

REGULAR MEETING MINUTES

CITY COMMISSION

May 10, 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 (arrived at 6:43 p.m.) and John Rees (arrived at 6:48 p.m.); City Manager Hollis Holden, City Attorney Dykes Everett, City Clerk Kathy Montoya, Utilities Director Charlie Tinch, 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, Fire Chief Randy Dollar and John Maloney of The West Orange Times

PRESENTATION

1. **Water Conservation Slogan contest winners**

Mayor Quesinberry presented the awards to the winners who were present and announced the winners as Sharon Ashton, Helen Perko, Louise E. McCroy, R. B. Stuart, and Tom Myers.

2. **Drop Savers poster contest winners for 3rd and 4th Graders**

Mayor Quesinberry presented awards to the winners who were present and announced the winners for the 3rd grade 1st Place winners as Allison Jarrett, Marie Colon, Brianna Marbais, Floyd Jones, Tori Fisher, and the 4th grade 1st Place winners as Shaina Rolle, Tamisha Hall, Karla Serpa, and Zachary Antammarchi. Allison Jarrett received the distinguished honor of placing 3rd in the State.

APPROVAL OF MINUTES:

1. Regular Meeting Minutes of April 26, 2001

Motion by Commissioner Harriman to approve the Regular Meeting minutes for April 26, 2001 as submitted. Seconded by Commissioner Graham and **carried 4-0**.

PUBLIC HEARING:

1. **Request for a special permit to have more than two domestic animals at 367 North Park Avenue**

Planning Director Cechman stated that staff has received numerous complaints about the number of dogs at this residence and that the City Code requires Commission approval of a special permit to have more than two domestic animals. Mr. Adkison currently has four dogs and was cited by staff for not having the required permit. Staff believes Mr. Adkison is breeding the dogs and therefore, staff recommends denial of the special permit. Mayor Quesinberry opened the public hearing.

Mr. Walter Butterworth, 300 North Park Avenue, Winter Garden, Florida, stated he lives across the street from Mr. Adkison and the dogs do not bother him at all. He barely hears or sees the dogs.

Mr. George Reaves, 206 Roper Avenue, Winter Garden, Florida, stated he has lived in his home behind Mr. Adkison for 30 years. He stated that Mr. Adkison has dog kennels in his backyard and is breeding and selling the dogs as evidenced by an advertisement placed in the newspaper to sell the puppies. There is a six-foot fence that was installed 1 to 1 ½ years ago and since then, Mr. Adkison has had 4-6 dogs. The dogs don't bark that much but they do fight occasionally. He is concerned about the health issues in related to the amount of feces generated by so many dogs. There is also a strong odor whenever it is hot. City Attorney Everett asked if the 4-6 dogs were all adults? Mr. Reaves stated that there has been on ongoing mix of both adults and puppies.

Mr. Clarence Adkison, applicant, stated that everything Mr. Reaves stated is a complete lie. He cleans up after his dogs every morning and night, which is not a health hazard. There have only been four Siberian Huskies and three litters in the past 3 years and yes he has sold them, but not for a profit. He happens to like puppies and that is the only way he can keep a certain amount of puppies for a certain amount of time because they grow up. He loves his Siberian Huskies and wants to find a good home for them. He stated that if it would make people happy, he would have them spayed. He has quite a bit of money and time invested in them.

Ms. Cheryl Bowlds, 304 North Park Avenue, Winter Garden, Florida, stated that she has lived across from Mr. Adkison (Red) for 14 years and when he started getting the dogs, she told him that the City only allows 2 dogs, but he went and got 2 more dogs as well as his original dog Zenna. Every six months the dogs mate and it is sad to watch the one female be constantly harassed by the two males. She stated that Mr. Adkison does not properly care for the animals because he doesn't play with them or bring them in out of the cold when it is freezing. They are kept in 3' x 6' cages and she doesn't know if they each have their own cage or not. She has seen as many as 11 dogs on the property at one time. She has observed him feeding and washing the feces into the ground. She has only observed the animals being used for breeding purposes, which leads her to believe Mr. Adkison is using the dogs to make money and not as pets. She stated that if Mr. Adkison would spay them and keep them for pets, it would be all right with her. Mayor Quesinberry closed the public hearing. **Motion by Commissioner Harriman to deny the request for a special permit to have four domestic animals. Seconded by Mayor Quesinberry.** Commissioner Rees stated that he sees two issues to be decided. The first issue is the violation of the City Code for having more than 2 animals because of complaints filed by the neighbors and the second issue is the breeding of animals for profit in a residential neighborhood. The breeding issue needs to be stopped and if the dogs were spayed, and the neighbors didn't object to the 4 animals, it would be alright with him to approve the permit. Commissioner Dixon stated that she has problems with dogs in her district and wants to see the Code enforced all over the City. City Manager Holden stated that the City does not go out searching for residents with more than 2 pets. Staff is only responding to excessive animal complaints, which in this case is because of the quantity and breeding. The decision that needs to be made in this case is whether breeding is acceptable in a residential area and how many dogs are appropriate for the neighborhood. Commissioner Dixon stated that she has dog issues within her district because there are dogs roaming and breeding. City Manager Holden stated that the decision the City Commission is being requested to make is whether or not this resident can have more than 2

dogs and that the City Code is specific about not breeding dogs. Under the special permit process, the City Commission can allow more than two animals and in doing so, would not set a precedence for future cases. Mayor Quesinberry stated that he seconded the motion because of the size of the dogs and the odors that they generate and believes the Code is correct in allowing only two animals per residence. Commissioner Graham stated that of all the public hearing notices mailed out, there was only one complaint about the smell, one about breeding, and someone reported that the dogs don't bark. The applicant is already allowed to have two dogs and he is willing to spay the dogs to prevent future breeding. He has heard from only three neighbors and received a phone call from Mr. Reaves, who spoke earlier. It is his opinion, that if the dogs are not disturbing the neighbors and the owner cleans the pens regularly, he has no objection to the four animals. **Motion carried 3-2 to deny the special permit. Favor; Quesinberry, Harriman and Dixon. Opposed; Graham and Rees.** Commissioner Rees asked if the applicant only has 10 days to reduce the number of dogs to two could that be extended? Mayor Quesinberry stated that the applicant would be given a reasonable amount of time to comply and that staff would work with him. There was no objection to exceeding the 10-day compliance requirement.

REGULAR BUSINESS

1. Request for approval of non-conforming use agreement with J&WB Inc.

Planning Director Cechman stated that this site is located on 19 acres on the west side of CR535 south of the Turnpike, which was annexed in 1990 when it was agriculture. They have evolved since then from moving produce to trucking dirt and doing air-conditioning repair. Since they are zoned R-1, these uses are not allowed and negotiations have led to this proposed agreement to allow the grandfathering in of these uses and limiting their duration. After a long negotiation period, the Planning and Zoning Board recommends approval. City Manager Holden stated that the agreement defines the limits of the land use and that the trucking business will end in 5 years. City Attorney Everett stated that at the end of 5 years, the applicant could come back to the City Commission with a request to continue the non-conforming use. **Motion by Commissioner Graham to approve the 5-year non-conforming use agreement with J&WB Inc. Seconded by Commissioner Harriman and carried 5-0.**

2. Request for approval to expend \$600 from the State Law Enforcement Trust Fund to purchase Law Awareness Graduation awards for Dillard Street Elementary School

Police Chief Yawn stated that the Dillard Street Elementary School Law Awareness participants will be graduating and he is requesting expenditure approval of \$600 from the forfeiture fund to purchase T-shirts and medals. Their legal advisor has verified that the expenditure falls within the State's purchasing guidelines. **Motion by Commissioner Graham to approve the requested expenditure. Seconded by Commissioner Rees and carried 5-0.**

3. Approval of a lot donation to the West Orange Habitat for Humanity (corner of S. Lakeview and West Cypress

City Manager Holden stated that the City has completed all the road construction in this area and that the site has been cleaned up. All the surveys have also been completed and staff is recommending the donation of the property to the Habitat for Humanity. Commissioner Graham asked what is the lot size? Mr. Jack Fain, President of the West Orange Habitat for Humanity, stated that the lot size is 75' x 141' and they are proposing to build a 4 bedroom home. **Motion by Commissioner Harriman to approve the lot donation on the corner of South Lakeview and West Cypress to Habitat for Humanity. Seconded by Commissioner Rees and carried 5-0.** Mayor Quesinberry stated that the recipient of the home is selected by the Habitat for Humanity organization with no controls by the City. Mr. Fain stated that the home would have a 20-year interest free mortgage with the recipients contributing 350 hours before they can move in and paying rent until they serve an additional 150 hours for a total of 500 volunteer hours. Mr. Fain thanked the City for the present and past contributions.

4. FIRST READING OF PROPOSED ORDINANCES:

A. Ordinance 01-34: Request to vacate 7th Street from Smith Street north to the Railroad

City Attorney Everett read Ordinance 01-34 by title only. Mr. Fred Crabtree stated that he has a sale pending to Heller Brothers and a title search has revealed that the street vacation documents were never created or recorded as directed by the City Commission on November 9, 1972 to the City Attorney. In 1991, the City also vacated 6th Street with half the right-of-way going to each adjoining property owner, which is what is intended to happen in this case, and will give Heller Brothers one contiguous piece of property. City Attorney Everett stated that absent a contrary intent expressed, whenever a municipality vacates a street by common law, it passes to the adjoining property owners, so the adjoining property owners own half of the street on each side, with neither one owning the entire street. **Motion by Commissioner Rees to approve Ordinance 01-34 and to schedule the second reading and public hearing for May 24, 2001. Seconded by Commissioner Dixon and carried 5-0.**

4. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES:

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

City Attorney Everett read Ordinance 01-22 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 01-22. Seconded by Commissioner Harriman and carried 5-0.**

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

City Attorney Everett read Ordinance 01-23 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to adopt Ordinance 01-23. Seconded by Commissioner Rees and carried 5-0.**

C. Ordinance 01-32: Amending the Fiscal Year Budget 2000-2001

City Attorney Everett read Ordinance 01-32 by title with revenues and expenses totaling (\$6,356.568). Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to adopt Ordinance 01-32. Seconded by Commissioner Dixon and carried 5-0.**

6. MATTERS OF CONCERN FROM CITIZENS - None

7. MATTERS FROM CITY ATTORNEY

City Attorney Dykes stated that for the record, he was not the City Attorney in 1972 when the 7th Street vacation was not recorded.

8. MATTERS FROM CITY MANAGER

- A. Stated that at the last City Commission meeting Commissioner Dixon brought up some concerns about the Community Center on West Crown Point Road and that he has since spoken with the President of the Boy's & Girl's Club, Randy June, about the baseball field and basketball court conditions. Mr. June has indicated that he thinks he can get the ball field drainage problem fixed and that the basketball court problems seems to have been caused by the way the cement was cured. Mr. Holden pointed out that the projects were completed, but that some improvements may need to be made. Mr. Larry Caskey and Mr. Jay Conn of the Recreation Department are going to be on the Board for the Boy's and Girls Club, which will allow the City to maintain on-going discussions about the programs. The Boy's and Girl's Club is currently working with Orange County with regard to their responsibility in maintaining the recreation centers.
- B. Stated that the Mayor, Commissioner Harriman, Mr. Cechman and himself attended a meeting today with the Orange County School Board to discuss the Dillard Street Elementary School. From that meeting, they have learned that Building 4 will be replaced and that Buildings 1, 2 and 3 will be refurbished. The school will stay where it is. The only delay indicated is in getting the design done of Building 4 and there are no money issues. Mayor Quesinberry stated that the school would become a two-story building without finishing the second floor, which will be used for future growth. City Manager Holden stated that the portable classrooms would only be temporary.

9. MATTERS FROM MAYOR AND COMMISSIONERS

Mayor Quesinberry:

Stated that he has received a request from the West Orange Chamber of Commerce for the City to attend the 2001 Legislative Luncheon on May 24, 2001 for \$250. **Motion by Commissioner Harriman to approve the purchase of 10 seats for the West Orange Chamber of Commerce Legislative Luncheon. Seconded by Commissioner Dixon and carried 5-0.**

Commissioner Rees:

Apologized for arriving late and without wearing the City logo shirt for the summer session.

Commissioner Graham:

Stated that he received a letter from the Municipal Tax Consulting Management firm regarding their services for recouping funds for the City and asked if staff has any additional information. City Manager Holden stated that this firm has been contacting him on a regular basis. He and the Finance Director will be meeting with them to discuss their services and will bring back the information at a future Commission meeting. Commissioner Graham stated that in his letter, it indicates this firm has recovered \$39,000 without any cost to the City and will continue to do so on a fee basis. Commissioner Rees stated that these firms could require a lot of staff time. Mr. Holden stated that he wants to evaluate the services to determine if it is economically feasible for staff to perform them in-house. Commissioner Graham stated that he recalls that several years ago the City found out that the cable companies were not paying us their excise tax based on their gross receipts and money was recouped at that time. Commissioner Rees asked if the company is proposing a review of historical records or going forward with recommendations because if it on future items, they could try to lock us into it for life. Finance Director Bollhoefer stated that staff would have to compile the information for the firm and they would collect 1/3 of what is collected. Commissioner Graham stated that it looks like a service to review companies that have collected a "built-in tax" that should not have been collected in the first place and the City is due a refund. Mr. Bollhoefer stated that in the past a company recouping funds fills out the required forms, sends it in, we collect and then pay the fee. Mr. Holden stated that he and Mr. Bollhoefer would evaluate the proposal and report back to the City Commission on their findings.

Commissioner Dixon:

Stated that she met with David Williams last week, who took John Harris' position who is the person who told her about the \$77,000 about three years ago that was to be used to do some work on the community center's baseball field and fix the acoustics. When she asked Mr. Williams about the funds, he stated that he didn't know anything about \$77,000 so she went to Tom Austin, who is the head of the Community Action Board (CAB). Mr. Williams stated that money would be appropriated this next fiscal year for his budget. Currently, funds are being expended at the Maxey Center to renovate, that she and Ms. Wilder feel should be used for other things. The Enhancement Grant Proposal was denied. She believed that this grant was for urban rule, so they will not be getting a sign for the Boy's Club, which are deserving and needs a different sign because they currently only have a flag. The County should expend funds in this area before they go to other areas, because they didn't finish here. She stated she was glad to hear there would be City representation on the Board of the Boy's and Girl's Club.

Announced that she would be inviting Mr. Tom Austin, CAB, to attend the next City Commission meeting to talk about housing issues in the east side of Winter Garden as well as affordable housing opportunities that includes down payment assistance. She would like the City Commission to also discuss the demolishing and replacing of housing in east Winter Garden.

Commissioner Harriman: None

At this time, City Manager Holden made his financial status presentation for the Fiscal Year ending September 2000.

General Fund Revenues = \$9,199,721

Total Taxes = 40% Total Intergovernmental = 30%

Total Licenses & Permits = 14% Total Other Revenue = 12%

Total Fines & Forfeitures = 3% Total Charges for Service = 1%

General Fund Revenue History

All revenue sources have increased at a relatively constant rate since 1993.

General Fund Total Taxes Breakdown

Over the past 10 years the Utility tax level has remained at approximately 35% of total taxes; Franchise fees at approximately 20%; and General property taxes at approximately 45%.

General Fund Operating Expenses = \$6,800,244

Public Safety = 56% Public Works = 15%

Parks & Recreation = 15% General Government = 14%

Public Safety Expense Breakdown

These expenses have remained relatively consistent over the past 10 years with the exception of 2000 because of the addition of a Code Enforcement officer.

General Capital Spending = \$1,018,284

Street Improvements = 40% Parks & Recreation = 26%

Public Safety = 23% General Government = 7%

Public Works = 4%

General Fund Revenues and Expenses

Revenues are proportionately greater than expenses by over a million dollars.

Excess of Revenues to Expenses

There has been significant improvement over the past ten years.

General Fund Operating Expense History

With the exception of some minor fluctuations, the ratios between the four expense categories have remained relatively consistent and have increased proportionately with the city's growth.

Solid Waste Operating Fund

Revenues have consistently exceeded expenses, demonstrating efficient utilization of the department resources.

Cemetery Revenue and Expense History

Cemetery continues to be a success by being self-supporting and exceeding revenue expectations.

General Fund Capital Outlay as a Percent of Total Expenses

Ended the year at 7.1%. The optimum goal is 15%.

General Fund Personnel Costs = \$5,099,264

General Fund Capital Spending Compared to Total Revenue

Spending is at \$1 million with revenues exceeding \$9 million

General Fund Capital spending History = \$1,018,284

Undesignated General Fund Balance = \$4,553,994

Reserve Fund Balance = 67%

The national average for reserve in 1996 for small cities was 28%. We are at the highest reserve we have had in the last decade.

10. **ADJOURNMENT:** The meeting was adjourned at 8:15 p.m.