

REGULAR MEETING MINUTES

CITY COMMISSION

December 12, 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, and Theo Graham

ABSENT: Commissioner John Rees

Also Present: 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, Public Works Director Bob Smith, Fire Chief John Williamson, and Code Enforcement Manager Johnny Clark

1. **APPROVAL OF MINTUES**

Motion by Commissioner Harriman to approve the minutes of November 14, 2002 as submitted. Seconded by Commissioner Graham and carried unanimously 4-0.

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

- A. **ORDINANCE 02-61: GRANTING A NON-EXCLUSIVE FRANCHISE FOR THE PROVISION OF CABLE TELEVISION SERVICES BY TIME WARNER ENTERTAINMENT-ADVANCE/NEWHOUSE PARTNERSHIP; PROVIDING AUTHORIZATION FOR THE EXECUTION OF A FRANCHISE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE**

City Attorney Everett read Ordinance 02-61 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 02-61 and seconded by Commissioner Dixon.** Commissioner Graham asked about page 5 in the agreement that refers to the production of governmental access programming. City Manager Holden stated that he understand that channel 10 will become the West Orange Information Channel that will display public event notices. **Motion carried unanimously 4-0.**

B. ORDINANCE 02-62: AMENDING ORDINANCE 02-47 RELATING TO THE CITY BUDGET FOR FISCAL YEAR 2002-2003 TO CARRY FORWARD PRIOR YEAR APPROPRIATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Everett read Ordinance 02-62 by title and stated that the revenues and expenses both total \$6,356,113.00. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 02-62 and seconded by Commissioner Graham. Motion carried unanimously 4-0.**

C. ORDINANCE 02-40: AMENDING THE SCHEDULE OF CODES AND ORDINANCES WHICH MAY BE ENFORCED PURSUANT TO THE CODE ENFORCEMENT CITATION PROGRAM, ALSO KNOWN AS EXHIBIT "A" OF ORDINANCE 01-05; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE

City Attorney Everett read Ordinance 02-40 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 02-40. Seconded by Commissioner Dixon and carried unanimously 4-0.**

D. ORDINANCE 02-63: ANNEXATION OF 10 ACRES LOCATED AT THE SOUTHWEST CORNER OF MARSHALL FARMS ROAD AND WINDERMERE ROAD AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE (West Orange YMCA)

City Attorney Everett read Ordinance 02-63 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to approve Ordinance 02-63 with staff's recommendations (see attached). Seconded by Commissioner Harriman and carried unanimously 4-0.**

E. ORDINANCE 02-64: AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 10 ACRES LOCATED AT THE SOUTHWEST CORNER OF MARSHALL FARMS ROAD AND WINDERMERE ROAD AS LOW DENSITY RESIDENTIAL; PROVIDING FOR AN EFFECTIVE DATE (West Orange YMCA)

City Attorney Everett read Ordinance 02-64 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 02-64. Seconded by Commissioner Dixon and carried unanimously 4-0.**

F. ORDINANCE 02-65: REZONING OF A 10 ACRE LOT LOCATED AT THE SOUTHWEST CORNER OF MARSHALL FARMS ROAD AND WINDERMERE ROAD MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY A-1 TO CITY R-1; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE (West Orange YMCA)

City Attorney Everett read Ordinance 02-65 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Dixon to approve Ordinance 02-65 with staff's recommendations (attached to Ordinance 02-63 above). Seconded by Commissioner Harriman and carried unanimously 4-0.**

3. FIRST READING OF PROPOSED ORDINANCE:

A. Ordinance 03-01: Rezoning a 64 acre tract located southeast of the proposed Western Beltway and CR535 from Orange County A-1 to City PUD (Bronson)

City Attorney Everett read Ordinance 03-01 by title only. Commissioner Graham asked if using the term "lot" was appropriate for 64 acres. City Planner Cechman stated that the title would be changed to "parcel" for the second reading. Commissioner Graham asked about item #13 on the Engineering Department's memo that states "drainage and utility easements between the lots are discouraged (30 foot minimum width required)." City Attorney Everett responded that the item is related to the platting process and designation of a utility easement between each house. Mr. Cechman stated that staff has also made reference to the Conserve II pipeline easement. **Motion by Commissioner Harriman to approve Ordinance 03-01 and to schedule the public hearing for January 23, 2003. Seconded by Commissioner Graham and carried unanimously 4-0.**

4. REGULAR BUSINESS:

A. Request for an annual occupational license for a hot-dog/snack/beverage cart located at 500 S. Dillard (Ace Hardware)

Ms. Sandy Crane, applicant, stated that customers of the hardware store have been asking about a food cart like the one at Lowe's. She stated that they will operate the food cart out of the flow of traffic and it will be stored behind the building when it is not operating. **Motion by Commissioner Graham to approve the annual occupational license request for a food cart at 500 S Dillard (Ace Hardware). Seconded by Commissioner Harriman and carried unanimously 4-0.**

B. Request for approval of open-air sales of Christmas wreaths at 13394 W. Colonial Drive (The Country House Restaurant) from December 13-24, 2002

Mrs. Shannon DeVito was present to answer any questions. **Motion by Commissioner Harriman to approve the request for open-air sales of Christmas wreaths at 13394 W. Colonial Drive (Country House Restaurant). Seconded by Commissioner Graham and carried unanimously 4-0.**

C. **Recommendation to approve the Preliminary Plat for the Hurley Tract Subdivision**

City Planner Cechman stated that the plat is for a 129 unit subdivision with an R-1 zoning, which has been reviewed by the Planning and Zoning Board who is recommending approval. Staff is also recommending approval with the conditions stated in the agenda package. **Motion by Commissioner Harriman to approve the Preliminary Plat for the Hurley Tract Subdivision with staff's recommendations (see attached). Seconded by Commissioner Graham and carried unanimously 4-0.**

D. **Recommendation to approve the Preliminary Plat for Black Lake Estates**

City Planner Cechman stated that the proposed subdivision is for 275 lots and is zoned PUD. Staff and the Planning and Zoning Board are recommending approval with the recommendations provided in the agenda package. Commissioner Graham asked about the 5 foot easement on one side and 10 feet on the other, which offsets the structures. Mr. Cechman stated that visually they will not look off-centered and it will actually allow one side to be used. City Manager Holden stated that the combined easements from each property will have 15 feet total between the structures. **Motion by Commissioner Harriman to approve the Preliminary Plat for Black Lake Estates with staff's recommendations (see attached). Seconded by Commissioner Dixon and carried unanimously 4-0.**

E. **Recommendation to approve the Final Plat for Westfield III Phase B**

City Planner Cechman stated that the plat is for a 58-lot subdivision and is zoned R-1. Staff and the Planning and Zoning Board are both recommending approval with the conditions provided in the agenda package. There has been discussion with the developer and the existing Westfield Homeowner's Association about the canoe dock, and Ryland Homes has added a self-imposed requirement that they will provide the city with a \$20,000 letter of credit, in the event the city has to install the dock. City Manager Holden asked the City Commission to approve the Final Plat, subject to the staff and the City Attorney concluding all the arrangements that will provide for the canoe dock and in the event the dock can't be built, Mr. Perlman has agreed to expand the existing community dock. Mr. Perlman was in the audience and agreed to what Mr. Holden stated. **Motion by Commissioner Graham to approve the Final Plat for Westfield III Phase B with staff's recommendations (see attached) and authorize the Mayor to sign the Final Plat, after the City Manager and City Attorney have resolved the canoe dock issues. Seconded by Commissioner Harriman and carried unanimously 4-0.**

F. **Resolution 02-17: Adopting the County-wide Local Mitigation Strategy 2002 Edition and as amended**

City Attorney Everett read Resolution 02-17 by title. City Planner Cechman stated that a copy of an article from the Florida League of Cities, was provided that best explains the strategy requirements. **Motion by Commissioner Harriman to adopt Resolution 02-17. Seconded by Commissioner Dixon and carried unanimously 4-0.**

G. **Resolution 02-18: Authorizing a declaration of intent under the U.S. Treasury Regulations to reimburse from note and bond proceeds of temporary advances made for payments prior to issuance**

City Attorney Everett read Resolution 02-18 by title. **Motion by Commissioner Harriman to adopt Resolution 02-18. Seconded by Commissioner Graham.** Commissioner Graham asked how much the interest rate is. Finance Director Bollhoefer stated that currently, it is at 3 percent and that the city cannot get a lower rate than what is offered by this program. **Motion carried unanimously 4-0.**

H. **Resolution 02-19: Authorizing the State Revolving Fund Loan Program Agreement for the construction of a water pollution control facility**

City Attorney Everett read Resolution 02-19 by title. **Motion by Commissioner Graham to adopt Resolution 02-19. Seconded by Commissioner Harriman and carried unanimously 4-0.**

I. **Recommendation to approve right-of-way (ROW) lease agreements with Florida Central Railroad**

Motion by Commissioner Harriman to approve the two right-of-way lease agreements with the Florida Central Railroad. Seconded by Commissioner Graham and carried unanimously 4-0.

J. **Recommendation to approve Change Order #7 to the Boyd Street Phase IV Rehabilitation Project**

Motion by Commissioner Harriman to approve Change Order #7 to the Boyd Street Phase IV Rehabilitation Project for \$7,044.00. Seconded by Commissioner Graham and carried unanimously 4-0. Public Works Director Smith announced that the southern leg of SR429 at Stoneybrook Parkway will open on Thursday, December 19th at 4 p.m. and the second two-lanes of Stoneybrook Parkway will be open by 5:35 p.m. the same day and he invited the elected officials to drive on the new road.

K. **Recommendation to approve the purchase of property located at 715 Hennis Road from Creeden Family, LP, for a new fire station**

Motion by Commissioner Graham to approve the purchase of property located at 715 Hennis Road for a new permanent northern fire station for \$135,500.00. Seconded by Commissioner Harriman and carried unanimously 4-0.

L. **Recommendation to approve the purchase of approximately 3 acres located next to the wastewater treatment plant**

Motion by Commissioner Harriman to approve the purchase of property located east and adjacent to the wastewater treatment facility on Crest Avenue for \$100,000 from Mr. Waldrop, with dismissal of the outstanding Code Enforcement fines levied against said property. Seconded by Commissioner Graham. Commissioner Graham asked about the Code Enforcement penalties. City Manager Holden stated that the Code fines resulted from the land being cleared without the necessary permits. **Motion carried unanimously 4-0.**

M. **Recommendation to approve the contract for professional services with Glatting, Jackson, Kercher, Lopez and Rinehart relating to the design standards for State Road 50 Overlay District**

City Manager Holden stated that after the last workshop, there were some excellent comments made about the landscaping and signage standards. Staff tried to devise a landscape plan along with some local talent, but the local talent said that staff should hire a consultant. This firm would not have anything to do with determining any of the conditions of compliance to be adopted for the existing property or buildings, but to provide the city with a manual (booklet) with the appropriate standards. Staff will take the technical input and put it in the Ordinance. As he has previously stated, staff needs the landscape and signage criteria for the new businesses coming in, whether or not anything is done with the existing businesses. **Motion by Commissioner Harriman to approve a contract for professional services with Glatting, Jackson, Kercher, Lopez and Rinehart for the design standard for the State Road 50 Overlay District. Seconded by Commissioner Dixon.** Commissioner Dixon asked if everyone will have ample time to review the manual and give their input. Mr. Holden stated that the contract requires that public workshops be conducted. Commissioner Graham referred to a section in the agreement that states "The project is to prepare a set of design standards that will be incorporated into an Overlay Ordinance for the State Road 50 Corridor with the Winter Garden city limits. Design standards will address landscaping, signage, parking, site and building, lightning and other detail items." which to him means they will go back and look at what we already have. Mr. Holden stated that the agreement is not for designing of the actual parking lot, but for how the parking area would be landscaped and what signage is appropriate because they can't design the parking because that portion is by individual lot. The overlay drafts didn't really have any criteria, but for a 5 foot landscape buffer and some trees without it specifying what types or what ground cover. There is no criterion for parking lots and he hopes the Commission would try to avoid any future parking lots like K-Mart's that is just asphalted. There is a new shopping center going in at Marsh Road and CR545 that needs a standard. Commissioner Graham stated that under Section 2.3 it states "This work is intended to follow the format of the existing draft; but including revised text, standards and graphs." Mr. Holden stated

that this means that there are sections of the draft that deals with what the landscaping looks like, what the lighting looks like, what parking lots are supposed to have, for which they (Glatting) would be providing the details for those sections. Mr. Holden stated that he plans to utilize what Glatting prepares, and put it into an ordinance for SR50. If it is not approved, he would then put the same information into another ordinance that would address new construction. Commissioner Graham stated that he is in favor of a new standard for future building, but that he has some objections to imposing the new standard to business that have been in place for some time. **Motion carried 31; Commissioner Graham opposed.**

5. **MATTERS OF CONCERN FROM CITIZENS**

Ms. Shirley Smith, 21 W. Crest Avenue, Winter Garden, Florida stated that she is very proud of what has been done with the downtown area, but she has the following concerns:

- Planting of Oak trees on Plant Street that are going to eat the streets and sidewalks eventually with their roots, and
- The new potted plants that are standing in 4 inches of water and look like they are drowning, and
- Since the Christmas lights have been added, the street lights are not on and it is too dark especially on Main Street and Maple, and
- The SR 50 overlay proposal is cost prohibitive for the small business owners, and
- The Main Street Association, who originally raised the money for the downtown bicycle racks/fencing in front of Downtown Brown's, has one already butchered because a wheelchair can't adequately get around it because Glatting Jackson did not adequately allow for the existing improvements and the new decorations, which concerns her that the same thing will occur with them (Glatting) planning SR50, also
- The 1st Union Bank pole sign was replaced with a Wachovia pole sign, but the Republic Bank sign on Maple and Dillard had to be replaced with a monument sign, which is not yet an ordinance, but the City is making them change the type of signs used. Why can some do a pole sign and some can't?

6. **MATTERS FROM CITY ATTORNEY DYKES EVERETT:** None

7. **MATTERS FROM CITY MANAGER HOLLIS HOLDEN:**

A. **Financial Statement for October 2002**

Stated that the financials have been distributed for the first month of the Fiscal Year and if there are any questions, please see him or the Finance Director.

- Reminded the City Commission of the City's party tomorrow night and that he hopes to see them there.
- Announced that Jake Wright has gone to Tallahassee to receive his final certification and that he will become the City's new Building Official.
- Stated that he met with Commissioner Rees yesterday about Ocoee's petition to rename the new high school in Ocoee to Ocoee High School because it was once named Ocoee High School. The Ocoee Mayor believes they have a good chance at getting the name restored and after meeting with Dan Buckman on Monday, Mr. Buckman indicated that there is a chance that Ocoee's High School name can be restored. Since Commissioner Rees is absent and he and Mr. Holden have discussed the fact that there was a Winter Garden Elementary School, which is now Dillard Street Elementary School, they believe Winter Garden would have the same opportunity to have the name restored and he will be bringing a Resolution to that affect to the next meeting.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Dixon:

Announced that on December 18th from 3:30-5:00, she will be giving her end of the year report for her district. She also stated that when Winter Garden's main street is done, she will be addressing the CRA about improvements to the East Winter Garden area. She also stated that she has been contacted by Orange County residents about getting an annexation referendum on a ballot for next year and she will be meeting with the City Manager to get more information. Mr. Holden stated it takes approximately 6 months because the Orange County Supervisor of Elections actually handles the election. Additionally, she stated that she wants to do whatever is necessary to put a pay increase for the City Commission on a future agenda.

Mayor Quesinberry:

Stated that he has received a card from Mrs. Kerber in Windermere, who was able to see the new downtown lights in Winter Garden and noted that our Christmas display is better than New York City's.

The meeting was adjourned at 7:39 p.m.