

**REGULAR MEETING MINUTES
CITY COMMISSION**

November 13, 2003

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, John Rees, Theo Graham and Mildred Dixon

Also Present: City Manager Hollis Holden, City Attorney Dykes Everett, City Clerk Kathy Montoya, Assistant to the City Manager Marshall Robertson, Finance Director Mike Bollhoefer, Police Chief Jimmie Yawn, City Planner Mark Cechman, Utilities Director Charlie Tinch, Code Enforcement Manager Johnny Clark and West Orange Times reporter Michael Laval

1. **APPROVAL OF MINUTES**

Regular Meeting Minutes of October 23, 2003. **Motion by Commissioner Graham to approve the minutes as submitted. Seconded by Commissioner Harriman and carried unanimously 5-0.**

Request for donation by the West Orange High School Choral Department

Chadd Smith, 708 Valencia Court, Winter Garden, Florida, was present to answer any questions. **Motion by Commissioner Rees to approve a donation of \$500 to the West Orange High School Choral Department. Seconded by Commissioner Harriman and carried unanimously 5-0.**

At this time, the City Commission by consensus moved agenda Item D under City Manager to discuss the resident pot-bellied pigs at this time.

City Manager Holden stated that this issue first came to his attention at the last Planning and Zoning Board meeting the previous Monday. The Code Enforcement Manager briefed him on the issue the following day and he then spoke with the City Attorney because the issue was not clear at that time. That same day the Winter Garden Homeowners' Coalition submitted a document stating that he had chosen to not apply the City Code to the pot-bellied pigs, which was completely false. He had not made a decision on the matter. He then looked into whether or not there had been complaints filed about the pigs and the answer was no, not until two weeks ago. He was first told the pigs had been at the location for six years and now, for some unknown

reason had become a problem. There needs to be further clarification. The City will always act upon any nuisance complaints. The City previously decided that the number of pets is not indicative of whether or not they are a nuisance because one can be just as much of a problem as two or more. This issue is not a cut-and-dry issue and therefore direction is needed from the Commission. Additionally, the City has adopted Orange County's Animal Control Ordinance, which defines a domestic animal as "any dog, cat, poultry, bird, or captive wild animal that has been domesticated so as to live and breed in a tamed condition" and further details what a nuisance shall mean. Staff has not been contacted by anyone about the pigs being a nuisance. The Code Enforcement Manager did ask the County how they handle pot-bellied pig calls and they responded that they don't treat them as pigs but rather as a nuisance, if they fall into that category. Mr. Holden provided the City Commission with information obtained from other governmental agencies showing that some have declared them a domestic pet and other related declarations.

Trina Richardson, 1400 Spring Loop Way, Winter Garden, Florida, owner of the pot-bellied pigs came forward. Commissioner Harriman asked her if the pigs have been at her home for approximately the past four years, whether or not she petitioned her HOA before she brought the pigs to her home, and if the pigs have openly participated in neighborhood parades. Mrs. Richardson stated that she did not get permission to bring them into the subdivision, however, the pigs do have quite a bit of history in the neighborhood with no complaints until the fence issue came up. She stated that she had her pool area fenced and later added fence panels to create a pen for one pig at a time so they could be outside. They actually live in her house and have their own bedroom. Pork Chop has been with her for almost four years and Leon has been with her for about three years. She stated that she wanted to clear up a misconception about the size of her pigs, which are only about 140-145 pounds and come up to her knee, which is the same as a dog. Within days of the fence being added, she received a letter from her HOA stating that she had ten days to tear down the fence and get rid of her animals. Subsequently, she went to an HOA meeting and discussed with them how she could keep the fencing. Based upon what she thought was the plan, she submitted her fence proposal, and it was denied. She has since prepared another proposal and realizes that she must also obtain a fence permit from the City. Mayor Quesinberry asked if the fence is visible from the street. Mrs. Richardson stated that it is because it is part of her backyard fence and her house sits on the corner.

Don Miller, 1073 Woodson Hammock Circle, Winter Garden, Florida, stated that the reason the Coalition letter refers to the position taken by the City Manager is because normally, when a City department manager or officer states a fact, it is representative of what the executive has said, and in this case, others witnessed the statement. Mr. Holden stated that the staff member being referred to denies Mr. Miller's statement. Mr. Miller stated that several homeowners in Crown Point Springs approached the Winter Garden Homeowners' Coalition, which is comprised of five subdivisions, to help them rid their neighborhood of the pot-bellied pigs and the Coalition supports their efforts.

Harold Miller, 1047 Spring Loop Way, Winter Garden, Florida, submitted and read a letter with attachments to the City Commission requesting the enforcement of the City's Code Chapter 14. Additionally, he stated that the pigs can live to be 40 years old and become much bigger than 130 pounds.

Paul Shirley, 1665 Spring Ridge Circle, Winter Garden, Florida, stated that the pigs are not a nuisance to him but that a decision needs to be made about what should be done with the pigs. It is his understanding that the City adopted the Orange County Animal Ordinance and the City Code still has conflicting sections. The nuisance theory differs from person to person, but as the Orange County Ordinance is currently written, any wild animal could be tamed and kept, which he disagrees with and suggested that the City apply the older Code sections. Mr. Shirley distributed material obtained from the University of Michigan's Department of Biology and read a paragraph clarifying that pot-bellied pigs are in the swine/hog species. He encouraged the application of the City's law and any need to change to make them acceptable should not be done.

John Wachtel, 1056 Spring Loop Way, Winter Garden, Florida, stated that his house faces the side of Trina and Ray's house and that the pen is a stockade-type fence, not a lean-to as some have stated. The pigs do not bother anybody. The owners pick up after them and they have never been a problem. The pigs are very rarely outside and the cats in their neighborhood are more of a problem than the pigs. As a neighbor who looks at the home everyday, he has no problem with the owners and their pigs.

Bonnie Brown, 1009 Autumn Leaf Drive, Winter Garden, Florida, stated that the Code Enforcement Department was previously notified and they issued a citation at least four months ago. Her husband was the HOA president at that time and he is the one who made the complaint. Code Enforcement subsequently notified him that they chose not to act on the issue and would leave it up to the HOA to resolve. This decision has caused a war between neighbors. The Christmas parade and party have been portrayed as a pig party being held at the Richardson's house, when in fact it was a block party and the pigs were not invited. Mrs. Brown stated that the reasons she is concerned about having pigs in her neighborhood are 1) the news coverage of her neighborhood is going to make it known as the pig neighborhood and will negatively affect their property values and she questions what other animals will be allowed; and 2) there is the issue of swine disease that is a danger to everyone in the area and pot-bellied pigs are not immune to the disease. She requested that the Commission not grandfather in a decrease and maintain the one-acre requirement for these animals. Additionally, the pigs must have a water source to wallow in because they do not have any sweat glands. In the best interest of the swine and the whole community, she asked the Commission to enforce the City's Ordinance and protect the residents of Crown Point Springs.

Carol Riles, 1048 Spring Loop Way, Winter Garden, Florida, stated that when she sits at her kitchen table she looks directly at a fence, not a pen. There is a misconception that not all the surrounding neighbors want the pigs there, but in fact there is but one neighbor, Harold Miller, that does not want them there. The other neighbors do not find the pigs offensive, they are well cared for, and they are not a nuisance. Most of the speakers, except Harold, are not immediate neighbors.

Shirley Smith, 21 W. Crest Avenue, Winter Garden, Florida, stated that she wished that those complaining would come downtown and see the dogs that are being walked and allowed to defecate on the trail and create hazards much worse than the pigs. She stated that we all live in a

free country and she wants to keep our rights. We should be friendly to each other, not be nit-picking troublemakers, and even help her to put up a fence and let her keep her babies.

G. H. Sweeney, 1089 Orange Wharf Court, Winter Garden, Florida, stated that this issue is tearing the neighborhood up and he only wants to live in harmony in his retirement years.

Millard McKinney, 1019 Spring Landing Drive, Winter Garden, Florida, stated that the Architectural Review Board (ARB) did not give approval for the pen and on August 21, it was discussed at the HOA meeting. During the meeting, the Richardsons agreed to remove the fence and apply to the ARB for a permit. They were also to solicit the neighborhood and get enough signatures to take the matter to the board to change the bylaws to allow the pigs, but it never went to the board. The fence permit application was denied because they didn't remove it as they agreed to and enlarging it would only make it a bigger pigpen. The City does have a history on the pig issue because at least four times in the past, owners were ordered to remove their pigs from the City. If the Code Enforcement Department would have researched their records, they would have found that the pigs that had to be removed were on Highland Avenue, Dillard Street, and Maple Street. The prior Code Enforcement Officer, Mr. Ragan, verified today that the pigs were classified by the City as hogs and were not allowed. City Attorney Everett asked if the pigs referenced were pot-bellied pigs or not. Mr. McKinney stated that in at least two cases they were pot-bellied pigs, with one becoming so large that the owner wanted to put it in his yard, which he thinks was on Highland Avenue.

Kent Horsley, President of the Tuscany Homeowners' Association, stated that the real issue is that there is an Ordinance on the books that needs to be followed for livestock which requires one acre of land and is not permitted in the City. There will always be the debate of what it looks like, but it remains that there is a law in the books. He asked the City Commission to uphold the Ordinances within their communities. This situation does have a detrimental affect on their property values.

Marcelle Funke, 1052 Spring Loop Way, Winter Garden, Florida, stated that she lives directly across the street from the Richardsons and Millers and there are more people in support of the pigs than not. The Richardsons have lived in their home for the past 11 years with their home and yard being the standard everyone would want to live up to. Let them keep their family pets.

City Attorney Everett advised the Commission that the item on the agenda is for discussion purposes and not as a pending Code Enforcement action. Therefore, there is no decision required by the governing body on a pending matter. In early 2002, there was a situation regarding a resident having more than two dogs that did not comply with the City's code and after evidence and information was provided, the Code was amended to fit the current circumstances. The Code has a provision that adopts the Orange County Animal Control Ordinance and the definition is extremely broad. Typically, action will only be taken when a domestic animal is determined to be a nuisance. The County takes the view that the pot-bellied pig is a domestic pet and is only dealt with if they become a nuisance. Within the City's code, there is still a prohibition on the keeping of hogs and livestock. There are arguments about which category the pot-bellied pigs fall. The agricultural element of the older code deals with traditional agricultural activities like slopping hogs within the City limits. The legislative body

would need to determine whether or not the Code, as it is currently written with the older provisions and the Orange County provisions, really addresses the current situation. The nature of this proceeding is fact-finding. The Code could be made specific to address pot-bellied pigs. The restrictive covenants of the HOA as provided by Mr. Miller appear to be the clearest line of enforcement authority of the pigs, which may ultimately render the City's actions mute. Even if the City amended its Code to allow pot-bellied pigs and the HOA had a restriction for the pigs, the HOA board could enforce the restriction.

Commissioner Harriman stated that with what he has heard, there is a problem regarding the fence and not a pig nuisance. Commissioner Rees stated that generally speaking, in the United States, most people do not consider pot-bellied pigs as livestock, and there seems to be a gray area between the Orange County Animal Ordinance adopted by the City and how they apply their rules and how the City applies it. City Attorney Everett stated his research indicates that around the country most municipalities in our same situation were operating with the traditional codes that were designed to deal with agricultural animals and issues, yet they were being confronted with the pot-bellied pig phenomenon, and typically their response, after the fact-finding process, was to revise their code to add specificity. Mayor Quesinberry stated that he also has heard more complaints related to the fence than the pigs. The issue should be resolved by the HOA and if it remains unresolved, the City can schedule it for a future meeting. Commissioner Graham stated that amending the Code removing the one-acre requirement for livestock would only open the door for people to have horses, cows, and chickens on a lot. City Manager Holden stated that as the Code currently states a person could own four ¼-acre lots in a neighborhood and put a horse, cow etc. on it, but if it becomes a nuisance it doesn't matter if someone owns one or forty acres, it can be removed, so the one-acre provision is not an issue. This is not a cut-and-dry issue and staff needs direction as to whether or not the attorney needs to remove the ambiguity, keeping in mind that whatever the Code states, the HOA has the right to disallow the pigs. Mayor Quesinberry stated that this issue needs to be addressed by the HOA, the City will look at the ambiguities, and he thanked everyone for their comments.

Mayor Quesinberry recessed the meeting from 7:58 p.m. until 8:05 p.m.

2. FIRST READING OF PROPOSED ORDINANCES

- A. **Ordinance 03-03: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING DIVISION 2 OF ARTICLE VI OF THE CITY CODE BY REQUIRING CERTAIN FILINGS WITH THE CITY MANAGER OR HIS DESIGNEE AND PROVIDING FINANCIAL ASSISTANCE TO NEEDY SENIOR CITIZENS ON THEIR MONTHLY UTILITY BILLING UP TO A MAXIMUM OF \$35.00 PER MONTH; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE**

City Attorney Everett read Ordinance 03-03 by title only. **Motion by Commissioner Graham to approve Ordinance 03-03 with the Second Reading and Public Hearing on December 11, 2003. Seconded by Commissioner Rees and carried unanimously 5-0.**

- B. **Ordinance 03-53: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 00-02 WHICH REZONED**

APPROXIMATELY 1/2 ACRE OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTHEAST CORNER OF 9TH STREET AND STORY ROAD FROM CITY R-1B TO CITY PCD; PROVIDING FOR SPECIFIC CONDITIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Collins)

City Attorney Everett read Ordinance 03-53 by title only. **Motion by Commissioner Harriman to approve Ordinance 03-53 with the Second Reading and Public Hearing on December 11, 2003. Seconded by Commissioner Dixon and carried unanimously 5-0.**

- C. Ordinance 03-54: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS .29 ACRES LOCATED AT 41 W. MORGAN STREET AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN, FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Wright)**

City Attorney Everett read Ordinance 03-54 by title only. **Motion by Commissioner Rees to approve Ordinance 03-54 with the Second Reading and Public Hearing on December 11, 2003. Seconded by Commissioner Graham and carried unanimously 5-0.**

- D. Ordinance 03-55: AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS .29 ACRES OF LAND LOCATED AT 41 W. MORGAN STREET AS CITY LOW DENSITY RESIDENTIAL; PROVIDING FOR AN EFFECTIVE DATE (Wright)**

City Attorney Everett read Ordinance 03-55 by title only. **Motion by Commissioner Harriman to approve Ordinance 03-55 with the Second Reading and Public Hearing on December 11, 2003. Seconded by Commissioner Rees and carried unanimously 5-0.**

- E. Ordinance 03-56: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING A .29 ACRE LOT LOCATED AT 41 W. MORGAN STREET MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY RESIDENTIAL DISTRICT TO CITY R-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Wright)**

City Attorney Everett read Ordinance 03-56 by title only. **Motion by Commissioner Rees to approve Ordinance 03-56 with the Second Reading and Public Hearing on December 11, 2003. Seconded by Commissioner Graham and carried unanimously 5-0.**

- F. Ordinance 03-57: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 118-922 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO MAXIMUM DENSITY FOR PUD DEVELOPMENTS; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE**

City Attorney Everett read Ordinance 03-57 by title only. **Motion by Commissioner Harriman to approve Ordinance 03-57 with the Second Reading and Public Hearing**

on December 11, 2003. Seconded by Commissioner Dixon and carried 4-1; Commissioner Graham was opposed.

- G. **Ordinance 03-58:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 45.23 ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED WEST OF CR535 AND SOUTH OF THE FLORIDA TURNPIKE AND MORE SPECIFICALLY DESCRIBED HEREIN FROM CITY C-2 TO CITY PUD; PROVIDING FOR SPECIFIC PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Everett read Ordinance 03-58 by title only. Motion by Commissioner Dixon to approve Ordinance 03-58 with the Second Reading and Public Hearing on December 11, 2003. Seconded by Commissioner Harriman and carried unanimously 4-1; Commissioner Graham was opposed.

3. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

- A. **Ordinance 03-52:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTIONS 118-1404 AND 118-1431 OF ARTICLE IX OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES, SAID CHAPTER BEING PART OF THE LAND DEVELOPMENT CODE, BY PROVIDING FOR REVISED DEFINITIONS OF “NEW DEVELOPMENT” AND “SUBSTANTIAL MODIFICATION” UNDER SECTION 118-1404 AND BY CREATING AN ACT OF GOD PROVISION FOR EXEMPTED SIGNS UNDER SECTION 118-1431 OF ARTICLE IX OF CHAPTER 118; PROVIDING FOR CODIFICATION AND AN EFFECTIVE DATE

City Attorney Everett read Ordinance 03-52 by title only. Mayor Quesinberry opened the public hearing.

Mr. Bill Curtis with the law firm of Brigham Moore, 2963 Dupont Avenue, Suite 3, Jacksonville, Florida, stated his concerns about the Act of God provision not addressing any eminent domain proceedings. He stated that the City Attorney has previously indicated that the non-conforming Ordinance “might” apply to eminent domain actions, but using the term “might” does not bring him any comfort and he asked for more specifics. Mr. Curtis stated that he would have to argue in court that the taking authority would have to comply with the Ordinance and compensate the landowner accordingly. In past cases, DOT has argued and in some cases won, because the City passed the Ordinance it is not the State’s responsibility. If not successful with DOT, they would bring the City into an action to pay for it. There is a fix by adding eminent domain to the Act of God provision.

City Attorney Everett stated that there are no further modifications needed with regard to the concerns raised. Commissioner Graham stated that when DOT takes a property that devalues it, they have to purchase it. Mr. Curtis stated that a problem can arise when DOT compensates the landowner to reconstruct their building where the City has caused

additional expenses in order to rebuild, which will not be paid by DOT within the SR50 zoning overlay.

Ms. Shirley Smith, 21 W. Crest Avenue, Winter Garden, Florida, stated that she understands there is no place to install water and sewage lines in front of her building on SR50 because DOT will not allow the City to put the lines in under DOT pavement. City Manager Holden stated that this information is not true because the lines will remain in the right-of-way. Ms. Smith asked if any additional easements would have to be purchased from the property owners. City Attorney Everett stated that staff cannot know or guarantee that there will not be any modification to the construction plans by DOT.

Hearing no other comments, the public hearing was closed.

Motion by Commissioner Harriman to approve Ordinance 03-52 with the Second Reading and Public Hearing on December 11, 2003. Seconded by Commissioner Graham and carried unanimously 5-0.

5. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES

- A. **Ordinance 03-40: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 3.33 ACRES LOCATED AT 1207 DANIELS ROAD AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN, FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Grove Mobile Park, LLC)**

City Attorney Everett read Ordinance 03-40 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to approve Ordinance 03-40. Seconded by Commissioner Harriman and carried unanimously 5-0.**

- B. **Ordinance 03-41: AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS APPROXIMATELY 3.33 ACRES OF LAND LOCATED AT 1207 DANIELS ROAD AS COMMERCIAL; PROVIDING FOR AN EFFECTIVE DATE (Grove Mobile Park, LLC)**

City Attorney Everett read Ordinance 03-41 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 03-41. Seconded by Commissioner Dixon and carried unanimously 5-0.**

- C. **Ordinance 03-42: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING AN APPROXIMATELY 3.33-ACRE LOT LOCATED AT 1207 DANIELS ROAD, MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY A-1 TO CITY C-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Grove Mobile Park, LLC)**

City Attorney Everett read Ordinance 03-42 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Rees to approve Ordinance 03-42. Seconded by Commissioner Harriman and carried unanimously 5-0.**

- D. **Ordinance 03-46: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.28 ACRES LOCATED AT 915 WEST STORY ROAD AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN, FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Wood)**

City Attorney Everett read Ordinance 03-46 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Rees to approve Ordinance 03-46. Seconded by Commissioner Graham and carried unanimously 5-0.**

- E. **Ordinance 03-47: AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 0.28 ACRES OF LAND LOCATED AT 915 WEST STORY ROAD AS LOW DENSITY RESIDENTIAL; PROVIDING FOR AN EFFECTIVE DATE (Wood)**

City Attorney Everett read Ordinance 03-47 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 03-47. Seconded by Commissioner Graham and carried unanimously 5-0.**

- F. **Ordinance 03-48: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING A 0.28-ACRE LOT LOCATED AT 915 WEST STORY ROAD, MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY A-1 TO CITY R-1B; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Wood)**

City Attorney Everett read Ordinance 03-48 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to approve Ordinance 03-48. Seconded by Commissioner Rees and carried unanimously 5-0.**

6. **REGULAR BUSINESS**

- A. **Discussion and possible action regarding participation in the 2004 Central Florida Fair**

City Manager Holden stated that this item is on the agenda in order to get direction regarding the City's interest in participating next year because the requirements have changed and the prior coordinators can no longer participate. **There was consensus by the City Commission for staff to try and find another organization(s) willing to handle all aspects of an exhibit representing the City of Winter Garden in the 2004 Central Florida Fair.**

B. Resolution 03-12: A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA; AMENDING THE STONEYBROOK WEST PUD WHICH WAS ADOPTED BY ORDINANCE 98-79 FOR PARCEL 20; PROVIDING AN EFFECTIVE DATE and Preliminary Plat approval

City Attorney Everett read Resolution 03-12 by title only. City Planner Cechman stated that the original PUD Ordinance 98-79 allows for minor changes by Resolution and this parcel was originally approved for a multi-family site of 261 apartments, but due to the success of single-family sales, US Home has asked for a modification from the apartments to 113 single-family units on 42-foot wide lots with 7.5-foot side yard setbacks. The Planning and Zoning Board has reviewed this request and recommends approval. Staff has also reviewed the request and recommends approval with the additional requirements as presented in the agenda package. **Motion by Commissioner Rees to approve Resolution 03-12 and the Preliminary Plat with staff's recommendations (see attached). Seconded by Commissioner Dixon and carried unanimously 5-0.**

C. Resolution 03-13: A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA; AMENDING THE JOHNS LAKE POINTE PUD WHICH WAS ADOPTED BY ORDINANCE 00-19 BY AMENDING THE SETBACKS FOR THE LOTS ALONG CR545; AMENDING THE RIGHT OF WAY REQUIREMENTS ALONG CR545; AND PROVIDING AN EFFECTIVE DATE and Preliminary Plat approval

City Attorney Everett read Resolution 03-13 by title only. City Planner Cechman stated that the previously approved Preliminary Plat has expired and the applicant has uncovered some environmental issues that they are diligently working on, and the City needs an additional 35 feet of right-of-way, which requires an adjustment to their PUD and Preliminary Plat for the setbacks along CR545. Staff recommends approval with the conditions provided in the agenda package. **Motion by Commissioner Graham to approve Resolution 03-13 and the Preliminary Plat with staff's recommendations (see attached). Seconded by Commissioner Rees and carried unanimously 5-0.**

D. Recommendation to approve Final Plat for Timbercreek Pines

City Planner Cechman stated the Planning and Zoning Board has reviewed the plat and recommends approval with staff's recommendations. There are some inspections still needed on the paving and as such, staff recommends approval of the Final Plat and recording only after the City Engineer has signed off on all the paving inspections. **Motion by Commissioner Graham to approve Timbercreek Pines Final Plat with staff's recommendations (see attached). Seconded by Commissioner Rees and carried unanimously 5-0.**

E. Resolution 03-14: A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA; AUTHORIZING THE MAYOR TO APPLY FOR THE STATE OF FLORIDA'S ECONOMIC DEVELOPMENT TRANSPORTATION FUND GRANT TO IMPROVE CROWN POINT CROSS ROAD MAKING IT POSSIBLE FOR IMAGE TECHNICAL SERVICES TO LOCATE IN THE BRITT BUSINESS CENTER; PROVIDING AN EFFECTIVE DATE

City Attorney Everett read Resolution 03-14 by title only. **Motion by Commissioner Graham to approve Resolution 03-14. Seconded by Commissioner Harriman and carried unanimously 5-0.**

- F. **Recommendation to approve an interlocal agreement with Orange County to transfer jurisdiction of West Plant Street from Avalon Road to the Oakland Town limits to the City**

Motion by Commissioner Graham to approve the interlocal agreement with Orange County to transfer ownership of West Plant Street (CR 438) from Avalon Road to the Oakland Town limits to the City of Winter Garden. Seconded by Commissioner Harriman and carried unanimously 5-0.

- G. **Recommendation to approve a purchase agreement for 971 and 979 E. Plant Street and 102 Hennis Road with Robert Wallick**

City Manager Holden stated that this is the recycling site and staff recommends approval of the two sales contracts. Commissioner Graham asked which funds would be used to purchase the properties. Mr. Holden stated that the funds will most likely come from the impact fee funds. **Motion by Commissioner Harriman to approve the purchase agreements for 971/979 E. Plant Street and 102 Hennis Road. Seconded by Commissioner Dixon and carried unanimously 5-0.**

- H. **Recommendation to approve a purchase agreement for additional right-of-way on Beard Road to expand Daniels Road (Wyatts)**

Assistant to the City Manager Robertson stated that this property is located just south of the bridge and the contract has been negotiated and agreed to by the Wyatts. **Motion by Commissioner Graham to approve the purchase agreement with the Wyatts for additional Daniels Road right-of-way. Seconded by Commissioner Dixon and carried unanimously 5-0.**

- I. **Recommendation to approve an agreement with Orange County for the design, permitting, right-of-way, construction and ownership of Daniels Road north of Beard Road**

Assistant to the City Manager Robertson stated this agreement is for the second phase for the bridge construction and Daniels Road north to Highway 50. **Motion by Commissioner Graham to accepting the agreement with Orange County for the design, permitting, right-of-way, construction, and ownership of Daniels Road north of Beard Road. Seconded by Commissioner Harriman and carried unanimously 5-0.**

- J. **Recommendation to approve a purchase agreement with GMP, LLC for pedestrian and drainage easements for Daniels Road improvements**

Assistant to the City Manager Robertson stated that this property used to be the Grove Mobile Home Park and the purchase is for an easement to run our 10-foot sidewalk/bike path further down the road and takes care of some drainage problems. **Motion by Commissioner Graham to approve the easement purchase agreement with Grove Mobile Home Park. Seconded by Commissioner Harriman and carried unanimously 5-0.**

- **Stipulated Order of Taking adding drainage tract parcel and stipulated final judgement as to all parcels**

Assistant to the City Manager Robertson stated that this item relates to Daniels Road on the south side, just south of the creek where the new pipe was installed on the first section, which had eminent domain action filed. After negotiations, the total adjudicated amount is \$203,000 and staff recommends approval. **Motion by Commissioner**

Graham to approve the Stipulated Order as submitted. Seconded by Commissioner Harriman and carried unanimously 5-0.

7. MATTERS OF CONCERN FROM CITIZENS

Don Miller, 1073 Woodson Hammock Circle, Winter Garden, Florida, asked if there were any plans to resurface Lakeview Street south of Tanner Hall. City Manager Holden stated that there are no plans to resurface, as it will be taken up and completely redone. The project is scheduled to begin after Christmas.

Rick Brendle, business owner of 28 West Plant Street, Winter Garden, Florida, thanked the City Commission for the downtown renovations and the Centennial celebration, which has been great for business. He also stated that he has submitted a letter regarding the unannounced closing of parking and/or the road during business hours and requested that the City notify the business owners in advance, so they can make the necessary arrangements to operate with reduced customer access. City Manager Holden stated that staff will do the best they can to let the downtown business owners know about any closings.

Beverly Brett, 217 S. Boyd Street, Winter Garden, Florida, stated that the festival at Veteran's Park was a disaster with drunks. The Rotary Club was given an alcohol permit and patrons were allowed to bring unchecked coolers to a family event. Coolers are not allowed at the 4th of July event so why were they allowed at this event? There were fights and young ladies exposed themselves. people were throwing cups of beer at someone in a wheelchair and drinkers were allowed to leave and drive. Commissioner Graham stated he was surprised to see alcohol consumption.

Shirley Smith, 21 W. Crest Avenue, Winter Garden, Florida, stated that when the first phase of the downtown Plant Street improvements began, the contractor, Mr. Gomez, told the business owners that any damage done by the construction would be repaired. Hers has not and she has cracks on the top of her building and problems with the tiles on the bottom of her building. The cracks have allowed the rain to come into the building. There was a small pipe installed to drain from the roof, but her pitch is so severe that the water stands and the roof and walls have weakened. For the record, she, Marshall, Sterling and Bob Lacey are to have a meeting next Monday regarding her issues and she would like it resolved before the last phase is paid.

8. MATTERS FROM CITY ATTORNEY

Mr. Everett reminded the Commission that when they are dealing with an issue legislatively and there are potentially adverse parties present who try to get them to elaborate on an item, be mindful of the purposes behind the strategy to get comments.

9. MATTERS FROM CITY MANAGER

A. **Recommendation to cancel the December 25, 2003, regular meeting due to the Christmas holiday**

Motion by Commissioner Rees to approve canceling the regular meeting of December 25, 2003, on Christmas. Seconded by Commissioner Graham and carried unanimously 5-0.

B. Recommendation to close city offices on Friday, December 26, 2003, due to the Christmas holiday on Thursday

City Manager Holden stated that staff has had a rare and an incredibly busy year with long hours for a special event every month for the Centennial celebration and because of how the holidays fall this year, he is requesting that the City offices be closed the Fridays after Christmas and New Years, which as a rule is a very slow time. **Motion by Commissioner Dixon to approve closing City offices the Fridays after Christmas and New Years in 2003. Seconded by Commissioner Harriman and carried unanimously 5-0.**

C. Annual request by Jack Mask to operate an open-air fruit stand on Crest Avenue until the end of the year

It was the consensus of the City Commission to allow the open-air fruit stand by Jack Mask on Crest Avenue and waiver of the permit fee, until the end of the year.

D. Discussion on resident pot-bellied pigs *This item was moved to the beginning of the meeting.*

- Reported on the meeting that he had with staff on Tuesday after the Centennial event to discuss the problems encountered at the event and he will be providing a report to the City Commission. Staff learned a lot about conducting a large event and problems were corrected at the time they were witnessed. The Rotary was awarded an alcohol permit, as he has done previously for various events, which they use as a fundraiser for their educational grants and there has never been any problem associated with that permit. The unanticipated problem arose when spectators brought in coolers with bottled beer, which he regrets. As it was the largest event ever held in the City, a lot was learned. He apologized that Ms. Brett didn't enjoy herself. He also noted that there were absolutely no vehicle accidents in the City that day.

10. MATTERS FROM MAYOR AND COMMISSIONERS

A. Participation in the 2004 Relay For Life

Mayor Quesinberry stated that the Relay for Life has had their kick-off meeting and the City has previously sponsored three (3) teams and he recommends that the City continue to support three (3) teams. **Motion by Commissioner Rees to sponsor three (3) Relay for Life teams in 2004. Seconded by Commissioner Harriman and carried unanimously 5-0.**

B. Appointment of the West Orange Chamber of Commerce representative

Mayor Quesinberry stated that Commissioner Harriman has been serving as the City's representative and recommends his reappointment for 2004. Commissioner Harriman accepted the appointment. **By consensus of the City Commission, Commissioner Harriman was reappointed as the City's representative to the West Orange Chamber of Commerce.**

Commissioner Harriman:

Referenced a letter received from Robert Mitchell, Jr., 5508 Satel Drive, Orlando, Florida, dated November 7, 2003, requesting an Ordinance be considered to assist in the documentation of Winter Garden's architectural history by preserving it with photographs in conjunction with the building permitting process. Commissioner Graham stated that he agrees that this suggestion is a good idea. City Manager Holden stated that staff is reviewing the letter.

The meeting was adjourned at 9:18 p.m.