

REGULAR MEETING MINUTES

CITY COMMISSION

July 24, 2003

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Quesinberry at 6:30 p.m. in City Hall Commission Chambers. The invocation and Pledge of Allegiance were given.

Present: Mayor Jack Quesinberry, Commissioners Theo Graham, Mildred Dixon, John Harriman, and John Rees (arrived at 7:18 p.m.), City Manager Hollis Holden, City Attorney Dykes Everett, City Clerk Kathy Montoya, Assistant to the City Manager Marshall Robertson, Planning Director Mark Cechman, Senior Planner Kelly Randall, Utilities Director Charlie Tinch, Police Chief Jimmie Yawn, and Code Enforcement Manager Johnny Clark

1. APPROVAL OF MINUTES

Regular Meeting Minutes of July 10, 2003. **Motion by Commissioner Harriman to approve the minutes as submitted. Seconded by Commissioner Dixon and carried unanimously 4-0.**

2. FIRST READING OF PROPOSED ORDINANCES

- A. **Ordinance 03-22: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.19 ACRES LOCATED AT 719 BETHUNE AVENUE 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.**

City Attorney Everett read Ordinance 03-22 by title only. **Motion by Commissioner Dixon to approve Ordinance 03-22 and to schedule the second reading and public hearing for August 28, 2003. Seconded by Commissioner Harriman and carried unanimously 4-0.**

- B. **Ordinance 03-23**: AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 0.19 ACRES OF LAND LOCATED AT 719 BETHUNE AVENUE AS LOW DENSITY RESIDENTIAL: PROVIDING FOR AN EFFECTIVE DATE

City Attorney Everett read Ordinance 03-23 by title only. **Motion by Commissioner Dixon to approve Ordinance 03-23 and to schedule the second reading and public hearing for August 28, 2003. Seconded by Commissioner Harriman and carried unanimously 4-0.**

- C. **Ordinance 03-24**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING A 0.19 ACRE LOT LOCATED AT 719 BETHUNE AVENUE MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY R-2 TO CITY R-1B; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Everett read Ordinance 03-24 by title only. **Motion by Commissioner Dixon to approve Ordinance 03-24 and to schedule the second reading and public hearing for August 28, 2003. Seconded by Commissioner Harriman and the motion carried unanimously 4-0.**

3. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

- A. **Ordinance 03-25**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA; VACATING A DRAINAGE EASEMENT LOCATED SOUTH OF WARRIOR ROAD AND WEST OF CEMETERY ROAD; PROVIDING FOR AN EFFECTIVE DATE (Westfield Lakes IV).

City Attorney Everett read Ordinance 03-25 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Graham to adopt Ordinance 03-25. Seconded by Commissioner Harriman and carried unanimously 4-0.**

- B. **Ordinance 03-26**: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 110-122 (e) OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO EXPIRATION DATES FOR PRELIMINARY PLATS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

City Attorney Everett read Ordinance 03-26 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to adopt Ordinance 03-26. Seconded by Commissioner Graham and carried unanimously 4-0.**

4. **REGULAR BUSINESS**

- A. **Resolution 03-08: A RESOLUTION DETERMINING THE NECESSITY TO IMPROVE AND CONSTRUCT A PUBLIC ROADWAY AND AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY LOCATED WITHIN THE CITY OF WINTER GARDEN, ORANGE COUNTY, FLORIDA TO BE USED FOR THE PUBLIC PURPOSE OF CONSRUCTING, OPERATING, AND MAINTAINING THE PUBLIC ROADWAY KNOWN AS "DANIELS ROAD."**

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City Attorney Everett read Resolution 03-08 by title only. Assistant to the City Manager Robertson stated that this Resdution is for Phase II, which will allow staff to send letters of offer to the property owners for the temporary construction easement from the bridge north to Highway 50. **Motion by Commissioner Harriman to approve Resolution 03-08. Seconded by Commissioner Graham.** Commissioner Graham asked that he be provided with a map identifying all the parcels acquired on Daniels Road from Beard Road north. Mr. Robertson stated he would provide the map. **Motion carried unanimously 4-0.**

- B. **Recommendation to approve a vested rights agreement as provided for in Ordinance 03-10 for recreational vehicle parks with Winter Garden, LLC DBA Orlando Winter Garden Campground**

City Planner Cechman stated that adopted Ordinance 03-10 allows for existing recreation vehicle (RV) parks to enter into a vested rights agreement with the City. This agreement is with the Orlando Winter Garden Campground and if passed, it will clarify what they can and can't do in the campground. Mr. Dan Langley, Fishback Law Firm, stated that he is the representative for the Orlando Winter Garden RV park owner and they accept staff's recommendation. **Motion by Commissioner Harriman to approve the vested rights agreement with Winter Garden, LLC as submitted. Seconded by Commissioner Dixon.** Commissioner Graham asked about taxation for the park. City Attorney Everett stated that the real estate is taxed to the LLC as the property owner and the individual RV with tags, pay their taxes to the State Department of Revenue. **Motion carried unanimously 4-0.**

- C. **Recommendation to approve the preliminary plat for Magnolia Place**

Senior Planner Randall stated that the preliminary plat is for a 9-unit subdivision at the intersection of Division and Dillard Streets, also known as the former site of the old hospital. The Planning and Zoning Board recommended approval at their meeting of July 7, 2003. Staff has also reviewed the plat and recommends approval. **Motion by Commissioner Harriman to approve the preliminary plat for Magnolia Place as submitted. Seconded by Commissioner Dixon and carried unanimously 4-0.**

D. **Recommendation to approve the preliminary plat for Bronson Landing**

Senior Planner Randall stated that the preliminary plat is for a 126-unit subdivision south of Stoneybrook West Parkway and East of CR535. The Planning and Zoning Board recommended approval at their meeting of July 7, 2003. Staff has also reviewed the plat and recommends approval. **Motion by Commissioner Harriman to approve the preliminary plat for Bronson Landing as submitted. Seconded by Commissioner Dixon and carried unanimously 4-0.**

E. **Recommendation to approve the preliminary plat for Belle Meade**

City Planner Cechman stated that this preliminary plat was originally approved back in January 2001 and is located just south of Stoneybrook West. Staff and the Planning and Zoning Board recommend approval with a condition that before they begin construction, a development agreement must be entered into to resolve some utility and improvement issues. City Manager Holden stated that this project is located at the intersection of CR545 and Tilden Road which has utility and road improvement issues that has other parties involved. When one of the parties, Foundation Academy, withdrew their application he called a meeting to make sure all the parties still wanted to participate in a cost sharing agreement and they indicated they do. Mr. John Martin with Kimberly Horn, 1080 Woodcock Road, Orlando, Florida, stated that the agreement should only be between him and the city, not a three-party agreement. **Motion by Commissioner Harriman to approve the preliminary plat for Belle Meade, with staff recommendations (see attached). Seconded by Commissioner Graham and carried unanimously 4-0.**

F. **Recommendation to approve the final plat for Emerald Ridge and granting a drainage easement**

Senior Planner Randall stated that there are two actions requested for this item. The first action is for final plat approval of a 144-lot subdivision, which has been reviewed by the Planning and Zoning Board and they recommended approval on July 7, 2003. The second issue is the granting of a drainage easement over a portion of the water treatment plant south of Stoneybrook West Parkway by the City to the developer. **Motion by Commissioner Harriman to approve the final plat for Emerald Ridge and granting of the drainage easement as requested. Seconded by Commissioner Dixon and carried unanimously 4-0.**

G. **Recommendation to approve the final plat for Stoneybrook West Unit 6**

Senior Planner Randall stated that this request is for final plat approval of an 83-unit subdivision in Stoneybrook West. The Planning and Zoning Board has reviewed the plat on July 7, 2003, and they recommend approval. Staff has also reviewed the plat and recommends approval. **Motion by Commissioner Dixon to approve the final plat for Stoneybrook West Unit 6 as submitted. Seconded by Commissioner Harriman and carried unanimously 4-0.**

H. **Recommendation to approve the final plat for Westside Townhomes Phase V**

Senior Planner Randall stated that this request is for final plat approval for a 60-unit townhouse phase of Westside Townhomes south of SR50 and is the final phase of this project. On July 7, 2003, the Planning and Zoning Board recommended approval and staff has made a review and recommends approval. **Motion by Commissioner Dixon to approve the final plat for Westside Townhomes Phase V as submitted. Seconded by Commissioner Harriman and carried unanimously 4-0.**

I. **Recommendation to approve the final plat for Westfield IV**

Senior Planner Randall stated that this request is for final plat approval of a 63-unit subdivision known as Westfield Phase IV. On June 23, 2003, the Planning and Zoning Board recommended approval. Staff also recommends approval with two provisions that the Homeowners Association first be incorporated and that the City Attorney approve the Declaration of Covenants and Restrictions. City Manager Holden stated that the related issue is with the existing HOA versus the new HOA and the applicant, Mr. June, is working it out with the existing group. **Motion by Commissioner Harriman to approve the final plat for Westfield IV with staff recommendations as stated. Seconded by Commissioner Dixon and carried unanimously 4-0.**

J. **Recommendation to approve Change Order #1 for a 12-inch water main extension on Plant Street from Woodland Street to Third Street**

Utility Director Tinch stated that the change order would allow some curbing to be changed on Third Street, add two fire hydrants (one on Woodland Street and one on Third Street), and replace some sod. **Motion by Commissioner Graham to approve Change Order #1 for the water main extension on Plant Street from Woodland to Third Street. Seconded by Commissioner Harriman and carried unanimously 4-0.**

K. **Recommendation to approve a contract to replace the Florida Avenue water main**

Utility Director Tinch stated that this item is a recommendation to award a contract to T. D. Thomson Construction for \$187,725.10 to replace the water main on Florida Avenue from Dillard Street to 9th Street, under a push-button contract. **Motion by Commissioner Graham to approve the Florida Avenue water main replacement contract with T. D. Thomson Construction as stated. Seconded by Commissioner Dixon and carried unanimously 4-0.**

L. **Recommendation to approve Change Order #2 to the wastewater treatment facility expansion project**

Utility Director Tinch stated that an existing well was discovered at the facility that had to be capped and restraints added to the existing 20-inch effluent force main. Additionally, the unacceptable soil material had to be removed and replaced under the structure. The recommended change order amount is \$47,411.00. City Manager Holden pointed out that the original estimates for cleaning the old dumpsite were much higher than projected and a change order will be coming back to the City Commission for approval. **Motion by Commissioner Harriman to approve Change Order #2 to the wastewater treatment facility. Seconded by Commissioner Graham and carried unanimously 4-0.**

5. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

- A. **Ordinance 03-20: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 32.5 ACRES LOCATED SOUTH OF STONEYBROOK WEST PARKWAY AND NORTH OF LAKE ROBERTS 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. (Bronson East)**

City Attorney Everett read Ordinance 03-20 by title only. Mayor Quesinberry stated that this item is not a public hearing as indicated in the above section heading. **Motion by Commissioner Harriman to approve Ordinance 03-20 with the second reading and public hearing being scheduled after receipt of the State approval. Seconded by Commissioner Dixon and carried unanimously 4-0.**

- B. **Ordinance 03-21: AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS 32.5 ACRES OF LAND LOCATED SOUTH OF STONEYBROOK WEST PARKWAY AND NORTH OF LAKE ROBERTS FROM ORANGE COUNTY RURAL SETTLEMENT 1/1 AND CONSERVATION TO CITY SUBURBAN DENSITY RESIDENTIAL WITH A CITY CONSERVATION OVERLAY; PROVIDING FOR AN EFFECTIVE DATE. (Bronson East)**

City Attorney Everett read Ordinance 03-21 by title only. Mayor Quesinberry opened the public hearing. Hearing none, the public hearing was closed. City Planner Cechman stated that on July 7, 2003, Planning and Zoning Board made a recommendation to approve the Ordinance. State law now requires a sign-in sheet that can be obtained from Senior Planner Randall. **Motion by Commissioner Dixon to approve Ordinance 03-21 with the second reading and public hearing being scheduled after the receipt of the State approval. Seconded by Commissioner Harriman.** Commissioner Graham stated that he is concerned about the Orange County Public School Capacity Report because all four schools show they will be over projections. City Manager Holden stated that there is a revised sheet that shows the schools being planned will accommodate this growth and before it becomes an issue, the schools should be built. The schools within a growth area will always be over capacity because they can't be built unless there are enough students to occupy them. There are also other schools, such as Foundation Academy and Oakland Charter School, that the County does not track for future growth. **Motion carried unanimously 4-0.**

- C. **Ordinance 03-18: AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY PROVIDING A MEDIUM / HIGH DENSITY RESIDENTIAL FUTURE LAND USE CLASSIFICATION; PROVIDING FOR SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.**

City Attorney Everett read Ordinance 03-18 by title only. Mayor Quesinberry opened the public hearing. City Planner Cechman stated that the housing industry is now marketing luxury apartments with basketball courts and giant swimming pools that requires a new density zoning category. Again, State law now requires a sign-in sheet that can be obtained from Senior Planner Randall. Mayor Quesinberry opened the public hearing. Hearing none, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 03-18 with the second reading and public hearing being scheduled after the receipt of the State approval. Seconded by Commissioner Dixon.** Commissioner Graham stated that when he came on as a City Commissioner, the city allowed 18 units per acre, which has since been worked down to 10 units per acre and by adding a new zoning category with more units, it will only increase the traffic and put a lot of people in one spot and that has the potential to create problems. City Manager Holden stated that the proposed complex is 13 units per acre that could only be built under this new zoning for the luxury level of amenities. Mr. Tom Settle with P.A.C. Land Development Corporation, 730 Bonnie Brae Street, Winter Park, Florida, stated that the point of their density is to allow for the amenities they offer, which is about \$2 million, and is spread out over the number of units. Their minimum number of units for this location is 280. **Motion carried 3-1; Commissioner Graham opposed.**

- D. **Ordinance 03-19: AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS 47 ACRES OF LAND LOCATED WEST OF CR535 AND DIRECTLY SOUTH OF THE FLORIDA TURNPIKE FROM CITY LOW DENSITY RESIDENTIAL, CITY COMMERCIAL, AND CITY CONSERVATION OVERLAY TO CITY MEDIUM / HIGH DENSITY RESIDENTIAL WITH A CITY CONSERVATION OVERLAY; PROVIDING FOR AN EFFECTIVE DATE (Garden South)**

Commissioner Rees arrived at 7:18 p.m.

City Attorney Everett read Ordinance 03-19 by title only. City Planner Cechman stated this Ordinance is related to the prior Ordinance. Staff and the Planning and Zoning Board have made their respective reviews and recommend approval. Again, State law now requires a sign-in sheet that can be obtained from Senior Planner Randall. Mayor Quesinberry opened the public hearing. At this time, Mr. Settle gave a slide presentation of some of their completed projects elsewhere.

Ms. Kimberlee Rose, 22 ½ W. Vining Street, Winter Garden, Florida, stated that she holds the power of attorney for her parents, who reside on this stretch of road and that they have seen a lot of new construction in the area and she is concerned about the road remaining two lanes even though Daniels Road is to absorb some of the traffic.

Commissioner Rees stated that the project has a lot of units for a small space and in looking at the school capacity report, growth has got to slow down. City Manager Holden stated that Winter Garden Vineland Road will essentially become a residential road because those going south or to the north to State Road 50 will be via the four-lane divided Daniels Road. Mayor Quesinberry closed the public hearing. **Motion by Commissioner Harriman to approve Ordinance 03-19 with the second reading and public hearing being scheduled after the receipt of the State approval. Seconded by Commissioner Dixon and carried 3-2; Commissioners Rees and Graham opposed.**

Mayor Quesinberry recessed the meeting at 7:26 p.m. until 7:30 p.m. to conduct the public hearing for Ordinance 03-16.

- E. **Ordinance 03-16: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 118 ("ZONING") OF THE WINTER GARDEN CODE OF ORDINANCES, SAID CHAPTER BEING PART OF THE CITY OF WINTER GARDEN LAND DEVELOPMENT CODE, BY CREATING AND ADOPTING UNDER CHAPTER 118, ARTICLE IX, TO BE ENTITLED "WEST STATE ROAD 50 COMMERCIAL CORRIDOR OVERLAY DISTRICT," WHICH ARTICLE SHALL BE APPLICABLE ONLY TO A SPECIFICALLY DESCRIBED AREA WITHIN THE JURISDICTION OF THE CITY OF WINTER GARDEN, FLORIDA; PROVIDING FOR ESTABLISHMENT, LEGISLATIVE FINDINGS INTENT AND PURPOSE, BOUNDARIES, APPLICABILITY, DEFINITIONS, CONFLICTS AND SEVERABILITY, SPECIAL EXCEPTIONS, VIOLATIONS, CLASSES OF VIOLATIONS AND PENALTIES, NON-EXCLUSIVITY, COLLECTIONS, VARIANCES, DEVELOPMENT REVIEW, AND UNIFORM STANDARDS AND REGULATIONS WITHIN THE WEST STATE ROAD 50 COMMERCIAL CORRIDOR OVERLAY DISTRICT FOR**

LANDSCAPING, SIGNS, BUILDINGS AND ACCESSORY STRUCTURES, SITE-SPECIFIC FACILITIES AND NON-RESIDENTIAL USES WITH STRUCTURES EXCEEDING TWENTY-FIVE THOUSAND SQUARE FEET OR AN IMPROVED SURFACE AREA EXCEEDING FIFTY THOUSAND SQUARE FEET; PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP; PROVIDING FOR THE ADOPTION OF DESIGN STANDARDS FOR SIGNS, LANDSCAPE, AND EXTERNAL SITE LIGHTING FOR PROPERTIES WITHIN THE WEST STATE ROAD 50 COMMERCIAL CORRIDOR OVERLAY DISTRICT; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

City Attorney Everett read Ordinance 03-16 by title only. City Manager Holden stated that the drafting of this Ordinance began about six years ago as a way to improve and regulate the appearance of State Road 50, which has already been passed by Ocoee, Oakland, and Orange County. There have been over a half-dozen public meetings and that input was used to develop the Ordinance. A frequent question has been why does the City want to impose any standards before State Road 50 is widened and this plan takes that into consideration because it does not require anything to be done until it is widened in about 10 years and it even allows 10 more years before any landscaping has to be done. The City needs guidance to deal with the vacant land being developed which this Ordinance does. City Planner Cechman stated that a very knowledgeable consultant was hired to develop the standards for signage, landscaping, and lighting. Mr. Pete Sechler gave a summary PowerPoint presentation of the full presentation he made to the City Commission at the workshop on June 17, 2003. Assistant City Attorney Rubio stated the standards that would apply, as described on page 4 of the proposed Ordinance. Commissioner Harriman asked if when using the reference "completion of State Road 50" is it referring to the entire project or just through Winter Garden. City Manager Holden stated that the intent is when the project is complete through Winter Garden and in the most optimistic terms, staff is looking at 8-10 years minimum before the construction will begin. Mayor Quesinberry opened the public hearing.

The following spoke in opposition of the proposed Ordinance:

Mr. Dean Cannon, Esq., Gray, Harris & Robinson, 301 E. Pine Street, Orlando, Florida, stated he represents a group of property owners that oppose the proposed overlay and he stated that he wants to focus on the policy problems of the proposed Ordinance that has three main reasons for it to be rejected: 1) It is bad policy; 2) It is bad politics because it is bad for the people; and 3) It is legally flawed. One thing that needs to be considered is whether the City needs an overlay zoning because as redevelopment occurs, as they naturally do, they have to come into compliance with or without the overlay ordinance. The non-conforming use Ordinance impacts just how this overlay will fit and it has serious ramifications for signage and he believes it is in conflict. No one can predict what impact there will be on the market or on the business owners with the widening of State Road 50. Wait until the State Road 50 improvements are there and see how these businesses recover. The actual construction will be a significant burden to the businesses. The proposed Ordinance is overreaching and overkill. The County has adopted an overlay that grandfathered in the non-conforming uses and is not pursuing an amortization. There is a Constitutional prohibition against the taking of private property without just compensation and the City may be crossing the line into a regulatory matter with the proposed amortization plan that takes something away from

the owner. Only a judge can tell you if this Ordinance would be a case of inverse condemnation. His clients want State Road 50 to be beautiful, but it should not be at their expense. The tougher the regulations the harder it will be to get development into Winter Garden. It may also send the wrong message to property owners. The property owners, who would be required to apply for a variance, must burden the proof of a property being non-conforming. In order for Mr. Miller's veterinary building to be in compliance, he must tear down the building in order to meet the side buffer requirements or go through the variance process that creates unnecessary extra work for both parties. If grandfathering is not allowed, it can be challenged. He stated the Ordinance also has single-subject problems and cited a Supreme Court case from 1940 regarding a zoning ordinance application that had the effect of completely depriving an owner of the beneficial use of his property. The Ordinance should be altered or amended to avoid complete confiscation of a property without compensation and referred to the Gustafson v. Ocala case in 1951. The amortization plan is only a delay that does not avoid a taking. The non-conforming Ordinance 03-17 previously adopted states that signs etc. shall be discontinued two years from the effective date of this Ordinance. The minimum impact the City will draw is a Burt Harris Act claim if it diminishes their economic value. In conclusion, he strongly and respectfully requested that the Ordinance not be adopted, at least in its current form.

Mr. Gerald Jowers, 235 N. Lakeview Avenue, Winter Garden, Florida, owner of Jowers Batteries, stated that Winter Garden is a community of small businesses for the most part and that the cost of installing a block stucco wall 6 foot high by 105 foot long on the back of his property will cost him about \$28,000 with the landscaping. In order for another one of his properties 105 feet wide by 385 feet long lot to comply with the proposed landscaping requirements, his lot would be reduced to 85 feet wide by 330 feet deep. He asked the City Commission to consider grandfathering them in as they exist and as the County has done.

Ms. Kimberlee Rose, 22 ½ W. Vining Street, Winter Garden, Florida, stated that she attended the June 9 public workshop and because she has only just received a copy of the amended Ordinance, she needs more time to review it and therefore requested a delay. She stated that the proposed Ordinance is alleged to be for the public good and if it is, the public should pay for it. If the public does not pay for it, then it places an inordinate burden upon her and is a burden that is greater than her neighbors. If passed, an amendment to the Comprehensive Plan will be required and she believes the Department of Community Affairs will not approve the amendment.

Mr. Tim Burton, 13906 W. Colonial Drive, Winter Garden, Florida, with Giant Recreation World, stated that they have been working on new fencing and landscaping and in looking at the proposed Ordinance they estimate it will cost them several hundred thousand dollars to comply, which is not economically feasible for small businesses.

Mr. John A. Miller, 13092 W. Colonial Drive, Winter Garden, Florida, owner of a veterinarian office, stated that he purchased the building in 1985 that has been there for 60 years. In 1993, he took out a permit for a message board sign that cost about

\$60,000. The State will widen State Road 50, he will lose his front parking area, and he is working on obtaining a permit for rear parking. His property is 88 feet wide with a 12-foot driveway on the side and in order to add the proposed side landscaping, he would lose his driveway. The other side has a building on a zero lot line that is in the County. The speed of those who travel on State Road 50 will prevent them from seeing the side buffer landscaping on most of the properties and he urged the Commission to change the Ordinance. He also stated that he has a problem with the signage language because a monument sign would not be functional for his building and he does not want to lose access to his property. He believes there should be grandfathering for existing buildings.

Mr. Don McNamara, 13906 W. Colonial Drive, Winter Garden, Florida, owner of Giant Recreation World, stated that at the last meeting he went to, it was his understanding that the County proposal would not be overtaking to business owners and Winter Garden would follow the County proposal. He recommends that a grandfathering provision be added to the Ordinance.

Ms. Pam Phillips, 535 N. Main Street, Winter Garden, Florida, stated that she is not a business owner but shops here and appreciates the beautification that could be put on State Road 50, but even more, she appreciates the slow growth. The taking of property is not right and to not grandfather in the long-time businesses does not make any sense to her.

Ms Shirley Smith, 12900 W. Colonial Drive, Winter Garden, Florida (unincorporated County), stated that it is her understanding that in 2005-07 the water and sewer pipes will be laid on State Road 50 and in 2007-08 the widening project will be done in Winter Garden. The landscaping should be done in conjunction with the widening project, which should be soon enough. It could cost each business from \$60,000 to \$600,000. This Ordinance is unfair and it should be postponed. An overlay is not needed until after the FDOT comes through. What good is it to put in landscaping when it is not known where the road will even go? A study needs to be done with estimates and the government, not the business owner, should share the cost.

Mr. Doug Doudney, 824 N. Highland Avenue, Winter Garden, Florida, with the Coalition of Property Rights in Orlando, stated that in all his adult life, he has heard the criticisms that every town is looking the same and that the standards are proliferating them to look the same that may be attractive to some, but it is monotonous. Winter Garden has a unique and beautiful treasure of all the businesses that are here. The purpose of the overlay was to beautify State Road 50 and the second purpose was to make similar standards so a person who wants to do business here would have the standards in advance. The County Ordinance that was passed is nowhere as restrictive as Winter Garden's.

Mr. Andrew Brigham, 2963 Dupont Avenue, Jacksonville, Florida, stated that he is present on behalf of Shirley Smith and what the business owners are saying about the

effects of the proposed Ordinance on their property needs to be considered by the Commission. Making State Road 50 beautiful is only half of the Commission's job because if making it beautiful is for the public good but puts the burden on the property owners, then they share an inordinate burden of the cost. When you look at the prior non-conforming Ordinance and this Ordinance and apply it to the properties, you will put the burden for paying for it on the owners and not the public. When large businesses come in to develop, you should have an overlay for them. You can exclude the existing owners by grandfathering them. Passing an Ordinance with criteria that will not have to be in compliance 10 years from now would be passed by a Commission that may not be sitting on the Commission 10 years from now. They need your help. The folks may not even be against the overlay district if you could contend with grandfathering in their uses. Protect the minority. The Burch Harris Act was to allow property owners who may not have tripped the threshold on an inverse condemnation on their property but may have a remedy to go to the courts to have a jury decide if an inordinate burden has been placed on them. Wait until the DOT project is done to see what the business owners will do with the monies they receive in the condemnation process to redevelop their properties. You may see everything you want to occur without them having to pay for it. You have the owners contemplating lawsuits against the City they care so much for, which is not good policy. Another avenue yet unexplored is whether there is some public funding available to do some beautification.

Mr. Rodney Jolley, First Commercial Bank at 12906 W. Colonial Drive, Winter Garden, Florida, stated that he appreciates the old downtown improvements and believes the vision of the proposed ordinance is to do the same thing on 50. However, the method is a little flawed. His bank spent \$715,000 for the Star Bar, an empty thrift store and an abandoned home. As it stands today, he doesn't believe they would meet the new proposed standards, which includes a canopy tree every 50 feet that will end up obscuring the property. He supports the concept of high standards, but it places an undue burden and requests that grandfathering businesses be considered. For the new businesses, it warrants more work. He does not see any economic incentives in this newest ordinance version as there were in the older version, unless he missed it. He believes a CRA District would be an excellent idea for the 50 corridor to spread the burden to the taxpayers of the City. He asked the City Commission to step back and re-evaluate the plan.

Hearing no other public comments, Mayor Quesinberry closed the public hearing.

City Manager Holden addressed the comments made:

- The Ordinance was made available on July 15 as per the advertisement placed in the newspaper on July 10.
- Staff has never said SR 50 was blighted and in order to get the area declared a CRA, the area would have to be declared blighted, but SR 50 cannot be declared blighted under the current criteria.
- He can predict the impact of widening 50 and it will have major redevelopment impacts just like what has happened in the old downtown area improvements.

- None of this has anything to do with effecting the existing buildings or structures. This affects no building that exists today, unless it is substantially modified as per the ordinance.
- He has never heard anything about five years to remove a sign because it will be at least four to seven years to remove a sign and even longer after completion of SR 50.
- The city is not doing anything on SR50 to replace the existing sewer lines until DOT requires them to be moved and he hopes that for budgetary purposes, that is 12-15 years away.
- Several statements have been made that he doesn't believe reflect a careful reading of the Ordinance.

Commissioner Harriman stated that there has been so much misinformation stated that it is frightening and he was not aware of any buildings being torn down or of any litigation. He believes it is good for the city. **Commissioner Harriman made a motion to approve Ordinance 03-16 with the second reading and public hearing on August 14, 2003 and seconded by Mayor Quesinberry.**

Commissioner Dixon stated that she had requested material to see where we stood. It was her understanding that people would be grandfathered in just like the County, but where is it. What is the reason we can't sit down and talk about grandfathering these people in?

Commissioner Graham stated that the County has grandfathered their properties and there are many County enclaves on State Road 50 that will not have to comply with our standards such as the tire business, and the Standard Station so there will still be differences regardless. He believes that new developed businesses should have standards based upon the proposed standards. He could go along with grandfathering them in. Give them a chance to make the improvements on their own, which he sees happening if they are going to compete with an improved business next to them.

Commissioner Rees stated that he has asked for a comparison of the Orange County Ordinance and the City's proposed Ordinance, which he has not received, and therefore he is not prepared at this time to commit to this Ordinance.

Motion failed by a vote of 2-3; Favor: Quesinberry and Harriman; Opposed: Dixon, Graham and Rees

City Manager Holden stated that without any further direction from the City Commission, staff will terminate any further action on State Road 50 and that without adopting an overlay, the County's regulations will be sun-setting automatically in all three cities.

6. **MATTERS OF CONCERN FROM CITIZENS:**

Ms. Kimberlee Rose, 22 ½ W. Vining Street, Winter Garden, Florida, stated her concerns about public safety and the reflectors that are attached to the new brick on Plant Street downtown because she has slipped on one of them. It was her understanding that lines would be painted instead and she believes that lining the side parking on Main Street would help those trying to park.

Mr. Don Miller, 1073 Woodson Hammock Circle, Winter Garden, Florida, stated that as the City's citizen representative to the Metro Plan Advisory Board, during the last meeting, he received an application for nomination for the annual Clean Air Award and he recommends that the City submit an application that he will provide to the City Clerk.

Mr. Randy June, 12201 Orin Court, Winter Garden, Florida, stated that staff has put a lot of work into the proposed State Road 50 Ordinance and he would like to see something still done and encouraged direction be given to staff. If grandfathering is fair and implementing some standards is reasonable, he doesn't want to see the meeting end without some direction.

Ms. Shirley Smith, 21 W. Crest Avenue, Winter Garden, Florida, stated that she has noticed the new one-sided signs downtown prohibiting bicycles on the sidewalk. It has become apparent to her that the signs need to be readable from multiple directions to protect the pedestrians. Also, Mr. Homer Hartiage told her that FDOT has appropriated \$1 million for Highway 50 landscaping.

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

Stated that in regard to the State Road 50 design standards, he would advise the Commission that there needs to be some uniformity in the design standards for our major commercial corridors and asked them to think about how much, if not all, of what Glatting Jackson has submitted can be incorporated throughout the city to guide the new development that is occurring and needs to be addressed in a timely fashion.

8. **MATTERS FROM CITY MANAGER HOLLIS HOLDEN**

Stated that he respects the City Commission's decision and the people involved, and asked them to understand that several thousand-man hours have been spent on the proposed State Road 50 Ordinance. He believes there are a lot of people who support the plan because standards are needed on State Road 50. The only way he can get direction is at a meeting and he will go off and do it. He asked that whenever staff gives the details, please review it carefully and provide comments. There have been very few comments made at workshops on the details provided by the consultants and there have been a lot of misunderstandings stated here tonight. In the absence of direction by the Commission, he will quit working on State Road 50 and directs staff to do the same.

A. **Request to participate in Ocoee's Founders' Day Festival by purchasing advertisements**

Motion by Commissioner Harriman to participate in the same manner as last year for \$100. Seconded by Commissioner Graham and carried unanimously 5-0.

B. **Financial Statement for June 2003**

City Manager Holden stated that the City's finances are doing well after 75 percent of the year.

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Rees:

Stated that it is a point well taken what the City Manager has said about setting more direction and he will address his issues about State Road 50 with him directly.

Commissioner Graham:

Stated that he understood that the voluntary annexation of Magnolia Woods and Teacup Springs would get them additional street lighting and asked if the City has made a review of the situation yet. Assistant to the City Manager Robertson stated that Florida Power has prepared a lighting plan for Fullers Cross. The Public Works Director has made contact with Florida Power and he will advise the Commissioner regarding the status.

Stated that he thought the landscaping added next to the Police Department parking lot on Highland was going to be a hedge, but it looks like flowers. City Manager Holden stated that the plants should become a hedge when it grows.

Commissioner Dixon:

Stated that she has made arrangements with Orange County Commissioner Jacobs to come to the Maxey Center for a town meeting in order to get accurate information from her. She is interested in countering drug use in her district and about increasing the street lighting and fixing the sidewalk on West Crown Point Road. She will also ask the County to give West Crown Point Road to the City from Plant Street to Bay Street so the City can properly maintain it. The County needs to finish what they started seven years ago and everyone is invited to attend.

Announced that this Saturday at 9 a.m., the 9th Street Church of Christ will be putting out flyers about school supplies that are available for children. Also, next Saturday night the midnight basketball will begin again and the 9th Street Church of Christ will be trying to raise \$5,000 to support the program.

Mayor Quesinberry:

Announced that he and the City Manager will be speaking on the radio this Saturday at 10:30 a.m. on the Roger Williams show on WDBO.

The meeting was adjourned at 9:50 p.m.