotiated a 95% guarantee because it would allow the City to transfer to another station that the County doesn't own either in the case of an emergency or on a day that the County was closed. The reason the County needs the guarantee is for bonding purposes in order to borrow money. Staff recommends approval. Commissioner Graham stated that the proposed agreement is for 10 years with an additional 10-year extension and asked how long the current prices would be guaranteed for. Mr. Robertson stated the prices would not change for 2 years. **Motion by Commissioner Graham to approve the renewal of the Solid Waste Interlocal agreement with Orange County. Seconded by Commissioner Harriman and carried 5-0.**

7. **Approval of Wintermere Point Phase II Final Plat**

Planning Director Cechman stated the plat has 124 units. The difference between this phase and Phase I is that Phase II will have sewer. Staff has reviewed the project and recommends approval. Commissioner Graham asked about the wetlands being maintained by the Homeowners Association and not just being left designed as wetlands. City Attorney Everett stated that even designated wetlands can have problems with invader species and the HOA will need to clean that area to deal with those species after obtaining a permit from St. Johns. **Motion by Commissioner Harriman to approve the Final Plat for Wintermere Point Phase II. Seconded by Commissioner Rees and carried 5-0.**

8. **Approval of Lakeview Reserve Final Plat**

Planning Director Cechman stated that the plat is for 159 units, which is zoned R-1 and R-1-B. Staff recommends approval with the conditions identified by Mr. Rubio and City Engineer Miller in the agenda package. There is one more easement that staff is working on with the developer and the Certificate of Completion will not be issued until that easement is given. Mayor Quesinberry asked if the developer is aware of and agrees to the conditions. Mr. Cechman stated yes. Commissioner Rees asked if all the Engineering fees had been paid to date. Mr. Cechman stated yes. Commissioner Graham addressed the shoreline on Lot 14 on Lake Apopka, which backs to the lake and asked what provisions are there for preventing yard run-off? Mr. Roger Anderson, stated St. Johns requires them to post a conservation area to the edge of the water and the homeowner will be allowed to install a boat dock. There is also a berm as required by St. Johns. Commissioner Graham stated he has been on the Board of The Friends of Lake Apopka since 1990 and he sees no reason to buy out the farmers for \$105 million and then allow runoff from a yard into the lake. The Lake Apopka Initiative, which he is a member, is trying to get a 25' required buffer from the water line. Experience has taught them that through the years, the homeowner encroaches and makes the buffer a part of their yard. **Motion by Commissioner Dixon to approve the Lakeview Reserve Final Plat with staff's recommendations. Seconded by Commissioner Rees and carried 5-0.**

9. **Approval of Amberleigh Final Plat**

Planning Director Cechman stated this subdivision is 66 units South of the Orange Cove Subdivision. Staff has reviewed the proposed project and recommends approval with the conditions stated in the agenda package. **Motion by Commissioner Harriman to approve the Amberleigh Final Plat with staff's recommendations. Seconded by Commissioner Dixon.** Commissioner Rees asked if the engineering and legal fees have been paid to date. Mr. Cechman stated yes. **Motion carried 5-0.**

10. **Approval of an amendment to the Joint Planning Agreement with Orange County**

Planning Director Cechman stated that the Commission previously removed the Burch and Philips property from the agreement. This amended agreement includes the First Baptist Church and a contraction of the Coke property out of our JPA, which allows Ocoee to annex that property. Staff recommends approval. If approved, the agreement would be on the next County agenda. **Motion by Commissioner Graham to accept the amendment to the Joint Planning Agreement with Orange County with staff's recommendations. Seconded by Commissioner Harriman and carried 5-0.**

11. Selection of an elected official as the St. Johns River Water Management District Liaison

Commissioner Graham stated he is currently on two other similar boards. He then suggested that Winter Garden might want to do as Montverde has been doing to try to get CR455 declared a scenic road. A benefit of being designated "scenic" includes receiving grants. The State has recommended running the scenic route through Oakland. He has thought of the possibility of adding the McKinnon area oak trees through to Park Avenue. Another advantage to being "scenic" is the ability to control signs on the highway. Mayor Quesinberry asked Commissioner Graham if he would be interested in serving as the liaison and he indicated he would. Mayor Quesinberry recommended Commissioner Graham for the appointment. **Motion by Commissioner Rees to appoint Commissioner Graham as the elected official liaison with the St. Johns Water Management District. Seconded by Commissioner Dixon and carried 5-0.**

12. FIRST READING OF PROPOSED ORDINANCES:

A. **Ordinance 01-19:** Comprehensive Plan Amendment for 0.92 acres located at the northwest corner of West Crown Point Road and Plant Street (Starlight)

City Attorney Everett read Ordinance 01-19 by title only. **Motion by Commissioner Harriman to approve Ordinance 01-19 and to schedule the second reading and public hearing for April 26, 2001. Seconded by Commissioner Rees and carried 5-0.**

B. **Ordinance 01-20:** Rezoning of 0.92 acres located at the northwest corner of West Crown Point Road and Plant Street from I-2 to C-2 (Starlight)

City Attorney Everett read Ordinance 01-20 by title only. **Motion by Commissioner Rees to approve Ordinance 01-20 and to schedule the second reading and public hearing for April 26, 2001. Seconded by Commissioner Dixon and carried 5-0. Motion by Commissioner Harriman to approve the preliminary plat. Seconded by Commissioner Dixon and carried 5-0.**

C. **Ordinance 01-21:** Vacation of the northerly 482.48 feet of Lakeview Road

City Attorney Everett read Ordinance 01-21 by title only. **Motion by Commissioner Graham to approve Ordinance 01-21 and to schedule the second reading and public hearing for April 26, 2001. Seconded by Commissioner Harriman and carried 5-0.**

D. **Ordinance 01-22:** Communications Services Tax increase by 0.12% effective October 1, 2001

City Attorney Everett read Ordinance 01-22 by title only. **Motion by Commissioner Harriman to approve Ordinance 01-22 and to schedule the second reading and public hearing for May 10, 2001. Seconded by Commissioner Rees.** Commissioner Graham asked what the difference was between the permit fee and an increase in the tax rate. City Manager Holden stated this was a long debate between the industry and the State over the right of a City to permit the use of a right-of-way and to charge for it. As a compromise, it was decided that if a City wants to charge a permitting fee of \$100, per permit, the City would give up the tax. City Attorney Everett stated that the Unified Tax Act passed last year, was an incentive to cities to give up permit fees. The City would get to keep the tax, which should theoretically match the revenues under the old franchise tax, plus the City would receive the .12% on top of the statutorily set tax rate. As of last

month, the League of Cities reported that every City in the state that has looked at this has opted for the tax and not the permit fee. **Motion carried 5-0.**

E. Ordinance 01-23: Amending the procedures and fees for water and sewer impact fees

City Attorney Everett read Ordinance 01-23 by title only. **Motion by Commissioner Harriman to approve Ordinance 01-23 and to schedule the second reading and public hearing for May 10, 2001. Seconded by Commissioner Dixon and carried 5-0.**

13. MATTERS OF CONCERN FROM CITIZENS - None

14. MATTERS FROM CITY ATTORNEY – None

15. MATTERS FROM CITY MANAGER – Hollis Holden

- The "City Slickers" softball team coach, Mike Bollhoefer, has asked what time the Commission would like to bowl in the Rotary Charity on May 17, 2001. There are two squad time choices of 5:30 p.m. or 8 p.m.
- The City's water conservation program, in effect since February, has been successful in reducing consumption by 6.2% as compared to this time last year. This reduction has been achieved even with the 990 accounts being added since March of 2000. The consumption, by the number of accounts, has been reduced by 25.4% and the target was 15%. Consumption is being monitored monthly and we are through the early phase of warnings. Tickets will be issued shortly.
- A developer (The Greater Construction Corp.) has approached the City regarding the Burch property (37-38 acres) on Plant Street to build a "unique" type of development similar to Celebration. They would like to show the product, in Celebration, to both the Commission and the Planning and Zoning Board. Please let him know if you are interested.

16. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Rees: None

Commissioner Graham:

At his meeting last week on the water situation, it was reported that by 2015, we will be out of water in the aquifer and we will have to take surface water from somewhere.

Commissioner Dixon: None

Commissioner Harriman:

Reported that the Recreation Department had a 5-week photography class and the 5 students displayed their artwork from 7-9 at Tanner Hall. There were only 2 people who showed up, he and Jay from Recreation. He was disappointed to not see more people attending. The photos were well worth seeing and the photographers were interesting.

Mayor:

It is starting to get warm. Does the Commission want to go to summer attire? It was the consensus of the Commission that the City logo polo shirts will be worn starting the first meeting in May. **Motion by Commissioner Harriman to begin wearing City logo polo shirts at the May 10, 2001 meeting. Seconded by Commissioner Graham and carried 5-0.**

ADJOURNMENT: The meeting was adjourned at 7:47 p.m.