

REGULAR MEETING MINUTES

CITY COMMISSION

October 24, 2002

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Jack Quesinberry at 6:30 p.m. in City Hall Commission Chambers. The invocation and Pledge of Allegiance were given.

Present: Mayor Jack Quesinberry, Commissioners John Harriman, Mildred Dixon (arrived 6:34 p.m.), and John Rees; City Manager Hollis Holden, 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, Trailer City Manager Hughlan Martin, Recreation Director Larry Caskey, Police Chief Jimmie Yawn, Public Works Director Bob Smith, Fire Chief John Williamson

Absent: Commissioner Theo Graham

1. **APPROVAL OF MINTUES:**

Motion by Commissioner Harriman to approve the minutes of October 10, 2002 as submitted. Seconded by Commissioner Rees and carried 3-0.

Commissioner Dixon arrived at 6:34 p.m.

2. **PRESENTATIONS:**

- A. Mayor Quesinberry presented Police Officer Evie Hill with two gold medals and a plaque from the National Fire and Law Enforcement Sports Federation for her victory in the 400 and 1000 meter dashes.
- B. American Legion Second Vice-Commander Mr. James Fleming provided the history of the Blue Star Flag, also known as a War Service Flag, and presented it to Mayor Quesinberry

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

A. **Ordinance 02-41: Amending Chapter 88 to provide for assessing costs, expenses and fees incurred by the City relating to development requiring deposits; procedures; objections and appeals**

City Attorney Everett read Ordinance 02-41 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 02-41 and seconded by Commissioner Dixon.** Commissioner Rees asked for clarification on the ability of single land owners to waive the fees such as in the case of appealing a Planning and Zoning Board's decision, which would go from \$25 to \$300 and de-annexing for \$2,500, which appears pretty steep. City Manager Holden stated that staff did a survey of other city's fees prior to preparing the proposed ordinance and used that information to draft the proposed ordinance. There have not been any requests to date for de-annexing, but after comparing the fees of other cities, the \$2,500 fee is recommended as an appropriate fee. The proposed ordinance only gives him, as the City Manager, the authority to waive a review fee, not the flat fees. There is no charge for a single lot less than 5 acres. In some instances, a developer has caused the City to expend a significant amount of resources only to withdraw their request and staff believes the residents should not bear the costs of such a request, which contributed to proposing this ordinance. In cases when the City benefits from a request, then the fee waiver request will go to either the Planning and Zoning Board or the City Commission. **Motion carried unanimously 4-0.**

B. **Ordinance 02-54: Granting a non-exclusive cable franchise to Strategic Technologies Inc. (STI)**

City Attorney Everett read Ordinance 02-54 by title only. Mayor Quesinberry opened the public hearing. Mr. Philip Kantor, Legal Counsel for STI, stated he is available to answer any questions. Hearing no comments, the public hearing was closed. **Motion by Commissioner Dixon to approve Ordinance 02-54. Seconded by Commissioner Harriman and carried 4-0.**

C. **Ordinance 02-51: Annexation of 409 W Bay Street**

City Attorney Everett read Ordinance 02-51 by title only. Mayor Quesinberry opened the public hearing. Mr. Larry Roberts, 5764 Orange Blossom Trail, Orlando, Florida, Applicant's Representative, stated that the prospective owners are requesting approval of the annexation to eventually build a home on the lot. Hearing no other comments, the public hearing was closed. **Motion by Commissioner Rees to approve Ordinance 02-51. Seconded by Commissioner Harriman.** City Manager Holden stated that he wants to make it clear that this action and the next two, does not imply that the current or future owners will have the right to build a house on the property. Mr. Roberts stated that they understand the risk and they know that staff is currently reviewing a potential policy on non-conforming lots that may allow them to build in the future. **Motion carried 4-0.**

D. **Ordinance 02-52: Small Scale Comprehensive Plan Amendment to Low Density of 409 W. Bay Street**

City Attorney Everett read Ordinance 02-52 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 02-52. Seconded by Commissioner Rees and carried 4-0.**

E. **Ordinance 02-53: Rezoning to R-1B of 409 W. Bay Street**

City Attorney Everett read Ordinance 02-53 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Rees to approve Ordinance 02-53. Seconded by Commissioner Dixon and carried 4-0.**

4. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 02-55: Annexation of 941 9th Street (Lizzi/Chasteen)**

City Attorney Everett read Ordinance 02-55 by title only. **Motion by Commissioner Rees to approve Ordinance 02-55 and to schedule the public hearing for November 14, 2002. Seconded by Commissioner Harriman and carried 4-0.**

B. **Ordinance 02-56: Small Scale Comprehensive Plan amendment to Commercial of 941 9th Street (Lizzi/Chasteen)**

City Planner Cechman City Attorney Everett read Ordinance 02-56 by title only. **Motion by Commissioner Harriman to approve Ordinance 02-56 and to schedule the public hearing for November 14, 2002. Seconded by Commissioner Dixon and carried 4-0.**

C. **Ordinance 02-57: Rezoning of 941 9th Street to C-2 (Lizzi/Chasteen)**

City Planner Cechman City Attorney Everett read Ordinance 02-57 by title only. **Motion by Commissioner Rees to approve Ordinance 02-57 and to schedule the public hearing for November 14, 2002. Seconded by Commissioner Harriman and carried 4-0.**

D. **Ordinance 02-58: Annexation of 3.6 acres west of the properly closed City Dump (West Orange Community Development)**

City Attorney Everett read Ordinance 02-58 by title only. City Planner Cechman stated that a revised legal description has been provided by the applicant and should be attached to the Ordinance, which he gave to the City Clerk. **Motion by Commissioner Rees to approve Ordinance 02-58 for the property west of the properly closed City of Winter Garden dump, with the new legal description that has been provided, and to schedule the public hearing for November 14, 2002. Seconded by Commissioner Harriman and carried 4-0**

E. **Ordinance 02-59: Small Scale Comprehensive Plan Amendment of 2.51 acres north of Plant Street and west of 9th Street right-of-way to Commercial**

City Attorney Everett read Ordinance 02-59 by title only. **Motion by Commissioner Harriman to approve Ordinance 02-59 and to schedule the public hearing for November 14, 2002. Seconded by Commissioner Dixon.** Commissioner Rees stated that the residents adjacent to this property purchased their property when this zoning was R-1 and changing it to Commercial will necessitate the appropriate buffering. **Motion carried 4-0**

F. **Ordinance 02-60: Rezoning of 2.51 acres located northwest of Plant Street and Lulu Creek to PCD**

City Attorney Everett read Ordinance 02-60 by title only. **Motion by Commissioner Rees to approve Ordinance 02-60 and to schedule the public hearing for November 14, 2002. Seconded by Commissioner Harriman and carried 4-0**

5. **REGULAR BUSINESS**

A. **Recommendation to approve a Weatherization Grant for Greater Winter Garden from the Florida Department of Community Affairs for \$900,000**

City Manager Holden stated that dating back to 1995 the City has struggled to try and receive funding for weatherization devoted to West Orange County. However, during this last legislative session, Representative Randy Johnson was instrumental in helping Winter Garden to receive a \$900,000 grant for weatherization. Much effort has also been put into this effort by Finance Director Bollhoefer. Commissioner Harriman stated that he spoke with Representative Johnson thanking him for his help and told him that the program would start tomorrow. Mr. Holden stated that the funds will benefit qualified homes within the Joint Planning Area of up to an average of \$10,000 per house. Mr. Bollhoefer stated that the program is being setup with Mr. Fred Fox, which will be administered by Angie Brewer & Associates, and an individual from the University of Central Florida will do thermographs. **Motion by Commissioner Rees to approve the Greater Winter Garden Weatherization Grant. Seconded by Commissioner Dixon and carried 4-0.**

B. **Request for donation by the Central Florida Young at Heart Seniors**

Ms. Charlie Mae Wilder stated that the donation request will support a new computer training program. Commissioner Dixon stated that the classes have started with 20 students and the money will be used for the computer room. Ms. Wilder stated they need software, chairs..... City Manager Holden suggested that whatever amount is approved, the City make the purchases on government contracts at the lower rates. Commissioner Dixon stated that they also need a certified teacher that can issue certificates, which she has found through the Westside Vocational Technical School at \$18 an hour for five weeks, three days a week, two hours a day. Commissioner Rees stated that this organization was given \$850 last year and this year they are requesting \$3,000, which is 38% of their annual budget and suggested letting the City do the purchasing and come back with a future request if needed. Commissioner Dixon stated that if she can get the equipment from other places she will, but she can't get any help with getting the instructor and she wants the Commission to approve it accordingly. **Motion by Commissioner Rees to approve up to \$1,000 expenditure for the Central Florida Young at Heart Seniors computer training program for either equipment or instructors. Seconded by Commissioner Harriman and carried 4-0.**

C. **Request for an open-air furniture tent sale by Classic Furniture at 624 S. Dillard Street from November 8-10, 2002**

Mr. Randy Shuster, General Manager, stated that this request is for their annual fall clearance sale and that he is requesting a waiver of the open-air sale occupational fee because they currently hold an active occupational license with the city. **Motion by Commissioner Harriman to approve the open-air furniture sale, with tent, from**

November 8-10, 2002 and waiving of the fees. Seconded by Commissioner Dixon and carried 4-0.

D. Recommendation to approve the Preliminary Plat for John's Lake Pointe PUD

City Planner Cechman stated that this plat was previously approved, but that approval expired and that is why it is before the Commission again. On October 7, 2002, the Planning and Zoning Board recommended approval and staff is recommending approval with the conditions stated in the agenda package back-up material. Mr. Brian Kale, 1100 N. Main Street, Suite A, Kissimmee, Florida, stated that the applicant is in agreement with staff's recommendations. **Motion by Commissioner Harriman to approve the Preliminary Plat for John's Lake Point PUD, with staff's recommendations (see attached). Seconded by Commissioner Dixon and carried 4-0.**

E. Recommendation to approve the Preliminary Plat for Fuller's Crossroad Phase III

City Planner Cechman stated that the zoning on this property is R-1B and has 75 foot lot widths. On October 7, 2002, the Planning and Zoning Board recommended approval and staff is recommending approval with the conditions stated in the agenda package back-up material. Mr. Ed Hampden of Tallman Development Company stated he concurs with staff's recommendations. **Motion by Commissioner Harriman to approve the preliminary plat for Fuller's Crossroad Phase III, with staff's recommendations (see attached). Seconded by Commissioner Dixon and carried 4-0.**

F. Recommendation to purchase right-of-way on Daniels Road from Mary V. Tanner

Assistant to the City Manager Robertson stated that this parcel is the first parcel on the west side as you go over the Turnpike and is the last piece to be purchased on the west side of the street. The recommendation is for a total lot purchase because a construction site is needed for 15 months for the widening of the bridge and road. After the construction is done, the property could be sold as surplus. **Motion by Commissioner Harriman to approve the purchase of 5± acres from Mary V. Tanner for \$245,000.00. Seconded by Commissioner Dixon and carried 4-0.**

G. Resolution 02-11: Conditional awarding of the Wastewater Treatment Facility Expansion Project contract to Encore Construction

City Attorney Everett read Resolution 02-11 by title only. **Motion by Commissioner Dixon to approve Resolution 02-11. Seconded by Commissioner Harriman.** City Manager Holden stated the names of the bidding companies and that Encore's bid of \$9,100,000.00 was the lowest responsible bidder, who is local, and had good references. **Motion carried 4-0.**

H. **Recommendation to approve Amendment No. 1 to the professional services agreement for Crest Avenue Wastewater Treatment Plant Expansion Project with Boyle Engineering**

Utilities Director Tinch stated that the amendment is for the construction services in the amount of \$634,220.00 and staff is recommending approval. **Motion by Commissioner Rees to approve the recommendation for Amendment No. 1 to the professional services agreement for the Crest Avenue Wastewater Treatment Plant Expansion Project. Seconded by Commissioner Harriman and carried 4-0.**

I. **Appointment to Police and Firefighters Pension Board for two expiring terms**

City Manager Holden stated that on behalf of Ken Holton's request as presented on the agenda back-up material, reappointment of Mr. Morabito and Ms. Washington is being recommended. **Motion by Commissioner Rees to reappoint Police and Firefighter Pension Board members Joe Morabito and Mildred Holt Washington to another term. Seconded by Commissioner Harriman and carried 4-0.**

Mayor Quesinberry dispensed with the City Commission agenda and convened as the Community Redevelopment Agency (CRA) at 7:29 p.m.

Members Present: Jack Quesinberry, Chairman; John Rees, Mildred Dixon, John Harriman

Members Absent: Theo Graham, Larry Cappleman and Teresa Jacobs

6. **Recommendation to approve Change Order No. 2 for the downtown renovation project**

Assistant to the City Manager Robertson stated that staff is recommending the approval of Change Order No. 2 for \$83,479.00; of which \$14,545.00 will be paid by the Utility Department for their expenses incurred and authorize the City Manager to sign the order. City Manger Holden stated that there has been a lot of work done by staff on water lines and old sewer lines to not hold up the work, and they did a great job. **Motion by Agency Member Harriman to approve Change Order No. 2, as submitted. Seconded by Agency Member Dixon and carried 4-0.**

Mayor Quesinberry adjourned the CRA meeting at 7:33 p.m. and reconvened the City Commission meeting.

7. **MATTERS OF CONCERN FROM CITIZENS**

Mr. Don Miller, 1073 Woodson Hammock Circle, Winter Garden, Florida, stated that as the City's representative on Metroplan Orlando Citizens Advisory Committee, he has two items to report from the last meeting. First, everyone is being asked to complete and return a questionnaire and asked if it could be included with staff's paychecks. Second item is

Colorado Railcar, who is manufacturing the proposed light rail cars, is going to be in Orlando this Friday for elected officials and then on Saturday, it will be at I4 and Huey from 10-4, which is open to the public who is encouraged to attend.

8. **MATTERS FROM ASSISTANT CITY ATTORNEY**

Mr. Everett reported on his meetings with regional city attorneys regarding the proposed Urban Preservation District and it has been concluded that Orlando, Edgewood and Belle Isle are going to move forward with a lawsuit against Orange County shortly after the election, if it passes. If Winter Garden wants to joint the suit, the estimated cost is somewhere between \$10,000-\$30,000. Cities not directly benefiting from being a party to the suit have opted to not become a plaintiff in the case. If Winter Garden wants to become one of the plaintiffs, an action must be taken. If for any reason Winter Garden feels compelled to join in the eleventh hour, we could join under an inter-pleader motion at a later date.

9. **MATTERS FROM CITY MANAGER**

A. **Financial Statement for September 2002**

Stated that the statement provided is the fiscal year end statement and he complimented the department heads for finishing up another good year in great financial shape. The Mayor and Commissioners also expressed their appreciation to the department heads.

- Reported that the Public Risk Management Loss Fund Analysis for the year completed indicates that the City of Winter Garden had its lowest net total loss experience we have ever had with them of 49.2% of our fund, with an average loss of 101.8% from 93-02 of the fund.
- Stated that he has received Jack Gabriel Mask's annual request for his open-air fruit stand. The City Commission, by consensus, approved the permit for the fruit stand for a limited time.
- Stated that he has received from Chief Yawn the School Board Contract for the School Resource Officer Program \$24,000 and requested the Commission's approval for him to sign the agreement. **Motion by Commissioner Harriman to approve the School Resource Officer agreement as requested and authorize the City Manager to sign. Seconded by Commissioner Dixon and carried 5-0.**
- Requested a date for the ribbon cutting ceremony for the completion of Phase I. It was the consensus of the City Commission to conduct the ceremony on November 12, 2002.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Dixon: Stated that she has additional CAB tickets and there will be a bus leaving tomorrow night from Maxey Center, just call the center for more details.

Commissioner Harriman: Stated that he attended the West Orange Chamber breakfast this morning which discussed promoting new businesses and had the opportunity to speak with Representative Randy Johnson about how the doctor crisis is affecting new businesses deciding to locate here. Mr. Johnson indicated to him that there will be a cap placed on physician lawsuits and he thanked Mr. Johnson for his efforts on getting the weatherization funding for Winter Garden.

The meeting was adjourned at 7:54 p.m.