

REGULAR MEETING MINUTES

CITY COMMISSION

February 28, 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 Rees, John Harriman, Theo Graham (arrived at 6:58 p.m.), and Mildred Dixon; 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, Human Resource Director Victoria Ward, Finance Director Mike Bollhoefer, Trailer City Manager Hughlan Martin, Police Chief Jimmie Yawn, Acting Public Works Director Dennis Duckwiler, Deputy Police Chief Jon Johnson, and Michael Laval of The West Orange Times

APPROVAL OF MINUTES:

Regular Meeting Minutes of February 14, 2002. Motion was made by Commissioner Rees to approve the minutes as submitted. Seconded by Commissioner Harriman and carried 4-0.

PRESENTATIONS:

1. Mayor Quesinberry presented Employee Service Awards
2. Mayor Quesinberry presented W. Scott Allen with a Lifesaving Award for his role in administering CPR to an infant prior to the arrival of the rescue unit.

REGULAR BUSINESS

1. **Recommendation to amend the Joint Planning Agreement**

City Planner Cechman stated that last year the City asked the County to amend the Joint Planning Agreement (JPA) and the County has had some objections and issues with regard to properties west of Stoneybrook. Staff will be requesting that the following related Ordinances be continued. The County has agreed to amend the JPA for a property referred to as the "Tucker" property located on the southwest corner of CR545 and SR50. The proposed amendment includes some language changes dealing with schools because the County does not approve any

projects that increase the need for schools unless there are adequate schools in the area.

Motion by Commissioner Harriman to approve staff's recommendation to amend the Joint Planning Agreement with Orange County. Seconded by Commissioner Dixon and carried 4-0.

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

- A. **Ordinance 01-44:** Annexation of 176 acres located west of CR545 and Marsh Road Intersection (Phillips)
- B. **Ordinance 01-45:** Large Scale Comprehensive Plan Amendment of 161 acres on the west side of CR545 and Marsh Road intersection to Suburban, Medium Density and Conservation Overlay (Phillips)
- C. **Ordinance 01-46:** Large Scale Comprehensive Plan Amendment of 16.8 acres on the west side of CR545 and Marsh Road intersection to Commercial and Conservation Overlay (Phillips)
- D. **Ordinance 01-35:** Annexation of 26 acres located west of CR545 and Tilden Road intersection (Freeman)
- E. **Ordinance 01-36:** Large Scale Comprehensive Plan Amendment for the Annexation of 26 acres located west of CR545 and Tilden Road intersection to Suburban (Freeman)
- F. **Ordinance 01-42:** Annexation of approximately 316 acres on the southeast side of Johns Lake and West of CR545 (Burch)
- G. **Ordinance 01-43:** Large Scale Comprehensive Plan Amendment of approximately 316 acres on the southeast side of Johns Lake and West of CR545 to Suburban Density Residential and Conservation Overlay (Burch)

City Attorney Everett read Ordinances 01-44, 01-45, 01-46, 01-35, 01-36, 01-42, and 01-43 by agenda title only. City Planner Cechman stated that both staff and the applicants are requesting postponement of the adoption of these Ordinances until the next Comprehensive Plan amendment cycle. This will allow the applicants time to work with Orange County on issues addressed by the Avalon Homeowner's Association. City Manager Holden stated that in order to have the next public hearing, the County has to take action first, but some issues still have to be resolved, therefore, the applicant is requesting a continuance of these ordinances to the next adoption cycle. **Motion by Commissioner Dixon to table the public hearing for Ordinances 01-44, 01-45, 01-46, 01-35, 01-36, 01-42 and 01-43 until the next adoption cycle. Seconded by Commissioner Harriman and carried 4-0.**

Commissioner Graham arrived at 6:58 p.m.

- H. **Ordinance 01-82: Rezoning of approximately 22.8 acres on the east side of East Crown Point Road and south of the Corsino Subdivision from R-1 to PUD (Coke)**

City Attorney Everett read Ordinance 01-82 by title only. City Planner Cechman stated that this item was tabled from the January 24, 2002 City Commission meeting to allow the applicant and residents time to meet and discuss any issues. They have since met and there still seems to be some unresolved issues. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. Mr. Bob Harrell, Vice-President of First Equity Development Group, 5300 S. Orange Avenue, Orlando, Florida, stated that he believes the PUD zoning is appropriate for the area and is the most flexible zoning for buffering residents to the west, while allowing them to buffer themselves from Crown Point Road and from the church property to the south. The

current zoning of R-1 allows for a minimum of 1500 square feet. After meeting with the neighbors, they stated they would be willing to further restrict the subdivision to a minimum of 1500 and a minimum of 1700 square foot homes abutting the Tuscany Subdivision. The price range would be from the high 130's to the high 190's with extras ranging from \$20,000 – \$40,000. Recent sales in Tuscany have been from the 150's to the high 190's with one for just over \$200,000. Mayor Quesinberry stated that one concern is the small lots for the area. Commissioner Rees stated his concern with the high percentage of 50-60 foot lots at 69% that is allowed in a PUD and is a lot of homes for the area. Mr. Harrell stated that there has been a lot of time and effort into getting the proposal to the City Commission and had there been a public hearing at the Planning and Zoning Board, the resident's issues could have been addressed at that time. City Manager Holden stated that the applicant went through four variations with staff, with the first being a PUD with all the same size small lots and staff told him at that time, that it was not the purpose of a PUD and sent it back to the applicant. Staff told the applicant that there were too many small lots for the area. After staff makes a review and suggestions to the applicant, the applicant needs to address any public concerns before it goes before the City Commission, who listens to resident concerns during the public hearing. In the past, prior applicants have addressed the public's concerns and have meet with agreeable audiences by the time the City Commission conducts the public hearing. In this case, the applicant did not do his due diligence with the area residents and therefore the public is here stating their objections. Staff will consider whether or not there should be an advertised public hearing at the Planning and Zoning Board meeting for rezonings. **Motion by Commissioner Rees to deny Ordinance 01-82 rezoning from R-1 to PUD. Seconded by Commissioner Graham and carried 5-0.**

I. **Ordinance 02-02: Rezoning of Black Lake Estates from R-1 to PUD**

City Attorney Everett read Ordinance 02-02 by title only. City Planner Cechman stated staff and the Planning and Zoning Board have reviewed the rezoning and both are recommending approval. Mr. John Rinehart of Glatting Jackson stated he was present to answer any questions. Mayor Quesinberry opened the public hearing. Mrs. Bernice Mortimer stated she is an Orange County resident and owns property in Orange County area on Black Lake. She asked what the proposed plans are for the lake area and she stated her concerns about PUD's with small houses that do not add to community, but takes away. Mr. Rinehart stated that the PUD zoning allows them the opportunity to include an 8 acre park. If the property were to retain the current R-1 zoning, he could put in about 25 more lots. There would be 85 foot minimum lots on the perimeter, with some 75 and 60 foot lots internally. City Manager Holden stated that the PUD allows more flexibility to include amenities like a park to make it a better neighborhood. Commissioner Dixon stated that Mrs. Mortimer's property is located on the other side of this proposed development. Ms. Shirley Smith, 21 W. Crest Avenue, Winter Garden, Florida, stated that her parents own a home in Country Lake Estates in the County area on Black Lake and she is opposed to commingling of lower priced homes and sizes around the lake where homes are of a higher value. Hearing no other comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 02-02. Seconded by Commissioner Dixon and carried 5-0.**

J. **Ordinance 01-39: Establishing a Downtown Transitional (DT) Future Land Use Classification**

City Attorney Everett read Ordinance 01-39 by title only. City Planner Cechman stated that this Ordinance is part of the Comprehensive Plan Amendment cycle and is to create a new land use classification for property in and around the downtown area and staff is recommending approval. Mayor Quesinberry opened the public hearing. Hearing no

comments, the public hearing was closed. **Motion by Commissioner Rees to approve Ordinance 01-39. Seconded by Commissioner Harriman and carried 5-0.**

K. **Ordinance 01-40: Large Scale Comprehensive Plan Amendment of 18 acres north of Plant Street and east of West Orange Trail Park to Downtown Transitional (Battaglia)**

City Attorney Everett read Ordinance 01-40 by title only. City Planner Cechman stated that staff and the Planning and Zoning Board are recommending approval of the proposed Ordinance that will change the Battaglia property to the new Downtown Transitional (DT) category. Mayor Quesinberry opened the public hearing. Mr. David Dodge, 421 Courtlea Oaks Blvd., Winter Garden, Florida, asked what is DT? City Manager stated that this classification would eliminate industrial, trucking, and packing house operations within the residential area and opens it up other more appropriate mixed uses. Hearing no other comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 01-40. Seconded by Commissioner Dixon and carried 5-0.**

L. **Ordinance 01-41: Rezoning of 18 acres on East Plant Street, east of the West Orange Trail Park from R-1 and I-2 to City PCD (Battaglia)**

City Attorney Everett read Ordinance 01-41 by title only. City Planner Cechman stated that the applicant has requested a postponement of the adoption of this Ordinance to a date uncertain because of some issues. Mayor Quesinberry opened the public hearing. Mrs. Karen Dodge, 421 Courtlea Oaks Blvd., Winter Garden, Florida, asked that the Homeowner's Association be given the opportunity to meet with the developers prior to the public hearing and that she is opposed to having 2 ½ lots directly behind her property. Ms. Teri Bowley stated that a community meeting was already held at Tanner Hall on May 31, 2001 to answer questions and they are willing to answer any and all questions. Hearing no other comments, the public hearing was closed. **Motion by Commissioner Rees to table the public hearing for Ordinance 01-41 to a date uncertain. Second by Commissioner Harriman and carried 5-0.**

M. **Ordinance 01-37: Annexation of 97 acres located on the southwest corner of CR545 and SR50 (Tucker)**

City Attorney Everett read Ordinance 01-37 by title only. Mayor Quesinberry opened the public hearing. Mr. William Steele stated that he lives near CR545 and SR50 and he is opposed to annexing into the city because of the excessive costs that are passed on to the homeowners. Mayor Quesinberry stated that the "Tucker" property is not a part of Mr. Steele's property. Commissioner Dixon stated that approximately 10-12 years ago, the Tucker property was part of the long-range Comprehensive Plan to be annexed and until 1992 the Siplin area could come into the City for free. Mrs. Steele stated her concerns about annexing increasing their utility bills and crime. They are not too far from Country Gardens and have had theft and vandalism problems already. Mr. Steele stated he wants to maintain their standard of living and property value as much as possible. Hearing no other comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 01-37. Seconded by Commissioner Dixon.** Commissioner Graham stated that the earlier agenda item for a JPA amendment included a memo that states staff recommends approval with a condition that it must include a side road to 545 and according to the map for this annexation, there is nothing currently going out onto 545, so they will have to buy property to build a road. City Manager Holden stated that is correct and the Tuckers understand this and have stated that they will do what they have to do when the time comes. **Motion carried 5-0.**

N. **Ordinance 01-38: Large Scale Comprehensive Plan Amendment of 97 acres located on the southwest corner of CR545 and SR50 to Medium Density, Commercial and Conservation Overlay (Tucker)**

City Attorney Everett read Ordinance 01-38 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Rees to approve Ordinance 01-38. Seconded by Commissioner Harriman and carried 5-0.**

O. **Ordinance 02-03: Granting and Regulating of Cable Communication Franchises**

City Attorney Everett read Ordinance 02-03 by title only. Mayor Quesinberry opened the public hearing. Ms. Diane Pickett-Culpepper of Time Warner Cable stated that there are a few remaining issues of major concern to Time Warner, however, these issues could be addressed as part of a separate franchise agreement. Mr. Everett stated that the next step, after the Ordinance is approved, is the negotiation of the granting of the franchises under the Ordinance. Mr. Craig Johnson President of Strategic Technologies Inc. stated that there has been ample opportunity to air their concerns and they support the ordinance. Hearing no other comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 02-03. Seconded by Commissioner Graham and carried 5-0.** Mr. Everett acknowledged his associate, Mr. Michael O'Dowd, for all his hard work in preparing this ordinance.

P. **Ordinance 01-47: Comprehensive Plan Amendment to identify the need for a connecting road between Beulah Road and 9th Street**

City Attorney Everett read Ordinance 01-47 by title only. City Planner Cechman stated that the MPO supports the Beulah Road philosophy. Mayor Quesinberry opened the public hearing. Ms. Shirley Smith, 12900 W. Colonial, Winter Garden, Florida, stated that she has owned her property on SR50 for 30 years and she has heard that her corner is going to be made into a retention pond. If this item eliminates traffic or saves children's lives, she is all for it, but if it reduces property value she is opposed. City Manager Holden stated that this item has little to do with Ms. Smith's property, which is more affected by the widening of SR 50, but this item will take traffic off SR50 and eliminate the traffic light at 9th Street. There is no money for this project at this time and putting it in the Comprehensive Plan allows it to become eligible for future funding by DOT. Hearing no other comments, the public hearing was closed. Commissioner Rees stated that he has no objections to including it in the Comprehensive Plan; however, he has some issues that need to be addressed when the time comes. **Motion by Commissioner Harriman to approve Ordinance 01-47. Seconded by Mayor Quesinberry and carried 5-0.**

3. **THIRD READING AND SECOND PUBLIC HEARING OF PROPOSED ORDINANCE:**

A. **Ordinance 02-01: Providing for Child Day Care Centers, by Special Exception, in R-1A, R-1, R-2, C-2 and C-3 zonings**

City Attorney Everett read Ordinance 02-01 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by**

Commissioner Rees to approve Ordinance 02-01. Seconded by Commissioner Dixon. Motion carried 5-0.

4. **Recommendation to approve the purchase of 304 S. Main Street (Dault)**

City Manager Holden stated that this request is to purchase, vacate and demolish the structure. **Motion by Commissioner Rees to approve the purchase of 304 S. Main Street at the appraisal price. Seconded by Commissioner Harriman.** Commissioner Graham asked what is the lot size? Mr. Holden stated it is 80' x 140'. Commissioner Graham asked what the plans were after it is demolished. Mr. Holden stated the property would be sold with stipulations as to what can be rebuilt. Commissioner Graham stated that the appraisal price includes the structure, which appears to be more than it could be sold for as a vacant lot. Mr. Holden stated that is correct. **Motion carried 5-0.**

5. **MATTERS OF CONCERN FROM CITIZENS - None**

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

7. **MATTERS FROM CITY MANAGER**

A. Financial Statement for January 2002

Stated that the financial statement has been provided and the City remains in great shape.

B. Discussion on Code Enforcement Board vacancies

Staff is looking for applicants to fill two vacancies (Donahey and Brown) and asked the Mayor and Commissioners for any names of interested persons.

C. Discussion on SR 50 overlay

Stated that the agenda package includes a proposed Ordinance for SR 50 overlay guidelines, which has already been approved by Ocoee and Oakland. The County is in the process of approving and staff is getting comments from SR 50 businesses. Staff is working with the County and the West Orange Chamber Task Force, and staff needs all comments, if any. A proposed adoption schedule has been provided and there may be up to two community meetings.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Harriman:

Wished the Mayor a happy birthday.

Commissioner Dixon:

Announced that the Community Action Board recently elected new officers. Chairman Mr. Whipple has announced that the State is looking for 20 women to learn construction, at Mid-Florida Tech with various types of assistance available.

Announced that there will not be any summer school this year due to the budget cutbacks. County Commissioner Jacobs will be meeting with CAB the first Tuesday in April to discuss some programs for the children and youth employment during the coming summer.

Stated she will be speaking with the Police Chief about continuing the Community Police Office since the grant has not been applied for this year. If not continued, the CAB will be taking the Maxey Center office for computers. Mr. Holden stated that he needs to be included in those discussions.

Stated she has been speaking with County Commissioner Jacobs regarding the funding of another million for the weatherization program.

Commissioner Graham:

Stated that Jerry Carris, who does the County Fair display each year, has asked that the City think ahead about next year's display.

Commissioner Rees:

Wished the Mayor a happy birthday

Mayor Quesinberry: None

The meeting was adjourned at 8:19 p.m.