

REGULAR MEETING MINUTES

CITY COMMISSION

February 27, 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, Mildred Dixon, Theo Graham and John Rees

Also Present: City Manager Hollis Holden, City Attorney Dykes Everett, City Clerk Kathy Montoya, Utilities Director Charlie Tinch, Finance Director Mike Bollhoefer, Public Works Director Bob Smith, Deputy Fire Chief Tom Berrios, Recreation Director Larry Caskey, Police Chief Jimmie Yawn, Planner Kelly Randall, and Michael Laval of The West Orange Times

1. APPROVAL OF MINTUES

Motion by Commissioner Rees to approve the minutes of February 13, 2003 as submitted. Seconded by Commissioner Dixon and carried unanimously 5-0.

2. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE:

A. Ordinance 03-01: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING A 64-ACRE PARCEL LOCATED SOUTHEAST OF THE PROPOSED WESTERN BELTWAY AND CR535 MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY A-1 TO CITY PUD; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

City Attorney Everett read Ordinance 03-01 by title only. Mayor Quesinberry opened the public hearing. City Planner stated that this item was postponed from the January 23, 2003 City Commission meeting to allow some issues to be resolved between the applicant and the adjacent homeowners. It is his understanding that they have had three meetings and that most of the issues have since been resolved. The applicant has agreed to add some special conditions. Staff recommends approval with the supplemental conditions submitted by the applicant. Mr. John Keating, 749 N. Garland Avenue, Suite 101, Orlando, Florida, stated that he has had three meetings with the area residents and they have arrived at the "Special Supplemental Conditions" for the PUD as submitted. Tonight, they have also agreed to, at a minimum, install a wood fence on the cul-de-sac to separate the subdivision next to Wintermere Harbor Phase II and he agrees with staff's recommendations. Mr. Ed Suchora, President of Wintermere Harbor

Homeowners Association (HOA), stated that his HOA, by majority vote, has submitted a list of proposed modifications to Mr. Keating, that include the following items.

Along the access road along the northern boundary of Wintermere Harbor (entrance road):

Install an 8 foot brick wall

Plant 20 foot trees spaced at 15 feet apart

Maximize the distance to the road behind the wall to the lake

Locate the street lighting on the south side of the road and facing outward with ample screening

Pedestrian access walkway (sidewalk):

Be omitted because their community is gated

Minimum square footage:

Houses abutting or adjacent to Wintermere Harbor should be the same at 2,500 with the balance being a minimum of 2,200 square feet

City Attorney Everett stated that the City Commission has flexibility with their decision on a PUD, so long as it complies with the Comprehensive Plan. The pedestrian connection is a subset of Objective 5 in the Comprehensive Plan, which is not mandated but is encouraged for overall traffic and pedestrian circulation. If Objective 5 is met in the entire region, then the Commission has complied with the Comprehensive Plan. City Manager Holden stated for benchmark purposes, if zoned R-1, Wintermere Harbor would have a housing requirement of a minimum 1,500 square feet.

Mrs. Darlene Frotten, Waterford Pointe resident, stated that her property abuts the Keene property and she is concerned about the road that will lead to the houses because the road will be five feet from her property line and every headlight will hit her back door. She would like to see a ten (10) foot buffer added or reconfigured some way to allow for more property for trees as a buffer. Mr. Holden stated that Mr. Keating has addressed the buffer in his supplemental conditions, which more than meets the City's requirements for a separation on a residential street.

Ms. Ellen Tetlow, Wintermere Harbor resident, stated that she has sent a fax to the City Commission detailing her opposition to the proposed access road behind Wintermere Harbor to CR 535 because it is a safety concern with a right-in/right-out only. Even though this project is not at the engineering phase yet, she wanted to voice her concerns.

Hearing no other comments, Mayor Quesinberry closed the public hearing. **Motion by Commissioner Harriman to approve Ordinance 03-01 with staff's recommendations (see attached) with the exception of the pedestrian crossing. Seconded by Commissioner Graham.** Commissioner Rees questioned Mrs. Frotten's concerns being addressed adequately in the supplemental conditions. Mr. Holden stated that the next

step will be the engineering of the site plan and staff is not prepared to address this issue at this time because of the layout issues still to be resolved. City Planner Cechman clarified that the road Mrs. Frotten is referring to will be in a 50-foot right-of-way so the actual road will not be five (5) feet from the property line. There will be more footage because there is usually a cart way width of about 11 feet in the right-of-way.

Commissioner Graham commended both parties for their efforts in working out the issues. Mr. Holden stated that the history of this area is that it started out to be part of the Wintermere Development as one of the Phases and that is why they have the stub outs for the future phases as a master community plan. Mr. Holden summarized the motion made with staff's recommendations as follows: no to the eight (8) foot fence request; minimum material for wall will be masonry; installation of low intensity directional type streetlights; staff is not prepared to require 2,200 square foot houses adjacent to Wintermere Harbor; remove pedestrian access; no increase in tree size. **Motion carried unanimously 5-0.**

Mayor Quesinberry called a two minute recess.

3. **REGULAR BUSINESS:**

A. **Request by Foundation Academy to extend the deadline for removal of two temporary modular classrooms at 81 and 91 N. Main Street until January 1, 2004**

School Administrator Larry Ford stated that his project manager has advised him that Phase 1 should be completed by January 1, 2004 and that is why they are requesting the extension. City Manager Holden stated that staff has no objections to the extension requested. **Motion by Commissioner Rees to approve the request to extend the deadline for removal of two temporary modular classrooms until January 1, 2004. Seconded by Commissioner Graham and carried unanimously 5-0.**

B. **Resolution 03-03: CLARIFYING THE WINTER OAKS PUD WHICH WAS ADOPTED BY ORDINANCE 01-60 BY PROVIDING MINOR CHANGES IN THE SETBACKS; PROVIDING AN EFFECTIVE DATE**

City Attorney Everett read Resolution 03-03 by title only. City Planner Cechman stated that the original PUD gives the City Commission the authority to make minor changes by Resolution and when the developer looked at mapping the various models, they found some lots were a little short. The garages will still have to meet the original setback requirements to allow for a car in the garage and a car in the driveway. The recommended change is to accommodate the optional lanais. Commissioner Graham asked how many lots this change would affect. Mr. Gregg, President of Greater Construction, stated that it is hard to say because it will depend on which options the purchaser selects. City Manager Holden stated that this Resolution is to clarify the setbacks for the garages. **Motion by Commissioner Harriman to approve Resolution 03-03. Seconded by Commissioner Dixon and carried unanimously 5-0.**

C. **Recommendation to approve the Winter Oaks Final Plat**

City Planner Cechman stated that staff and the Planning and Zoning Board are both recommending approval. **Motion by Commissioner Harriman to approve the Winter**

Oaks Final Plat with staff's recommendations (see attached). Seconded by Commissioner Dixon and carried unanimously 5-0.

D. **Recommendation to approve the Preliminary Plat for Stone Crest Village 4**

City Planner Cechman stated that the applicant has requested removal of this item from the agenda because they are still working on the pedestrian plan. **ITEM REMOVED AT APPLICANT'S REQUEST. NO ACTION TAKEN.**

E. **Recommendation to authorize the execution of a Community Development Block Grant (CDBG) application**

City Manager Holden stated that staff is recommending that the City apply for the grant funds to be used in the County area of East Winter Garden to make improvements to the paving, drainage, and sidewalks that will be beneficial to their plans to annex into the City in the future. **Motion by Commissioner Dixon authorizing the City Manager to execute a Community Development Block Grant application with Orange County. Seconded by Commissioner Graham and carried unanimously 5-0.**

F. **Recommendation to approve Change Order #1 to the Pennsylvania Avenue Water Main Replacement Project**

Utility Director Tinch stated that the Change Order request is for the repair of a couple of sewer laterals that were bored through and had to be replaced. The largest portion of the expense is to do a directional bore so 9th Street would not have to be closed. **Motion by Commissioner Harriman to approve Change Order #1 to the Pennsylvania Avenue Water Main Replacement Project as submitted. Seconded by Commissioner Graham and carried unanimously 5-0.**

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

5. **MATTERS FROM CITY ATTORNEY DYKES EVERETT**

A. **Update on actions taken to bring Time Warner Cable into compliance with the Franchise Agreement**

Distributed a draft letter, for the Mayor's signature, and asked the City Commission to review it and call him with any questions or comments. He has some tentative dates to meet with Time Warner's counsel to discuss the consequences of not finding a quick resolution. He has also spoken with the League of Cities about introducing some legislation regarding the cable act. Almost every city has engaged in protracted negotiations with Time Warner. Mr. Bruce Williams, business owner at 67 S. Dillard, stated that Time Warner Cable has told him that in order for them to install cable to his business, they would have to go under the street and he would have to pay \$700.

B. **Update on the status of an Ordinance change to deal with non-conforming properties**

Stated that he has completed a draft of an omnibus non-conforming ordinance that incorporates the issues addressed in the prior workshop and it will be on a future agenda after staff has made their review. City Manager Holden stated that this Ordinance will address the requests the City has received to build on vacant lots and other requests to renovate a property more than 50% in the T2 zoning that they want to live in, but the Code prohibits them from doing so.

- Advised the City Commission that the Cathcart lawsuit for the construction dispute is set for trial in November.

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

A. **Financial Statement for January 2003**

The financial statement also includes a comparison of the receipts to date with pre-911 years and the City is in excellent shape.

- Reminded the Commissioners that Dillard Street would be closed this weekend to make the cut under the road for the pipe and it should be open before school starts Monday morning. Commissioner Rees stated the following week would have been better when the kids were out of school for spring break.

7. **MATTERS FROM MAYOR AND COMMISSIONERS:**

Commissioner Rees:

Stated that he is pleasantly surprised at how well the State Revenue Sharing Funds are doing.

Commissioner Graham:

Asked, for his information, why the Bronson Ordinance 03-01 uses a different school figure of .65 x 133 lots and the Stone Crest material uses 2.51 x 107 lots. City Planner Cechman stated that he would research that question and get that information to him.

Commissioner Dixon:

Stated that she has spoken with County Commissioner Jacobs about getting another appointment to the Community Action Board. She stated that she is getting the word out to encourage residents about participating in the Historical Society for their family tree and donating items. She is looking forward to the November Centennial event.

Mayor Quesinberry:

Stated that he and the City Manager attended a student project at UCF, whereby they discussed combining of the city and county to become one form of government. After the session, they had new insights into how things would not work as in the case of Nashville that had 41 Council members and 38 were at a meeting that made things too difficult to get things done.

Complimented the Recreation Department on how good the baseball fields look for their season opening this Saturday.

The meeting was adjourned at 7:37 p.m.