

## **REGULAR MEETING MINUTES**

### **CITY COMMISSION**

**April 10, 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 (arrived at 6:34 p.m.), Theo Graham and 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, Finance Director Mike Bollhoefer, Accounting Manager Brian Strobeck, Assistant Public Works Director Dennis Duckwiler, Deputy Fire Chief Tom Berrios, Human Resources Director Victoria Ward, Trailer City Manager Hughlan Martin, Recreation Director Larry Caskey, Police Chief Jimmie Yawn, City Planner Mark Cechman and Michael Laval of The West Orange Times

#### **1. APPROVAL OF MINUTES**

**Motion by Commissioner Rees to approve the minutes of March 27, 2003 as submitted. Seconded by Commissioner Harriman and carried unanimously 4-0.**

Commissioner Dixon arrived at 6:34 p.m.

#### **2. PRESENTATION**

Mr. Hank Sines, Auditor, presented the City Commission with the annual audit report for fiscal year ending September 2002. He stated that the City has an excellent Finance Department and each year they find it easier to perform the annual audit, which allows them time to look at managerial items as well. The City has excellent internal controls. This is an unqualified report and he is available to answer questions now or to meet with them at a later date. City Manager Holden stated that the revenues exceeded the amount budgeted and that the expenses were under budget. Mr. Sines stated that this was a very impressive budget year even with all the capital improvement expenditures made. Mr. Holden acknowledged the great efforts by the Finance Director and Accounting Manager on the 2001/2002 budget and audit report results.

3. **REGULAR BUSINESS:**

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

Ms. Charlie Mae Wilder, 1007 Stucki Terrace, 55 Center Street, Winter Garden stated she was present to answer any questions. City Manager Holden stated that staff is recommending that if the donation is approved, the same conditions be applied this year as last year whereby the funds are either reimbursed after the invoices are submitted to the Finance Department or arrangements be made to have the City billed directly, not to exceed the approved amount. **Motion by Commissioner Dixon to donate up to \$1,000 paid in the same manner as last year and as recommended by staff. Seconded by Commissioner Harriman and carried 5-0.**

B. **Request for donation by the West Orange High School Renaissance**

The applicant was not present. Therefore, no action was taken.

C. **Request for sponsorship by the Winter Garden Rotary Club for their annual fundraiser**

Mr. Jim Carter stated that this event helps support the scholarship program at the West Orange High School. They are also helping the Boys and Girls Club. They would appreciate anything the City could do for them. **Motion by Commissioner Rees to approve sponsoring two teams at \$200 each for the annual Rotary Club Fundraiser at Carter Family Bowl on May 15, 2003. Seconded by Commissioner Harriman and carried unanimously 5-0.**

D. **Request for an open-air furniture tent sale by Classic Furniture at 624 S. Dillard Street from April 11 – 19, 2003**

Mr. Randy Shuster, General Manager, stated that he is requesting approval to conduct an open-air sale in the parking lot in front of Classic Furniture under a tent that will be removed after the sale on Saturday, April 19 to accommodate the two churches that will be having Easter services the next day. He is requesting a waiver of the open-air sale fees because they are a currently licensed local business. **Motion by Commissioner Harriman to approve an open-air tent sale at 624 S. Dillard Street from April 11 to 19, 2003, and waive the related open-air vendor fees. Seconded by Commissioner Dixon and carried unanimously 5-0.**

E. **Request for an annual occupational license for a Sno Cone cart at the Roper YMCA Family Center during sporting events**

Ms. Shirley Mele, 50 Garden Ave., Winter Garden, Florida, stated that since submitting this request, she has changed her plans and is going to be requesting permission to operate out of a prior "snack shack". In recent discussions with the YMCA, they have recommended that she renovate and operate from the vacant building to sell shaved ice. City Manager Holden stated that Ms. Mele's request is no longer open-air related, therefore, the City Commission requires no action. She will need to apply for a regular occupational license.

F. **Request for two music festivals in Veterans Park**

Ms. Ely Alvarado, The First Mexican Chamber of Commerce of Florida, Inc., stated that she has received the City's recommended requirements for conducting both the festivals she is requesting, which will be their seventh year in Winter Garden. City Manager Holden stated that the applicant has indicated that they can meet all the required conditions of approval and therefore, staff is recommending approval. Commissioner Graham stated that during the past years' events, he has received complaints about how loud the noise was and if this request is approved, he would like action taken by the Police Department to address these complaints. Ms. Alvarado stated that she believes the shuttles would be more of a problem because big buses would use more space and congest traffic even more. Mr. Holden stated this is the first he has heard that they have not made arrangements for shuttles. Therefore, he is recommending denial. Commissioner Rees asked where the public would be shuttled. Mr. Holden stated staff has suggested that they get approval from Publix or K-Mart and get the shuttles donated. Ms. Alvarado stated that the residents in the area look forward to the events and they charge people to park on their private property. In the past, the event has requested donations for parking at the event, which they later donate to the Chamber, which the Parks Department told them was all right. Mr. Holden stated that they cannot charge for parking in any City park. The complaints received by the City during past events have included being too loud, vehicles parked everywhere and alcohol. Ms. Alvarado stated that this is the first she has heard of any complaints. She has volunteers who will park the cars so they aren't parked just anywhere. Commissioner Dixon suggested that they contact the Department of Community Affairs for shuttle buses. Mr. Holden also stated that "No Parking" signs will have to be posted around the park and violators will be ticketed or towed. Ms. Alvarado stated they agree with everything except that there have been any complaints because in the past, she has called after the event and asked if there had been any and she was told there were not. They even have volunteers to clean the park afterwards since there was an incident a few years ago. Commissioner Harriman stated that he lives across from the park and he has received complaints. Mr. Holden stated that he fully supports the festivals and he has made suggestions and recommendations on how to improve the event for the area residents. It appears that the festivals are outgrowing this location and they need to consider finding a more suitable location other than an intense residential location as this area. Since the shuttles have not yet been secured for the event, staff is recommending denial. Ms. Alvarado stated that she can contact those that Commissioner Dixon has recommended. **Motion by Commissioner Rees to approve a music festival on May 4, 2003, provided the applicant meets all the requirements indicated by staff in the agenda package back-up material.** It was the consensus of the City Commission to wait until after this event before consider approving the second event at a future meeting. **Seconded by Commissioner Dixon and carried unanimously 5-0.**

G. **Recommendation to approve Change Order #1 for the wastewater treatment facility**

City Manager Holden stated that many years ago, a landfill existed adjacent to Trailer City next to the lake and eventually the contents will have to be removed anyway. Staff did not know the extent of the removal process at this time. It has been determined that some of the debris would have to be hauled to a Class I landfill. Highlights of the recommendation to approve the change order include changing to a larger effluent pump as part of the plan for a joint reuse with Apopka. There is an adjustment for the in-house permit fee and the largest cost, which is about \$495,000, is for the export and fill issue. The total net amount for this Change Order is \$456,562.00, which does not deal with the retention pond area and some of the other areas that in the future will probably be used for sewer plant expansion. The engineers only see this process as costing the City more and are the result of the City's actions from many years ago that now have to be fixed. Commissioner Rees asked how long is the extension. Mr. Holden stated 70-days for this part of it and there may be others required. This Change Order will permit the work to continue without stopping and staff will bring back other recommendations in the future. **Motion by Commissioner Dixon to approve Change Order #1 not to exceed \$456,562.00 and authorize the City Manager to execute the Change Order document. Seconded by Commissioner Harriman.** Commissioner Graham asked why the supporting documentation shows the City being charged a sales tax for the pump upgrade. Mr. Dave Refling, Boyle Engineering, stated that the City is only tax exempt if they purchase the item directly. In this case, the contractor is making the purchase and honoring the warranty. Commissioner Graham stated that usually when an item is purchased it has warranty whether the City or the contractor makes the purchase. Mr. Holden stated that this contract is not set up for the City to make the equipment purchase. **Motion carried unanimously 5-0.**

H. **Recommendation to approve a sales agreement for property at 304 and 310 S. Main Street**

Assistant to the City Manager Robertson stated that this is the property the City purchased, demolished a building, and replatted to three lots, advertised it for sale and had only one bidder. Staff is recommending approval of the sale of the property to Keith Hastings and Justina Hallauer for \$117,000. Commissioner Graham asked if title insurance was required when buying and selling this property to ensure the title was clear. Mr. Robertson stated yes. **Motion by Commissioner Harriman to approve the sales agreement for property located at 304 and 310 S. Main Street to Mr. Hastings and Ms. Hallauer for \$117,000. Seconded by Commissioner Dixon and carried unanimously 5-0.**

I. **Recommendation to award a contract for upgrading and extending the 12-inch water main on Plant Street from Woodland Street to Third Street in conjunction with Plant Street improvements**

Utility Director Tinch stated that this contract will increase the water pressure and fire protection abilities of the City. **Motion by Commissioner Graham to award the contract for upgrading and extending the 12-inch water main on Plant Street from Woodland Street to Third Street to T. D. Thomson Construction, in an amount not**

to exceed \$214,917.04. Seconded by Commissioner Harriman and carried unanimously 5-0.

J. **Recommendation to award a contract for water and reuse lines, and related sanitary lift station installations on Daniels Road in conjunction with the road construction**

Utility Director Tinch stated that this project is south of the Turnpike on Daniels Road that involves three developments using one sanitary lift station instead of three. All cost-outs have been included in each of the three development agreements. Staff recommends approval of the contract not to exceed \$293,850.11. **Motion by Commissioner Graham to award the contract for water and reuse lines, gravity sanitary lines, sanitary force main and sanitary lift station on Daniels Road to Amick Construction, not to exceed \$293,850.11. Seconded by Commissioner Harriman and carried unanimously 5-0.**

K. **Recommendation to approve Change Order #3 to the Stoneybrook West Parkway Project**

City Manager Holden stated that this is a change order for work that has already been done that includes a drainage swale and added underdrains to fix some road problems. **Motion by Commissioner Rees to approve Change Order #3 to the Stoneybrook West Parkway Project in an amount not to exceed \$34,317.43 and authorize the City Manager to execute the Change Order document. Seconded by Commissioner Harriman and carried unanimously 5-0.** Commissioner Graham stated that this is the third requested change order that will result in almost doubling the initial cost. Mr. Holden stated that gumbo and muck depths are what have contributed to the need for underdrains in the change orders.

**Mayor Quesinberry dispensed with the City Commission Agenda and convened as the Community Redevelopment Agency (CRA) at 7:25 p.m.**

**Members Present:** Jack Quesinberry, Chairman, Theo Graham, Mildred Dixon, John Harriman, John Rees, and Larry Cappleman

**Members Absent:** Teresa Jacobs

4. **Recommendation to approve a sales agreement for 214 Center Street**

Assistant to the City Manager Robertson stated that since the agenda was prepared, he has verified that in order to dispose of this property and in accordance with State Statute 163.380, the CRA must first approve of the disposal of the property and then advertise it as open for bids for a period of 30 days. **Motion by Agency Member Rees to authorize the**

**advertising of 214 Center Street for sale, for bids to be submitted for a period of 30 days from the date of the advertisement. Seconded by Agency Member Cappleman and carried 6-0.** Commissioner Graham asked what types of businesses could occupy this location with a new or subsequent owner. City Planner Cechman stated that the property is zoned R-NC, which is the City's most restrictive commercial zoning and since the City has owned the property for some time there would not be any "grandfathering" of a prior use. More importantly, any proposed use would have to go to the Planning and Zoning Board as a special exception request.

- Agency Member Cappleman stated that at the last Community Redevelopment Advisory Board meeting, the Board took action to recommend to the CRA that Mr. Charles Roper be reappointed beginning on June 30, 2003. **Motion by Agency Member Rees to reappoint Mr. Charles Roper effective June 30, 2003. Seconded by Agency Member Harriman and carried unanimously 6-0.**

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

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

6. **MATTERS FROM CITY ATTORNEY DYKES EVERETT:**

Announced that there is a proposed settlement agreement for pending litigation between the City of Winter Garden and Cathcart Contracting Company. Approval of the agreement should include authorizing the Mayor to sign the agreement and filing it in the court, which will dismiss the action. **Motion by Commissioner Graham to accept the terms of the proposed settlement agreement with Cathcart Contracting Company and authorizing the Mayor to sign the settlement agreement, with review by the City Attorney. Seconded by Commissioner Harriman and carried unanimously 5-0.**

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

- Announced that he has received information today that the new library will begin construction on April 28, 2003.

- As previously advised, the School Board has closed on the Dillard Street school property and the driveway has been cleared, and issues raised by the adjacent homeowners have been worked out. Residents should be seeing a huge crane that will

be raising the verticals. Also, the first week in January they should be starting work on the new retention pond on the old site. The pipes are already under the road.

- He has received the annual renewal notice from the Chamber's Discover Magazine and recommends that the City maintain the back cover position for \$3,395. **Motion by Commissioner Harriman to approve the purchase of the back-cover advertisement on the Discover Magazine. Seconded by Commissioner Rees and carried unanimously 5-0.**

## 8. **MATTERS FROM MAYOR AND COMMISSIONERS:**

### **Mayor Quesinberry:**

Stated that at the last City Commission meeting, Ms. Tyrrell requested and received permission to conduct a Pro-American Rally by Lake Apopka on April 5, 2003. However, since then Ms. Tyrrell has learned that the park was not available and has had to change her plans. Ms. Tyrrell is now requesting approval to conduct the Rally for America on April 12, 2003, at 2 p.m. in Veterans Park. **Motion by Commissioner Rees to approve the Rally for America on April 12, 2003 from 2:00 to 5:00 p.m. in Veterans Park. Seconded by Commissioner Harriman and carried unanimously 5-0.**

Announced that Progress Energy will be having their grand opening ribbon-cutting ceremony tomorrow, Friday, April 11, 2003.

### **Commissioner Dixon:**

- Announced that State Representative Johnson's office has baskets in his office and is accepting donations that will be sent to the military overseas. She was getting letters and notes from children to put in the basket. Next Saturday, April 12, 2003, there will be a Centennial celebration at the Maxey Center. She is assisting with writing a plan for the east side of Winter Garden and will be giving it to the City Manager and Planner before it goes to the CRA in May. She continues to work on getting the youth employed and has five scholarships to attend South Carolina State.

The meeting was adjourned at 7:42 p.m.